

COTTONWOOD HYDRO, LLC.

5014 East Little Cottonwood Canyon, Sandy, UT 84092

26 January 2010

**VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY**

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84111

Attention: Julie Orchard
Commission Secretary

RE: REQUEST FOR AGENCY ACTION - Ownership of REC's associated with Net Output purchased pursuant to PacifiCorp's Utah Schedule 37 Tariff

Background — In 2009, PacifiCorp and Cottonwood Hydro LLC (“Cottonwood Hydro”) signed a Power Purchase Agreement (“PPA”). The PPA did not contain any provision regarding the ownership of renewable energy credits (“RECs”). In December 2009, PacifiCorp sent Cottonwood Hydro a proposed Power Purchase Agreement for 2010 (the “Proposed Agreement”). The Proposed Agreement provided that REC ownership now belonged to PacifiCorp. Cottonwood Hydro objects to PacifiCorp's proposal that PacifiCorp be permitted to claim the RECs generated by Cottonwood Hydro. Cottonwood Hydro therefore refused to sign the Proposed Agreement as drafted by PacifiCorp. Instead, Cottonwood Hydro and PacifiCorp executed a power purchase agreement that provides that either, or both, parties may petition the Commission for a declaration of which Party owns the REC's. Cottonwood Hydro and PacifiCorp further agree to abide by the Commission's decision regarding ownership of the RCAs and to cooperate fully to allocate the PPA REC's in accordance with the Commission's final determination. Accordingly, Cottonwood Hydro hereby respectfully requests that the Commission declare that Cottonwood Hydro shall be the owner of all RECs generated by that company.

Cottonwood Hydro respectfully asserts that, per Rocky Mountain Power, Electric Service Schedule No. 135, for the State of Utah, #7, “Unless otherwise agreed to by a separate contract, the owner of the renewable energy facility retains ownership of the non-energy attributes associated with electricity the facility generates.” Accordingly, Cottonwood Hydro submits that it is entitled by law to retain all RECs generated by it. Furthermore, the RECs generated by

COTTONWOOD HYDRO, LLC.

5014 East Little Cottonwood Canyon, Sandy, UT 84092

Cottonwood Hydro are vital to the success of its business. The 2009 PPA between Cottonwood Hydro & PacifiCorp, did not provide which party was entitled to claim ownership of the REC's. The proposed 2010 Power Purchase Agreement, which was drafted by PacifiCorp, is identical to the 2009 agreement between the parties in all respects except that it provides that PacifiCorp is entitled to all REC's. Cottonwood Hydro believes that PacifiCorp's insertion of this language in the proposed 2010 Power Purchase Agreement is heavy-handed and coercive. As PacifiCorp is aware, Cottonwood Hydro is a small independent hydro operator. The RECs, which could amount to upwards of \$35,000 in sales, are critical to the survival and success of Cottonwood Hydro. Conversely, PacifiCorp is a large corporation with an entire portfolio of RECs to its name. The RECs generated by Cottonwood Hydro will not make much, if any, impact on PacifiCorp's operation. Accordingly, Cottonwood Hydro respectfully submits that it should be allowed to claim ownership of the RECs that it generates.

Cottonwood Hydro is requesting resolution of the foregoing dispute by adding the following clarification to PacifiCorp's Utah Schedule 37 Tariff: "Unless otherwise agreed to by a separate contract, the owner of the renewable energy facility retains ownership of the non-energy attributes associated with electricity the facility generates."

It is respectfully requested that all formal correspondence and staff requests regarding this matter be addressed to:

By E-mail: susannah@cottonwoodhydro.com

By Phone: (801) 440-9650

By Mail: Susannah Williams
Cottonwood Hydro
9072 Greenhills Drive
Cottonwood Heights, UT 84093

Respectfully submitted,

Susannah Williams

Susannah Williams
Cottonwood Hydro, LLC

Cc: John Younie, PacifiCorp