

WILLIAM J. EVANS (5276)
MICHAEL J. MALMQUIST (5310)
SETH P. HOBBY (10742)
PARSONS BEHLE & LATIMER
One Utah Center
201 South Main Street, Suite 1800
Post Office Box 45898
Salt Lake City, UT 84145-0898
Telephone: (801) 532-1234
Facsimile: (801) 536-6111
Attorneys for Milford Wind Corridor, LLC

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the matter of the application of Milford Wind Corridor Phase I, LLC and Milford Wind Corridor Phase II, LLC for Certificates of Convenience and Necessity for the Milford Phase I and Phase II Wind Power Project

**NOTICE OF GOVERNOR'S SIGNING
OF SENATE BILL 202 AND REQUEST
FOR ORDER OF DISMISSAL**

Docket No. 08-2490-01

Milford Wind Corridor Phase I, LLC and Milford Wind Corridor Phase II, LLC (collectively "Milford I and II"), through their undersigned counsel hereby notify the Public Service Commission that Senate Bill 202 has now been signed by Governor Huntsman, and request that the Commission take notice of the effect of Senate Bill 202 on this proceeding, as follows:

1. On February 20, 2008, Milford I and II filed an Application for a Certificate of Convenience and Necessity (“Application”) to construct the Milford Phase I and II Wind Power Project consisting of a proposed wind farm and transmission line, as described in the Application (the “Project”). At the same time, Milford filed a Motion to Dismiss on the grounds, among others, that a Certificate of Convenience and Necessity is unnecessary and that the Commission lacks authority to either grant the Certificate or regulate the Project.

2. On February 26, 2008, the Commission issued a Scheduling Order in this docket setting a deadline for filing responses to the Application and the Motion to Dismiss. Under the Scheduling Order, responses were to be filed and served on or before March 24, 2008.

3. Also on or about February 26, 2008, Rocky Mountain Power petitioned for leave to intervene in this docket, which request was granted by order of the Commission dated March 18, 2008. On March 20, 2008, Utah Associated Municipal Power Systems (“UAMPS”) submitted a Petition to Intervene in this docket.

4. On March 18, 2008, Governor Huntsman signed into law Senate Bill 202, the Energy Resource and Carbon Emission Reduction Initiative (herein “S.B. 202”) (a copy of the enrolled S.B. 202 is attached hereto as Attachment 1). Pursuant to Section 23 of S.B. 202, “[i]f approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor.” Because S.B. 202 garnered 67 of a possible 75 votes in the House, and 28 of a possible 29 votes in the Senate, S.B. 202 is now effective.¹

¹ See <http://le.utah.gov/~2008/status/sbillsta/sb0202s01.htm> (Utah Legislature’s Webpage, documenting the vote tally on S.B. 202).

5. Certain arguments made by Milford I and II in support of their Motion to Dismiss have been rendered moot by enactment of S.B. 202. Among other things, S.B.202 amended the definition of independent power production facility as follows:

“Independent Power Production Facility” means a facility that:

- (a) “produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or
- (b) is a qualifying power production facility.”

Utah Code Ann. § 54-2-1(14). S.B. 202 also amended the definition of “independent energy producer” to mean “every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers that own, operate, control or manage an independent power production or cogeneration facility.” Id. at § 54-2-1-(13). Because the Project is an independent power production facility under the amended definition, Milford I and II now fall within the definition of “independent energy producers.” See description of Project in Application at 3-5.

6. In addition to the foregoing changes in the definitions of “independent power production facility” and “independent power producer,” S.B 202 also made certain changes in the definition of “public utilities.” Among them are as follows:

An independent energy producer is exempt from the jurisdiction and regulations of the Commission with respect to an independent power production facility if it meets the requirements of subsection 16(d)(1), (ii), or (iii), or any combination of these: (i) . . . (ii) the commodity or service is sold by an independent energy producer solely to an electrical corporation or other wholesale purchaser. . .

Id. at § 54-2-1 (16) (d).

7. As set forth in Milford I and II’s Application, Milford I and II are independent wholesale power producers that do not provide retail service or sales. The entire output of Phase

I is to be sold at wholesale to the Southern California Public Power Authority (“SCPPA”) for subsequent distribution to its member cities. Although contracts for the output of Phase II have not yet been finalized, it is intended that the entire output will be sold in wholesale transactions with electrical corporations or other wholesale purchasers. Application at 6-7. Thus, Milford I and II are exempt from the jurisdiction and regulation of the Commission with respect to the independent power production facilities comprising the Project.

8. In addition, under Utah Code Ann. § 54-4-25(1), the requirement to obtain a Certificate applies to “electrical corporations,” and the definition of “electrical corporation” excludes “independent energy producers.” Utah Code Ann. § 54-2-1(7). Because Milford I and II are “independent energy producers” no Certificate is required.

9. S.B. 202, therefore, requires that Milford’s Application should be dismissed on the grounds that Milford I and II are exempt from the jurisdiction of the Commission with respect to the Project, and on the grounds that because they are not electrical corporations, no Certificate is required.

Respectfully submitted this 21st day of March 2008.

_____/S/ WILLIAM J. EVANS_____
WILLIAM J. EVANS
MICHAEL J. MALMQUIST
SETH P. HOBBY
PARSONS BEHLE & LATIMER
Attorneys for Milford Wind Corridor Phase I,
LLC and Milford Wind Corridor Phase II, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of March, 2008, I caused to be sent by electronic mail and/or mailed, first class, postage prepaid, a true and correct copy of the foregoing **NOTICE OF GOVERNOR'S SIGNING OF SENATE BILL 202 AND REQUEST FOR ORDER OF DISMISSAL** to the following:

Michael Ginsberg
Patricia Schmid
Assistant Attorney General
Utah Division of Public Utilities
Heber M. Wells Bldg., Fifth Floor
160 East 300 South
Salt Lake City, UT 84111
mginsberg@utah.gov
pschmid@utah.gov

Paul Proctor
Assistant Attorney General
Utah Committee of Consumer Services
Heber M. Wells Bldg., Fifth Floor
160 East 300 South
Salt Lake City, UT 84111
pproctor@utah.gov

Mark Moench
Daniel Solander
Rocky Mountain Power
201 South Main Street #2300
Salt Lake City, UT 84111
mark.moench@pacificorp.com
daniel.solander@pacificorp

Matthew F. McNulty, III
Florence Vincent
Van Cott Bagley Cornwall & McCarthy
39 South State Street, #1900
Salt Lake City, UT 84111
MMcNulty@vancott.com
FVincent@vancott.com

____/s/ Colette V. Dubois_____