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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

**MOTION FOR ORDER GRANTING
MILFORD WIND CORRIDOR PHASE
I, LLC AND MILFORD WIND
CORRIDOR PHASE II, LLC
EXEMPTIONS FROM CERTAIN
REGULATORY REQUIREMENTS**

Docket No. 08-2490-01

Pursuant to R746-100-3.H, Milford Wind Corridor Phase I, LLC and Milford Wind Corridor Phase II, LLC (collectively “Milford Wind”), by and through their undersigned counsel, hereby move the Utah Public Service Commission (“Commission”) to issue an order exempting Milford Wind from certain regulatory requirements. In support of this Motion, Milford states as follows:

1. On February 20, 2008, Milford Wind filed their application for certificates of convenience and necessity for Phase I and Phase II of the Milford Wind Power Project (“Project”). Concurrently, Milford Wind submitted a motion to dismiss the application,

requesting that the Commission determine the Project does not require certificates of convenience and necessity.

2. On May 16, 2008, the Commission issued its order dismissing the application for lack of jurisdiction.

3. Thereafter, UAMPS filed a petition for reconsideration, and on July 2, 2008, the Commission issued its order determining that while it did not have jurisdiction regarding the generation facilities, a certificate of convenience and necessity would be required for the 345 kV line interconnecting the generation facility to the Intermountain Power Project (“IPP”) interconnection facilities. The Commission’s ruling stated:

In our May 15 Order, we concluded the wind farm at the heart of the Milford Wind Project is an independent power production facility such that Milford Wind is an independent energy producer with regard to the Project. In accordance with *Utah Code Annotated* § 54-2-1(16)(d), we further concluded that because the electricity produced by the Project will only be sold on a wholesale basis Milford Wind is exempt from Commission jurisdiction and regulation with respect to the power production facilities associated with the Project. Our Order today in no way modifies this decision. . . . Having reconsidered this matter, we agree and conclude a plain reading of *UCA* § 54-2-1(14) includes only production, not transmission, facilities within the definition of an independent power production facility. For this reason, contrary to our May 15 Order, we conclude the Project’s proposed 90-mile transmission line is not excluded from Commission jurisdiction such that Milford Wind must obtain a CPCN prior to construction and operation of said line.

Order on Petition for Rehearing, 2–3. Milford Wind petitioned for reconsideration of this decision. Milford Wind’s petition was deemed denied after August 26, 2008.

4. The Commission determined that the wind farm at the heart of the Milford Wind Project is an independent power production facility such that Milford Wind is an independent

energy producer with regard to the Project. The Commission further concluded that because the electricity produced by the Project will only be sold on a wholesale basis, Milford Wind is exempt from Commission jurisdiction, except as to the 345 kV line interconnecting the wind farm to the IPP interconnection facilities.

5. The Division of Public Utilities (“DPU” or “Division”) in an Action Request Response, dated March 28, 2008, recommended that Milford Wind’s application for certificate of convenience and necessity be granted with five conditions.

a. Demonstrate to the Commission that it has acquired all of the necessary permits to construct and complete the proposed transmission facilities;

b. Inform the Commission in writing of the final disposition of the power output from Milford II;

c. Inform the Commission in writing of changes in status with regard to the construction schedules and in-service dates for Milford I and/or Milford II;

d. Inform the Commission in writing of any expansions of Milford I and/or Milford II or of new projects requiring transmission located within the State of Utah; and

e. Apply for additional certificates for any expansion of the transmission capacity from the Milford project area and for any new transmission associated with company wind projects in Utah. Action Request Response, 1–2 (March 28, 2008).

6. The Division, in the Pre-Filed Rebuttal Testimony of Joni S. Zenger, Ph.D. filed on behalf of the DPU on September 8, 2008, recommended the same five conditions. Zenger Test., 4:39-49 (Sept. 8, 2008).

7. The requirements proposed by the Division recognize that Milford Wind is an independent energy producer rather than a public utility providing service to consumers within Utah. Thus, the conditions recommended by the Division should adequately cover the interest of the Commission in overseeing Milford Wind's activities in Utah.

8. For the foregoing reasons, Milford Wind requests that, except for the five (5) requirements recommended by the Division, as stated above, the Commission grant Milford Wind an exemption from all of the public utility duties, reporting requirements, and Commission oversights set forth in Title 54 of the Utah Code Annotated and R746 of the Utah Code Annotated. This will satisfy the need to inform the Commission of the matters recommended by the Division, and yet place Milford Wind in a position comparable with other independent power production facilities in Utah.

Accordingly, Milford Wind request that the Commission issue an order granting such an exemption.

DATED this ___ day of September, 2008.

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