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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Petition of Wasatch Wind, LLC for Approval of a Contract for the sale of Capacity and Energy from Their Proposed QF Facilities	) ) ) ) )	DOCKET NO. 06-035-42
In the Matter of the Application of PACIFICORP for Approval of Power Purchase Agreement Between PacifiCorp and Spanish Fork Wind Park 2, LLC	) ) ) ) ) ) )	DOCKET NO. 06-035-76  PacifiCorp’s Response to Petition for Delay and Request for a Technical Conference and Re-Scheduling of Proceedings

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PacifiCorp, doing business as Rocky Mountain Power (“PacifiCorp” or “Company”) hereby responds to Spanish Fork Wind Park 2, LLC’s (“SF Wind”) Petition for Delay and Request for a Technical Conference and Re-Scheduling of Proceedings.

PacifiCorp is not opposed and offers a brief schedule delay, perhaps two weeks or not more than one month, in the schedule to determine whether a line loss adjustment is appropriate in the Power Purchase Agreement between PacifiCorp and SF Wind if good cause for delay is shown. PacifiCorp questions whether there is adequate cause for a delay. Nonetheless, due to the accusatory tone of SF Wind’s Petition, PacifiCorp is

compelled to respond in order to set the record correct for certain exaggerations and inaccuracies in the Petition.

First, SF Wind's modus operandi in these proceedings and in the contract approval proceedings has been one of claiming an urgent need for expedited treatment due to exigent circumstances. Subsequently, PacifiCorp devotes significant internal resources and long hours in preparing its responses to meet these expedited deadlines in order to accommodate SF Wind's aggressive schedules, only to be told that due to vacations, school and travel schedules, and now an apparent lack of transmission experts, SF Wind needs more time.

Second, SF Wind claims that no "material or financial harm to the Company from the delay" will occur. If a delay in these proceedings will impact the project schedule, such a delay would certainly expose PacifiCorp and its ratepayers to material and financial harm. Our contract with SF Wind however is clear that SF Wind is required to meet its scheduled online date notwithstanding the time when this issue is resolved. Notwithstanding this legal standard, such delays hinder PacifiCorp from getting the real business of keeping costs down for customers. Moreover, SF Wind apparently believes that PacifiCorp has unlimited resources to devote to its quest for a line loss adjustment. Approximately thirteen employees from PacifiCorp's Regulation, Commercial & Trading, Power Delivery, Hydro and Legal departments have devoted significant time and effort to responding, on an expedited basis, to SF Wind's data requests.

Third, SF Wind correctly states that PacifiCorp has agreed to a technical conference. What SF Wind fails to mention is that over two weeks ago, PacifiCorp actually suggested that SF Wind request a technical conference so that PacifiCorp could answer questions relating to PacifiCorp's system in a way that permitted the Division of

Public Utilities and the Committee of Consumer Services, both parties to this proceeding, to participate in those discussion. No response is received until over two weeks later, when SF Wind makes the request.

Fourth, SF Wind expresses difficulty in obtaining an expert witness to assist it in these proceedings. The tone of SF Wind's Petition suggests that PacifiCorp somehow has incapacitated all local transmission experts in order to prevent them from working against PacifiCorp. It should come as no surprise to SF Wind that the owner and operator of a major interstate transmission system would employ and retain a large number (but certainly not all) of the transmission engineers and consultants that take conflicts of interest seriously. Waivers of any such conflicts however could be obtained and yet not one contractor has approached us for a waiver. We routinely see such requests from our local law firms and other contractors, many of which we waive.

Additionally, although SF Wind apparently needs more time to prepare testimony, it managed to fortuitously add a bit of a sneak preview of their testimony in that a local consultant (that has since declined to represent SF Wind) "indicated the possibility of substantial line loss savings to the Company" due to the facility. The identity of such consultant is not known to the Company and thus cannot ascertain if any conflict even exists in this circumstance.

Fifth, and particularly misleading, is SF Wind's statement that "the data request process has bogged down." SF Wind has issued four sets of data requests, all of which the Company has taken extraordinary efforts to timely answer. Indeed, contrary to SF Wind's assertion that the turnaround time for data requests is 14 days, the actual turnaround time for theses data requests is 30 days. *See*, R746-100-8; U.R.C.P. 33(b)(3) & 34(b)(2). However, in the interest of expedition and cooperation, PacifiCorp has

responded to SF Wind's first two sets of data requests in 14 days *and the second two sets in seven days*. PacifiCorp has worked diligently to respond to the requests to permit SF Wind to use them in filing its direct testimony on August 18, 2006.

SF Wind states that the answers to the data requests have not allowed its consultant enough information or time to successfully model the issues. PacifiCorp has accurately and completely answered each of SF Wind's data requests. Apparently, SF Wind is either asking the wrong questions or does not like the answer to the questions.

Moreover, SF Wind grumbles about having to comply with the Commission's rules, having to go through the formal data request procedure and infers that PacifiCorp is unreasonable for demanding that information requests are asked through discovery appropriate channels. Contrary to SF Wind's assertion, data requests are the *informal* discovery process established by Commission Rules. *See* R746-100-8(A).

PacifiCorp is fully prepared to file its direct testimony on August 18, 2006, in accordance with the Commission's Scheduling Order dated June 26, 2006. However, if the Commission decides to grant SF Wind's Petition, PacifiCorp respectfully requests that the Commission notify PacifiCorp as soon as possible so that it does not file its direct testimony prematurely, thus giving SF Wind an unfair advantage in seeing PacifiCorp's direct testimony prior to the day that SF Wind will file its direct testimony.

Simply put SF Wind fails to make a compelling case for delay. SF Wind should not be able to put this Commission and the Company as well as other parties to the case to such extremes of responding to its data requests while then at the twelfth hour requesting more time. It is poor management at best and simply costly to all involved at worst.

PacifiCorp respectfully requests that if the Commission does grant additional time to SF Wind, that the Commission clarify that the response time for data requests will be the default of 30 days. PacifiCorp has already voluntarily responded to four rounds of data requests in this proceeding on an expedited basis, and if these proceedings are to be continued, PacifiCorp would prefer not to needlessly devote numerous and costly resources to responding on an expedited basis.

WHEREFORE, PacifiCorp respectfully requests:

- (1) that if the Commission decides to grant a delay in each of the dates in the schedule, the delay be for each of the fixed dates in the schedule and not be more than 30 days;
- (2) that if the Commission decides to grant a delay in the schedule, the Commission clarify that the turnaround for data requests be the standard 30 days, so that PacifiCorp does not unnecessarily expend time and resources in responding on an expedited basis; and
- (3) that the Commission notify PacifiCorp as soon as possible if there will be a delay in the schedule so that PacifiCorp does not prematurely file its direct testimony on August 18, 2006, which was intended to be filed concurrently with SF Wind's direct testimony.

DATED this 17<sup>th</sup> day of August, 2006.

Respectfully submitted,

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Dean S. Brockbank  
Attorney for PacifiCorp

## CERTIFICATE OF SERVICE

I hereby certify that on this 17<sup>th</sup> day of August, 2006, I caused to be served via United States mail, postage prepaid, or electronic mail, a true and correct copy of the foregoing Response to Petition for Delay and Request for a Technical Conference and Re-Scheduling of Proceeding to the following:

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