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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 THE PRELIMINARY POSITION STATEMENT OF INTERVENOR UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS</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 Preliminary Position Statement (“Position Statement”) of Utah Associated Municipal Power Systems (“UAMPS”), filed on July 28, 2008.

INTRODUCTION

UAMPS filed its Petition to Intervene in this docket on March 20, 2009. In support of its intervention, UAMPS claimed that it would be “directly affected” by the Commission’s decision in this matter because UAMPS would then be required to seek a certificate, and its members “potentially may be affected by the proposed project because of transmission lines and the interconnection at the IPP substation.” Petition to Intervene at ¶ 3. Milford Wind did not oppose

the intervention because at that time based on UAMPS' petition it was not clear whether UAMPS had any legally protectable interest in this matter. The Commission granted UAMPS' intervention on April 9, 2008. In its order, the Commission stated that it may condition UAMPS' participation upon:

such factors as whether the intervenor is directly and adversely impacted by issues raised in the proceeding; whether the intervenor's interests are adequately represented by another party; . . . and how intervenor's participation will affect the just, orderly and prompt conduct of these proceedings."

(Order Granting Intervention, April 9, 2008). Through UAMPS' participation in this docket, and in the briefs and statements it has filed with the Commission, it is now evident that UAMPS does not have any interest in this docket that should entitle it to intervention. In addition, as discussed below, many of the issues that UAMPS has raised are not relevant to the Commission's inquiry into whether the requirements have been met for granting a certificate of convenience and necessity. Milford Wind believes the Commission should define the relevant issues to be decided in this docket, and confine UAMPS' participation to those issues in which UAMPS can show a direct and adverse impact.

ARGUMENT

Intervention in Commission proceedings is governed by the Utah Administrative Code which provides that intervention shall be granted if it is determined that:

The petitioner's legal interests may be substantially affected by the formal adjudicative proceeding; and (b) the interests of justice in the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention.

Utah Code Ann. § 63G-4-207 (2008) (formerly § 63-46b-9); Utah Admin. Code R746-100-7.

An order permitting intervention may impose conditions necessary for the just, orderly and

prompt conduct of the adjudication proceedings, which conditions may be imposed “*at anytime after intervention.*” Id. at 63G-4-207 (emphasis added).

The participation of UAMPS has taken this case far afield from what should have been a simple adjudication of whether a certificate of public convenience and necessity should be granted to Milford Wind to construct its interconnection line.¹ Milford requests that the Commission take this opportunity to focus the issues and keep the matter on track for hearing which is scheduled for the end of September.

I. UAMPS HAS NOT SHOWN THAT IT IS DIRECTLY AND ADVERSELY AFFECTED BY THE PROCEEDINGS.

In its Position Statement, UAMPS offers three reasons for claiming it is directly and adversely affected by Milford Wind’s construction of the interconnection line. First, UAMPS contends that its facilities may be compromised; second, it claims that Milford Wind has not demonstrated the financial ability to complete the project; and, third, it contends that the status of Southern California Public Power Authority (“SCPPA”) and Los Angeles Department of Water and Power (“LADWP”) must be developed in the administrative record. As discussed below, none of these reasons demonstrates any legal interest of UAMPS that could be affected by these proceedings.

¹ By addressing UAMPS’ Position Statement and briefing the issues to be decided at hearing, Milford Wind does not concede that the Commission has jurisdiction to require a certificate. At the time of filing this Response to UAMPS’ Position Statement, Milford Wind’s Petition for Rehearing of the Commission’s Order on Petition for Rehearing remains pending.

A. UAMPS' Has No Interest in Whether Milford's Interconnection Line Extends into its Territory, and has no Facilities or Operations that Could Be Compromised by Construction of the Interconnection Line.

The requirements for a certificate specify that the applicant must “file a statement that [the proposed line] will not conflict with or adversely affect the operations of any existing fixed public utility,” and that its facilities will not constitute an impermissible “extension into the territory certificated to an existing fixed public utility.” Utah Code Ann. §54-4-25(4)(b). Because UAMPS is not a “public utility” but is an “interlocal entity,” it has no interest in seeing that the Commission enforces this requirement. As discussed below, even assuming UAMPS should be deemed a public utility for the purposes of this section, (and there is no reason that it should be), it still cannot show that it is adversely affected by the construction of Milford Wind's interconnection line.

1. UAMPS has no legitimate interest in whether Milford's Wind's line extends into territory certificated to an existing fixed public utility.

Milford Wind's Application describes the proposed location of the interconnection line in a BLM designated utility corridor. That corridor lies in service territory certificated to Rocky Mountain Power (“RMP”). No party has alleged that the construction would extend into the service area of UAMPS or any UAMPS member, or that if it did, it would constitute an impermissible intrusion.

Because there will be no customers served from the line, the question of whether an extension into the certificated territory of another public utility is relevant only to whether the line itself interferes with the line of a certificated public utility. The Commission may satisfy itself that this requirement has been met by RMP's statements alone. UAMPS, has not shown

that it has any interest in the issue of whether the line will extend into the territory certificated to RMP.

2. UAMPS is not adversely affected by the construction of Milford Wind's interconnection line.

The statute provides that Commission may investigate whether the line “will conflict with or adversely affect the operations of any existing certificated fixed public utility which supplies the same product or service to the public.” *Id.* UAMPS has not shown that it has any interest in this requirement.

- a. UAMPS does not provide the same product or service as Milford Wind's interconnection line.

The function of the interconnection line is unique to the wind farm. While the Commission has chosen to call this a “transmission” line, it is not a FERC jurisdictional line, nor does it meet the seven-factor test prescribed for defining “distribution” facilities.² The line is neither distribution nor transmission, but a unique, private line, carrying only power from the wind farm. UAMPS does not provide the same product or service to the public. Thus, UAMPS has not shown, nor can it show that it has any interest in seeing that this requirement is met.

- b. UAMPS has not identified any protectable facilities or rights that could be adversely affected.

The Commission's authority, if any, is over the interconnection line itself and whether to allow the construction of the line. The interconnection at IPP, and the effect of the

² In Order No. 888, the FERC set out seven factors, which amount to a combination of functional and technical tests, to assist companies and state commissions with separating local “distribution” facilities from FERC jurisdictional “transmission” facilities on a case-by-case basis. *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

interconnection on the power grid, are under the purview of FERC, NERC and WECC. Thus, although the Commission may consider the effect of *line* on the operations of another utility, it has no authority to consider the effect of *interconnecting* the line, or the effect of the movement of Milford Wind's power on the line or the power grid.

In its Position Statement, UAMPS attempts to show adverse impact by claiming that "use of IPP as an interconnection point may have grave consequences." Position Statement at 3. It does not state what those "grave consequences" might be, except to suggest that its "facilities may be compromised," and it does not actually identify any facilities. UAMPS also surmises that the conversion of Milford power to direct current could cause "power disruptions." *Id.* at 3. Again, it does not say what those disruptions might be, or which, if any, of its facilities or operations would be affected.³ Position Statement at 4.

Assuming that the Commission should consider the effect of the interconnection on the grid (which it should not), then UAMPS still has shown no legitimate interest in this proceeding. The Intermountain Power Agency ("IPA") Board of Directors and Coordinating Committee has thoroughly investigated the interconnection at the Intermountain Power Project ("IPP") switchyard, and evaluated its impact on the safety and reliability of the transmission system. See Resolutions of IPA's Board of Directors and Coordinating Committee, dated as March 31, 2008, (filed with the Commission on May 13, 2008 as Exhibit 11 to Milford Wind's Application). Having found no adverse impact on the system, IPA approved the interconnection and entered

³ UAMPS claims that it is "handicapped" by a lack of disclosure from Milford Wind, and it cannot evaluate the "implications" of the proposed project. Position Statement at 4. Milford, however, has responded to all data requests about the effect of interconnection, providing engineering information, the Interconnection Agreement itself, the facilities study, and the underlying system impact studies. Milford Wind has claimed confidentiality for some of these documents, and as of this date, UAMPS has not bothered to sign Exhibit A to the protective order so that it can receive them.

into a fully executed Interconnection Agreement with Milford Wind Corridor Phase I, LLC. Id. Accordingly, as Milford Wind stated in its Application, the available evidence indicates that the delivery of its wind power to the IPP interconnection point will not have any significant adverse impact on the power grid or the operations of any electric provider.

It is conceivable (but unlikely in view of the system impact studies) that RMP's operations could be affected by the interconnection since RMP's transmission lines connect at IPP. As Milford Wind has shown in its previous memoranda, conflicts over interconnection and the transmission of power on the interstate grid are matters outside the authority of the Commission to resolve, and must be brought, if at all, before the courts or federal agencies.⁴ Even if the Commission were to consider such conflicts in this proceeding for a certificate to construct the line (which it clearly should not), then it would be RMP and not UAMPS that would have the interest. UAMPS cannot state an adequate interest of its own in this proceeding merely by alleging that Milford Wind's interconnection might have an impact on RMP. It must show that construction of the line would a direct and adverse impact on UAMPS.

3. UAMPS' contractual rights at IPP Unit 3 are not legitimate basis for intervention.

In its Position Statement, UAMPS claims it has "contractual rights in the IPP Unit 3," and that "use of IPP as an interconnection point may have grave consequences." As discussed above, the Interconnection Agreement has been duly approved and executed. Assuming UAMPS were to have some complaint about its contractual rights at IPP Unit 3 (which it has not

⁴ See Milford Wind's Reply Memorandum in Support of Motion to Dismiss (filed April 17, 2008) at 16-18 (FERC has jurisdiction over interstate transmission of electric energy, facilities for such transmission, interconnection agreements, interconnection standards, and reliability standards and guidelines in the transmission of electric energy (citations omitted)).

identified), the Commission is not the appropriate tribunal, and this is not the proper forum to resolve that complaint.⁵

The Commission should not allow itself to be put in the position of enforcing UAMPS' purported rights in IPP Unit 3 against third parties, adjudicating Milford Wind or IPP's rights under the interconnection agreement, or second guessing the engineering studies upon which IPA relied to approve the interconnection. This proceeding is to determine whether a certificate of convenience and necessity should be granted to build Milford Wind's interconnection line. Pursuant to the language of the authorizing law, the Commission should confine its investigation to determine whether the construction of the line would "conflict with or adversely affect" the operations of an existing certificated public utility. It appears that the only question, therefore, is whether RMP's operations could be adversely affected. UAMPS simply cannot show that it has a legitimate interest in this issue.

B. The Commission Should Not Consider Issues with Respect to Siting the Interconnection Line.

In a proceeding to determine whether a certificate should be granted, the Commission may require an applicant to obtain, or to be in the processing of obtaining, the necessary permits from the proper county, city municipal or other public authorities. Utah Code Ann. § 54-4-25(4)(a). Milford Wind has submitted a matrix showing the status of its effort to obtain the permits and approvals. See Exhibit 8 to Application.⁶ While the grant of a certificate may be

⁵ UAMPS has already brought legal action against LADWP and IPA in the courts involving claims over its purported rights in IPP Unit 3. Utah Associated Municipal Power Systems v. Los Angeles Department of Water and Power and Intermountain Power Agency, Case No. 070916054 (Third Judicial District Court, Salt Lake County, State of Utah).

⁶ In response to data request from the Division of Public Utilities, Milford Wind has produced an updated matrix showing the status of permits and approvals as of July 22, 2008.

conditioned on obtaining all of the necessary permissions with respect to siting of the facilities, the Commission has ruled that it does not have authority over siting.⁷ The appropriate scope of inquiry for the Commission, therefore, is limited to determining whether all of the necessary permissions have been obtained. As stated in the Application, the proposed route for the interconnection line is over federal, state and private lands, following primarily the BLM utility corridor. Milford has or will obtain all of the necessary permits and rights to locate its facilities there.

UAMPS contends in its Position Statement, as it has throughout this docket, that Milford's use of "finite Utah resources may compromise the ability of UAMPS' members to serve their customers using the renewable resources they increasingly demand." Position Statement at 3. It does not identify any such member or explain how its members' ability to serve their customers may be compromised if Milford Wind's line is built. Instead, UAMPS simply continues to harp on the theme of "conserving Utah's resources." Because the requirement to obtain a certificate is for Milford Wind's interconnection line only, the "finite resource" that UAMPS claims should be conserved can only be the space that the line will occupy in the designated BLM utility corridor. Position Statement at 4 n.1. Thus, UAMPS' "conservation" issue boils down to "siting" of the facilities -- in other words, whether Milford Wind's should be allowed to place its line in the BLM corridor.

The determination of whether to allow Milford Wind to use the utility corridor is in the hands of the federal, state and local authorities from which Milford has or will obtain the

⁷ See Scheduling Order, Docket No. 08-035-42, (May 20, 2008) ("This proceeding is not about the location or siting of the Transmission if it is built. The Commission does not have jurisdiction over the siting of transmission lines. This proceeding is to determine if present or future public convenience and necessity does or will require construction of a transmission line.")

necessary permissions. The Commission should not expand the requirement that those permissions be obtained into an inquiry of whether they *should* have been granted by those authorities. Yet, that is precisely what UAMPS is asking the Commission to do in the interest of “conserving” space in the utility corridor.

Even assuming for the sake of argument that the Commission should decide whether to conserve space in the corridor (which it clearly should not), UAMPS has not explained how it would be directly and adversely affected by a decision granting Milford Wind a certificate. UAMPS does not contend that there is insufficient space in the corridor to place additional facilities, nor that Milford’s line would interfere with its or its members’ facilities.⁸

The Commission should limit the evidence and testimony in this proceeding to whether the necessary permissions for siting the interconnection line have been or will be obtained. It should not rise to the bait offered by UAMPS to engage in second guessing the federal, state and local agencies who have the responsibility and authority for reviewing and approving the siting of the line.

C. Milford’s Financial Ability to Complete the Project is Not Relevant in This Docket and UAMPS Has Not Expressed a Legitimate Interest in that Issue.

The requirements for obtaining a certificate include that the applicant “shall have established a ratio of debt capital to equity capital ... which the Commission shall find renders the electrical corporation financially stable and which financing is found to be in the public

⁸ To the extent UAMPS purports to voice the concern of all Utahans who have an interest in conserving Utah’s resources, it is the Division, not UAMPS, that would be the most appropriate party to represent that interest. See Sierra Club v. Dept. of Env. Quality, 857 P.2d 982 (Ut. Ct. App. 1993) (plaintiff denied standing when it could not establish that it was injured and was the most appropriate plaintiff to bring the action).

interest.” Utah Code Ann. § 54-4-25(5)(d).⁹ Milford Wind has stated that, at this stage of financing the Project, it will receive funding pursuant to the fully executed Power Purchase Agreement between Milford Wind Corridor Phase I, LLC and SCPPA. The Project will be financed in a way that does not involve rates of Utah customers, Utah taxes, Utah municipal bonds, or any other financing mechanism that would obligate any Utah customer.

UAMPS’ Position Statement asserts that the Commission should “evaluate Milford Wind’s ability to complete the project.” Position Statement at 4.¹⁰ But, it has failed to state any basis for its interest in Milford’s financial stability. While it claims “far-reaching consequences” if Milford Wind does not complete the Project, it does not say what those consequences might be or how they affect UAMPS’ legally protectable interests. It claims only that UAMPS would be unable “to rely on finite resources that would otherwise be available to it.” *Id.* Again, this appears to be a complaint about Milford Wind’s line occupying space in the utility corridor. Position Statement at 4 n.1. As discussed above, the Commission should not countenance a debate on siting of the interconnection line.

UAMPS simply has not identified any interest it has in Milford Wind’s financial stability, and therefore would not be the proper party to investigate Milford Wind’s financial condition for purposes of obtaining a certificate. The interest that UAMPS purports to have in Milford’s finances are adequately protected by the Division of Public Utilities (“Division”), which

⁹ Milford has previously raised the point that because the interconnection line will not serve any Utah customers, because Milford will provide no power or services to Utah residents, and because Utah ratepayers are not at risk for Milford’s investment, Milford should not be subject to the requirements of Title 54 to obtain a certificate. For the same reasons, (and since the Commission has now ruled that Milford must obtain a certificate for the line), Milford should be exempt from the requirement of demonstrating a debt/equity ratio that renders it “financially stable” enough to build the interconnection line.

¹⁰ UAMPS misstates the requirement, which is “financial stability,” not the demonstrated ability to “complete the project.”

routinely investigates the financial condition of utility developers as part of its role to protect the interests of all Utah citizens.

In sum, because Milford Wind's investment in the interconnection line will not be recovered in a way that puts any Utahan at risk for cost recovery, the issue of Milford's financial stability should not be relevant to the question of whether the Commission should grant a certificate. Nevertheless, if the Commission concludes that it should hear evidence on that issue, Milford Wind requests that the Commission rely on the Division to develop the evidence, and preclude UAMPS' discovery and testimony on Milford's financial condition.

D. SCPPA and LADWP Should Not be Joined in this Docket.

UAMPS' third and final statement of interest in this case is not really a statement of its interest at all, but the re-assertion of its claim that SCPPA and the LADWP must be joined as parties. UAMPS entirely fails to explain how UAMPS' legitimate interests are affected by whether or not those parties are joined.

UAMPS has previously moved the Commission for an order joining SCPPA,¹¹ and Milford Wind has previously addressed the motion.¹² The joinder of those parties is unnecessary and would only serve to impede the prompt and orderly adjudication of the Application.

E. The Commission Should Reject UAMPS' Proposals to Delay this Proceeding.

Milford Wind filed its Application requesting expedited treatment because it must meet certain deadlines under the Power Purchase Agreement. Milford appreciates the Commission's responsiveness and diligence in scheduling the matter and in deciding quickly the motions that

¹¹ UAMPS' Petition for Rehearing (June 16, 2008) at 11-13. The Commissioner ignored its argument then, as it should now.

¹² See Milford's Reply Memorandum in Support of Motion to Dismiss and in its Opposition to UAMPS' Petition for Rehearing.

have been submitted by the parties. Milford requests that the Commission continue to facilitate the prompt and efficient adjudication of Milford's Application, and reject UAMPS' repeated attempts to delay the final resolution.

UAMPS' Position Statement requests that the Commission "reserve ruling" on its Position Statement, refrain from acting on Milford Wind's "belated request to limit or exclude UAMPS participation," and postpone scheduling the hearing until after the completion of discovery. These requests are in addition to UAMPS' previously filed motion requesting that the Commission vacate the scheduling order because UAMPS was put to the trouble of responding to an unanticipated motion (Motion to Vacate Scheduling Order, July 31, 2008). In addition, as of August 11, 2008, UAMPS has refused to respond to data requests from Milford Wind until the Commission rules on its Motion to Vacate. (See UAMPS' Response to Milford Wind's Second and Third Sets of Data Requests) (attached hereto as Attachment 1)). It is fairly clear that UAMPS' participation in this docket is just for the purpose of obstruction in these proceedings. The Commission should not allow this to happen.

Finally, while UAMPS contends that Milford's challenge to UAMPS' intervention is "belated," the statute and the Commission's order provide that the Commission may impose conditions at any time after intervention. Utah Code Ann. § 63G-4-207(3)(c); Order Granting Intervention at 1. Under the circumstances, the Commission should limit UAMPS' participation to narrowly defined issues in which UAMPS can demonstrate a legal interest, and should reject all UAMPS' attempts to delay the final decision on Milford Wind's Application.

F. The Commission's Consideration of the Application for a Certificate Pertains to Phase I of the Project.

UAMPS requests that the Commission limit its actions to “Phase I” of Milford’s Wind Project. UAMPS evidently misunderstands that the interconnection line will be constructed as part of Phase I. Phase II involves only an increase of capacity of the wind farm, which the Commission has already determined is exempt from regulation. Since the Commission has dismissed the Application as to the wind farm, the only remaining issues for adjudication pertain to Phase I.

II. THE COMMISSION SHOULD IDENTIFY THE ISSUES TO BE DETERMINED AND LIMIT UAMPS’ PARTICIPATION TO ITS LEGITIMATE INTERESTS IN THOSE ISSUES.

Milford Wind is not seeking authority to provide exclusive service in a designated territory. It is not seeking to provide electric power to Utah consumers. It is not seeking to provide transmission services to the public. Therefore, the requirements that are usually relevant to granting a certificate of public convenience and necessity are not relevant in this case. In view of UAMPS’ Position Statement, it would be helpful for the Commission to identify the issues to be determined in this docket. Milford Wind suggests that the Commission’s should limit its inquiry to only a few issues.

1. Whether the necessary permissions have been obtained.

It is reasonable for the Commission to require that Milford submit evidence to show that it “has received or is in the process of obtaining the required consent, franchise, or permit of the proper county, city, municipal, or other public authority.” Utah Code Ann. § 54-4-25 (4)(a). If all of the permissions have not been obtained by the conclusion of hearing, the Commission should condition the certificate on obtaining such permissions. *Id.* The Commission should not

be drawn into a situation where it is second guessing the permissions granted by other authorities, or the terms and conditions of interconnection, or otherwise prescribing how or where the facilities should be located.

Unlike some other states in which the Legislature has delegated siting authority to their public utilities commissions, Utah's statute allows review of the siting permissions only in the context of a proceeding to consider whether the construction is required by the public convenience and necessity. This statutory scheme does not provide the Commission with much flexibility to engage in long-range and regional planning of facilities built through private investment by independent utility developers. At the same time, it imposes a burden on independent utility developers to meet requirements that are designed for public utilities seeking to construct facilities with public money, and to provide public utility services to Utah consumers. Under the circumstances, and until and unless the statute is amended, Milford Wind believes that the only relevant issue for the Commission to consider in this docket is whether Milford Wind has obtained the necessary permissions.

2. Whether the interconnection line adversely affects the operations of a public utility or constitutes an impermissible extension into the territory certificated to an existing public utility.

The Commission may choose to require a statement from Milford Wind that its proposed interconnection line “will not conflict with or adversely affect the operations of any existing certificated fixed public utility which supplies the same product or service to the public and that it will not constitute an extension into the territory certificated to the existing fixed public utility.” *Id.* at § 54-4-25 (4)(a).

Because no certificated public utility's facilities are offering the same service that Milford Wind's interconnection line will provide to the wind farm, this requirement is met simply by the nature of the interconnecting line. Nevertheless, if the Commission finds it necessary to take evidence on this issue, then it is Rocky Mountain Power that would be the relevant certificated public utility. UAMPS is not a certificated public utility, neither are any of its members, it has no territory, it cannot identify any operations or facilities that would be compromised, and thus it cannot demonstrate that it has any interest in seeing that this requirement has been met.

3. Whether construction of the interconnection line is required by the public convenience and necessity.

The Commission may choose to require a showing that the public convenience and necessity will require the construction of Milford Wind's interconnection line. *Id.* at § 54-40-25(1).¹³ Obviously, the interconnection line is required to carry power from the wind farm to a point of sale. In that respect, it serves the public convenience and necessity by avoiding a waste of wind power generated at the wind farm (which may be constructed without a showing of public convenience or necessity).

The Division has accepted Milford Wind's statements that the Project also "provides the local counties and the state with substantial benefits" in the form of jobs, economic activity and tax revenue to Millard and Beaver counties, and from the "environmental advantages of having non-polluting renewable electric generation facilities in the state." Recommendation to the

¹³ From the first submission of Milford Wind in this case, Milford has questioned the applicability of this requirement to the facilities of an independent power producer, interconnecting with an interstate transmission provider, and delivering power solely through a wholesale transaction for consumption outside of the state. Because the interconnection line will not be funded with public money or available for public use, it is not clear that any showing of public need is required.

Commission (March 28, 2008) at 7-8. No party has controverted the Division's recommendation that those benefits are adequate to support a finding that the public convenience and necessity requires construction of the interconnection line. Nevertheless, as the hearing of this matter approaches, Milford Wind requests that the Commission clarify this issue so that the parties can present evidence that will be helpful to the Commission in ultimately deciding the question.

CONCLUSION

For the foregoing reasons, Milford Wind respectfully requests that the Commission (1) assist the parties by identifying and narrowing the issues to heard in this case; (2) limit UAMPS' intervention to its demonstrated legally protectable interests in the relevant issues; and (3) deny all outstanding requests to postpone, delay or vacate the schedule in this docket.

DATED this _14th____ day of __August____, 2008.

/s/ William J. Evans

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of August, 2008, I caused to be sent by electronic mail and/or mailed, first class, postage prepaid, a true and correct copy of the foregoing **MILFORD WIND'S RESPONSE TO THE PRELIMINARY POSITION STATEMENT OF INTERVENOR UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS** to the following:

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