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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	<p>MILFORD WIND'S RESPONSE TO MOTION OF UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS TO VACATE SCHEDULING ORDER</p> <p>Docket No. 08-2490-01</p>
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Milford Wind Corridor Phase I, LLC and Milford Wind Corridor Phase II, LLC (collectively "Milford Wind" or "Milford"), by and through their undersigned counsel, submit this Response to the Motion of Utah Associated Municipal Power Systems ("UAMPS") to vacate the scheduling order issued on July 16, 2008.

ARGUMENT

UAMPS' stated purpose for filing its Motion to Vacate the Scheduling Order ("Motion to Vacate") is that on July 22, 2008, Milford Wind filed a Petition for Rehearing or Request for Reconsideration of the Public Service Commission's ("Commission") Order on Petition for Rehearing ("Milford's Petition for Rehearing"). UAMPS claims that the time required to respond to Milford's Petition for Rehearing would leave it too little time to conduct discovery.

Since the time that UAMPS filed its Motion to Vacate, UAMPS has also filed its Opposition to Milford's Petition for Rehearing ("Opposition" (filed August 6, 2008)). In addition, following the filing of its Opposition, UAMPS continued to conduct discovery, serving data requests on Milford and the Division on August 7, 2008. Thus, it does not appear that UAMPS had too little time to respond to Milford's Petition for Rehearing, conduct discovery or that it is otherwise incapable of meeting the current schedule. Milford Wind agrees with the Division of Public Utilities that Milford's Petition for Rehearing should not affect UAMPS ability to conduct adequate discovery or to respond to requests from other parties. See Response of the Division of Public Utilities to UAMPS' Motion to Vacate the Scheduling Order (August 5, 2008) (UAMPS has had since April 9, 2008, when it was granted intervention to conduct discovery).

UAMPS' Motion to Vacate further complains that Milford Wind's Petition for Rehearing could have been considered at the Scheduling Conference, and that Milford refused to stipulate to additional time as a professional courtesy. As of the date of the Scheduling Conference, it was not contemplated that Milford would file the Motion and, thus, it could not have been considered during the Scheduling Conference. Nevertheless, the fact that Milford's Motion was not contemplated does not mean that the Commission should vacate the schedule when UAMPS obviously had ample time to respond to it.

Likewise, Milford Wind's refusal to stipulate is not a reason to vacate the schedule. Milford might have agreed to cooperate with UAMPS' request for additional time had UAMPS proposed that the parties agree to shifting a few dates in the schedule. Instead, in an apparent effort to maximize the delay, UAMPS demanded a stipulation to suspend the entire schedule

(including the hearing date) to some indefinite time in the future. Because Milford Wind could not agree to postponement of the hearing, it was unable to extend UAMPS the courtesy.

UAMPS also complains that the Petition for Rehearing was a "procedural irregularity" and that continuing this docket on "dual tracks" would be "counterintuitive and inefficient." Motion to Vacate at 2-3. Any procedural irregularity in Milford's Petition for Rehearing, as Milford pointed out in the Petition itself, was a result of an apparent discrepancy between Title 54 and the Administrative Procedures Act on how an aggrieved party must preserve its right to appeal. If Milford's Petition for Rehearing was, as UAMPS contends, essentially a sur-reply to UAMPS Petition for Rehearing, then UAMPS had no right to respond to it in the first place. See Utah Code Ann. § 63G-4-302 (2008). In any case, it makes no difference that Milford's Petition for Rehearing was "irregular" because UAMPS could and did timely respond to it.

The parties will not suffer any significant burden resulting from proceeding to hearing "on dual tracks" while the Commission considers Milford's Petition for Rehearing. On the other hand, further delay of the final resolution of this case could cause Milford Wind to miss important deadlines for delivering power, resulting in monetary damages and other potentially severe consequences. See Power Purchase Agreement (found at Appendix C to UAMPS' Opposition to Motion to Dismiss), at Section 11.3(a).

This is an expedited proceeding. Milford Wind has already experienced delay occasioned by UAMPS' Petition for Rehearing of the Commission's Order dismissing the Application, and it does not appear that there is any good reason that UAMPS cannot adhere to the schedule. It would be reasonable, under the circumstances, to leave the current schedule in place while the Commission considers Milford's Petition for Rehearing.

For the foregoing reasons, Milford Wind respectfully requests that the Commission deny UAMPS' Motion to Vacate the Scheduling Order.

DATED this 14th day of August, 2008.

/s/ William J. Evans

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