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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky Mountain Power for Approval of Changes to Renewable Avoided Cost Methodology for Qualifying Facilities Projects Larger than Three Megawatts	Docket No. 12-035-100
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PREFILED DIRECT TESTIMONY OF CHRISTINE MIKELL

[STAY]

Wasatch Wind hereby submits the Prefiled Direct Testimony of Christine Mikell with respect to the stay requested by Rocky Mountain Power in this docket.

DATED this 30th day of November, 2012.

/s/ _____
Gary A. Dodge,
Attorney for Wasatch Wind

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 30th day of November, 2012, on the following:

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BEFORE
THE PUBLIC SERVICE COMMISSION OF UTAH

Direct Testimony of Christine Mikell

on behalf of

Wasatch Wind Intermountain, LLC

Docket No. 12-035-100

[Stay]

November 30, 2012

DIRECT TESTIMONY OF CHRISTINE MIKELL

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Q. Please state your name and business address.

A. My name is Christine Mikell. My business address is 4525 S. Wasatch Blvd, Suite 120, Salt Lake City, Utah, 84124.

Q. By whom are you employed and in what capacity?

A. I am the President of Wasatch Wind Intermountain, LLC (Wasatch Wind), which is the manager of Latigo Wind Park LLC, which is developing the 60 MW Latigo Wind Park in Monticello, Utah.

Q. What is Wasatch Wind?

A. Wasatch Wind, founded in 2002, is an independent wind developer focused on wind projects in the Intermountain West. Wasatch Wind successfully completed the development of Utah's first commercial-scale wind facility in Spanish Fork in 2008. We are currently developing the Pioneer wind projects in Glenrock, Wyoming and the Latigo wind project in Monticello, Utah.

Q. Please describe your background.

A. I have worked in the wind energy industry since 2001. I led the development of Utah's first commercial-scale wind facility at the mouth of Spanish Fork Canyon. Prior to joining Wasatch Wind, I worked as an energy engineer for the Utah Energy Office, where I launched Utah's wind energy program in an effort to encourage wind energy as a means of stimulating economic development in rural communities throughout the state. I hold a B.E. in

23 Civil and Environmental Engineering from Vanderbilt University and an MBA
24 from the University of Utah.

25 **Q. What is the purpose of your testimony in this proceeding?**

26 A. My testimony is in response to the testimony filed by Paul Clements on
27 behalf of Rocky Mountain Power (RMP) in support of RMP's request for a "stay"
28 of the Market Proxy wind QF pricing methodology.

29 **Q. Please provide a brief summary of your testimony.**

30 A. The stay requested by RMP is not in the public interest of the State of
31 Utah. It is also unreasonable and unfair to Wasatch Wind, and would produce
32 discriminatory results. Since 2006, Wasatch Wind has spent significant time and
33 money developing the Latigo Wind Park in reasonable reliance upon indicative
34 pricing provided by RMP calculated on the basis of the Market Proxy pricing
35 method as directed by Commission order. It would not be fair or in the public
36 interest to permit RMP to retract this pricing methodology for the Latigo project
37 at this late date.

38 **Q. Can you provide some background on the current Commission-approved
39 pricing methodology for wind QF resources?**

40 A. Yes. Wasatch Wind was an active participant in Docket 03-035-14, in
41 which the current wind QF pricing methodology was established. The
42 Commission's order in that docket – which was just reaffirmed on September 20,
43 2012 in Docket No. 12-2557-01 – established the method for calculating avoided
44 costs for wind QF projects larger than 3 MW. The Commission ordered that,

45 until an accumulated IRP target of 1,400 MW of wind generation has been
46 reached, pricing is based on the “Market Proxy” method using the most recent
47 wind RFP contract (currently the 2009 Dunlap 1 contract). After the cumulative
48 IRP target has been reached, pricing will be based on the Proxy/PDDRR method,
49 in which the Company runs simulations of its resource dispatch model with and
50 without the wind project to determine the energy value of the wind project, plus a
51 capacity payment based on the next deferrable IRP resource.

52 **Q. What did the Commission do this year in Docket 12-2557-01?**

53 A. In a recent Order in that docket, the Commission re-affirmed the current
54 pricing methodology referenced above, and confirmed that the accumulated IRP
55 target of 1,400 MW has not been reached. Although some parties had raised
56 concerns about the continuing viability of that pricing methodology, the
57 Commission confirmed the meaning of its prior order and the continuing
58 applicability of the Market Proxy method.

59 In response to concerns raised by some parties, the Commission also
60 invited a new docket to address whether the current pricing methodology remains
61 in the public interest on a prospective basis. RMP opened this docket in response.
62 However, RMP also asked for a “stay” of the current pricing methodology even
63 before the Commission has had an opportunity to reach an informed decision on
64 the merits of that question.

65 **Q. Do you object to a Commission re-examination of the appropriate wind QF**
66 **pricing methodology going forward?**

67 A. No. If any party believes that circumstances have changed sufficiently to
68 warrant a re-examination of this issue, it has every right to ask the Commission to
69 reconsider the methodology prospectively. Wind QF pricing should be just and
70 reasonable for all parties, developers and utility ratepayers alike. However,
71 determining the appropriate pricing methodologies for wind QFs is difficult and
72 contentious, and various parties will undoubtedly have widely divergent positions.
73 Mr. Clements has identified some of the difficult issues that must be addressed,
74 such as QF pricing based on state RFP requirements, interjurisdictional cost
75 allocations and environmental attribute ownership (pages 7-8). A number of other
76 difficult issues must also be considered, such as resource projections, economic
77 development, distributed generation, clean air, reasonable reliance, fairness, etc.
78 Moreover, while I am not an attorney, I believe RMP's requested stay may also
79 implicate legal and contractual issues, including those arising under federal and
80 state PURPA laws. All of these and many other difficult issues will require
81 extensive analysis and discussions in the second phase of this docket. Wasatch
82 Wind is happy to participate in that process to ensure that all arguments and issues
83 are fully developed so that the Commission can reach an informed and
84 supportable decision.

85 I strongly object to RMP's attempt to abruptly change the wind QF pricing
86 methodology. We have invested years of time and significant expense developing
87 the project based on our reasonable assumption – confirmed by RMP on several
88 occasions – that the Commission-approved pricing methodology will be available

89 for our project. A “stay” as requested by RMP would have devastating and far-
90 reaching consequences for Wasatch Wind, other wind developers, ratepayers and
91 all citizens of Utah. It should not be granted based solely on RMP’s newfound
92 urgency to re-address this issue. The critical cost and policy issues implicated in
93 this docket should be decided in a deliberate manner, with a full and fair chance
94 for input from all interested parties and based on a complete record.

95 **Q. Please describe Wasatch Wind’s development efforts for the Latigo wind**
96 **project.**

97 A. We began working with the City of Monticello and San Juan County as
98 early as 2006, in an effort to bring a wind project to that area. We identified a
99 suitable project site close to a PacifiCorp-owned substation and erected three met
100 towers for the city of Monticello. We began negotiations to lease the land for the
101 project in 2006 and finalized those in July of this year. In the spring of 2011, we
102 commenced environmental surveys (including a critical issues analysis, habitat
103 characterization, avian point counts, bat, prairie dog town and raptor monitoring
104 surveys, and an aerial nest survey) and will continue those until the spring of
105 2013. This project is outside of Gunnison sage grouse territory, which may be
106 listed in several weeks, and outside of any proposed state sage grouse
107 management areas. We have received a favorable decision from the Federal
108 Aviation Administration (FAA) to place turbines in this area, and we conducted
109 microwave and other telecommunication studies to determine we are avoiding
110 these paths. In July and then again in October we received our Conditional Use

111 Permit from San Juan County for the wind farm and transmission line. Our
112 engineering, procurement and construction contractor has been on site and has
113 given us indicative pricing and we are going through the final stages of site
114 suitability with one of the top turbine manufacturers. We are continuing this work
115 based on our belief that there will be a one-year extension of the production tax
116 credit (PTC), meaning that construction will need to commence by December
117 2013 and the project must reach commercial operation by December 2014.

118 We undertook the difficult PacifiCorp transmission interconnection
119 process beginning in 2008, when we submitted an interconnection request for
120 two-100 MW projects. We learned how much available transmission capacity is
121 available, subject to certain upgrades being completed in the system. Beginning
122 in March 2011, we submitted the required application and information, paid the
123 required fees, participated in scoping and other meetings and obtained our final
124 facility study. We received a draft large generation interconnection agreement on
125 March 19, 2012 and have been negotiating the terms and milestones since then.
126 We plan to sign the interconnection agreement when the project reaches the
127 appropriate stage.

128 We have spent a substantial amount of money on met towers. As
129 mentioned earlier, we erected the first one at the project site in 2006. In the spring
130 of 2011 a second met tower went up, three more were erected in 2012 and a fifth
131 met tower was recently purchased from the city of Monticello.

132 We have now completed virtually everything required to proceed with
133 construction, other than obtaining our San Juan County and Monticello building
134 permits, applying for our Army Corps permit, entering into a station service
135 agreement with Empire Electric, and final consultation with the United States Fish
136 and Wildlife Service regarding an eagle take permit. Typically, these types of
137 development activities commence after a PPA is signed and the final turbine type,
138 size and commercial operation date are known.

139 We first asked RMP for indicative pricing for the Latigo project in 2010.
140 The indicative pricing that we received was based on the Market Proxy method.
141 Development efforts based on that pricing continued into 2011, and in May 2011
142 we asked for confirmation of the pricing, which we received in June 2011. We
143 were sent a draft PPA in August 2011 that contained the same pricing.
144 Unfortunately, the PPA could not be executed at that time due to unavoidable
145 project delays relating to an FAA decision.

146 In March 2012, PacifiCorp filed a Quarterly QF compliance filing
147 confirming that the Dunlap I Wind project remained the proxy wind resource for
148 QF pricing purposes. Nevertheless, in April 2012 our joint venture partner asked
149 us to reconfirm the pricing after approval from FAA that the project could move
150 forward. Thereafter, we heard the surprising and troubling suggestion that our
151 pricing might now be based on a Proxy/PDDRR methodology. The reasons we
152 were given for this change were to take into account transmission constraints and
153 because the accumulated IRP target of 1,400 MW had been reached. We

154 questioned the explanation regarding transmission constraints because the
155 interconnection report prepared by PacifiCorp Transmission shows clearly that
156 adequate transmission is available from our site to the Wasatch Front. As for
157 meeting the accumulated IRP target of 1,400 MW, we were never made aware of
158 any docket or filing from PacifiCorp stating that fact and it was later determined
159 not to be true in the Commission's Order in Docket 12-2557-01. In informal
160 conversations with RMP personnel following the entry of that Order, we were
161 again re-assured that our pricing would be based on the Market Proxy method.

162 **Q. Did Wasatch Wind reasonably rely upon the availability of the indicative**
163 **pricing provided by RMP based on the Market Proxy method?**

164 A. Yes. All of our development efforts were based on our understanding, as
165 confirmed by RMP in 2010 and 2011, that the Market Proxy-based indicative
166 pricing would apply to the Latigo project. All of our negotiations and discussions
167 with financing sources have been based on the same understanding. We
168 understood and accepted the risk that the specific indicative pricing might change
169 somewhat if a new proxy wind resource contract were to be signed, or as the input
170 data used in the Market Proxy model changed from time to time. We did not
171 understand or believe that pricing might change dramatically mid-stream based
172 upon a sudden shift in the methodology used to calculate pricing. Had we seen
173 that risk as a reasonable possibility, we would not have undertaken or pursued the
174 Latigo project.

175 **Q. Does a wind developer need relative pricing certainty?**

176 A. Absolutely. Wind development is a long, arduous process. It requires
177 years of effort to locate suitable sites, acquire property rights, obtain wind data,
178 ascertain pricing, pursue transmission interconnection, negotiate contracts, line up
179 equipment, locate contractors, secure financing and build a project. Wind
180 development in Utah is particularly challenging because of vast federal and
181 military land holdings that make development difficult. Wind development will
182 not occur if developers cannot be confident that the methodology used to provide
183 indicative pricing will remain in place during a reasonable development process.

184 **Q. What is your reaction to the Commission's decision on the Blue Mountain**
185 **project in Docket 12-2557-01?**

186 A. I was relieved to see the Commission stand by its Order and the pricing
187 methodology established in Docket 03-035-14, on which Blue Mountain Power
188 Partners, LLC – and Wasatch Wind – had relied in pursuing their projects. Like
189 Blue Mountain, we obtained indicative pricing based on the Commission-
190 approved Market Proxy methodology in 2010 and 2011, but were not able to
191 complete the project at that time due to delays in getting turbine siting approval
192 from the FAA and increased environmental studies that were deemed to be
193 necessary for responsible development. Like Blue Mountain, we first learned that
194 RMP was backtracking on wind QF pricing earlier this year. Like Blue
195 Mountain, Wasatch Wind's Latigo wind project is entitled to receive Market
196 Proxy-based pricing under the Commission's 2005 and 2012 orders. Anything
197 else would be unfair and discriminatory to Wasatch Wind.

198 **Q. Paul Clements' Direct Testimony purports to calculate excess costs to other**
199 **PacifiCorp customers if the Market Proxy pricing methodology is not**
200 **changed. What is your reaction to that testimony?**

201 A. I certainly believe that fairness to RMP's ratepayers is important. It is also
202 important, however, to treat developers fairly and to foster and encourage a
203 renewable energy industry in Utah. The Commission's 2005 and 2012 Orders did
204 so. An abrupt change now in the methodology adopted and confirmed in those
205 orders – particularly for developers like Wasatch Wind who have invested
206 significant time and energy in reasonable reliance upon the Commission-approved
207 methodology – would be unfair, unreasonable and extremely damaging to projects
208 under development, as well as to future wind development. Developers must
209 have confidence that Commission orders will remain in place and effect until the
210 Commission changes those orders for prospective projects after considering a
211 complete record.

212 It is my understanding that Commission-approved utility rates and
213 methodologies are typically changed only prospectively after notice has been
214 provided to affected parties, a complete record has been developed, hearings have
215 been held and all parties have had a chance to weigh in. As mentioned above, I
216 have no problem with Commission reconsideration of the existing methodology
217 based on changed circumstances, so long as those changes are applied
218 prospectively to projects not yet under active development. However, the
219 currently approved and recently reaffirmed pricing methodology should remain in

220 place for developers like Wasatch Wind who have expended significant resources
221 in reasonable reliance upon existing Commission orders.

222 Also, Mr. Clements' calculation of additional "costs" to ratepayers
223 assumes that the Commission will agree that the methodology should be changed
224 – the very issue to be decided in the second phase of this docket after all
225 interested parties have had a chance to explore the relevant issues. It is premature
226 and circular to argue that a stay should be issued to avoid additional costs until the
227 Commission has first determined that the existing methodology is no longer just
228 or reasonable. I believe there are many sound public policy reasons why the
229 current methodology should remain in place. At a minimum, a dramatic change
230 in methodologies should not occur until all implicated policy issues have been
231 thoroughly considered.

232 In addition I find it curious, if circumstances have indeed changed so
233 dramatically as claimed by Mr. Clements, that PacifiCorp would wait so long to
234 raise this issue. Mr. Clements' testimony relies on factors in support of the
235 request for a dramatic and abrupt change in pricing methodology that RMP would
236 presumably have known for some time. Why did RMP not raise this issue much
237 earlier so that developers could have been timely notified that the Market Proxy
238 pricing methodology may not remain available? I do not believe that RMP has
239 provided any compelling arguments for why an abrupt change needs to be made
240 now after it waited so long to raise the issue, all the while inducing developers to
241 continue development of projects with the reasonable belief that the Commission-

242 approved pricing methodology remained in place. Any “urgency” is of RMP’s
243 own doing, and RMP should not be rewarded at the expense of innocent
244 developers who reasonably relied upon Commission orders and information
245 provided by RMP.

246 **Q. How do you respond to Mr. Clements’ claim that the wind projects are in the**
247 **early stages of development and interconnection?**

248 A. I do not know all of the details of the other projects, but I know that our
249 project has been under development for many years and we have completed the
250 interconnection process, other than signing the interconnection agreement. We
251 are far along in the process but pricing uncertainty has brought us to an abrupt
252 stop for now. Hopefully, with a denial of RMP’s requested stay, we can get our
253 project back on track.

254 **Q. What about Mr. Clements’ claim that a stay would not prevent or delay**
255 **developers from moving forward with wind QFs in Utah?**

256 A. Mr. Clements is wrong. If the stay requested by RMP is issued, it will
257 almost certainly mark the end of the Latigo project. I suspect it will have the
258 same impact on almost all QF wind development in the State of Utah. Pricing
259 provided under the Market Proxy method is marginal in any event in terms of
260 making most Utah wind projects economical, and the lower pricing of the
261 Proxy/PDDRR method will likely push almost all QF wind projects in Utah into
262 an uneconomic category.

263 If RMP's requested stay is granted it will likely end wind QF development
264 in Utah regardless of the ultimate outcome of the second phase of this docket.
265 Even if the Commission were to later determine, based on a complete record, that
266 the Market Proxy pricing method or a variant of that method is still in the public
267 interest, by that time it will almost certainly be too late for us to complete the
268 Latigo project in time to claim the PTC, even if it is extended through 2013. The
269 economics of most Utah wind projects, challenging under the best of
270 circumstances, will likely become virtually impossible without the PTC.
271 Reasonably priced Utah wind projects will probably be available only so long as
272 the PTC is available. The requested stay would thus have immense and far-
273 reaching consequences.

274 The Commission will need to consider in the next phase of this docket
275 whether a change in the QF wind pricing methodology is in the long-term best
276 interests of the State of Utah from a policy perspective. I respectfully submit,
277 however, that the Commission should not implement such a dramatic policy
278 change on the basis of an incomplete record and contrived urgency.

279 **Q. How do you respond to Mr. Clements' suggestion that your project should**
280 **not receive Market Proxy pricing, but that the Blue Mountain project**
281 **should?**

282 A. I do not believe there is any proper basis to offer different pricing to the
283 two projects. I agree with the Commission's recent decision that the Blue
284 Mountain project should receive Market Proxy pricing, and I believe the Latigo

285 project is similarly situated and should be treated in a similar manner. RMP has
286 offered no valid reason for treating the two projects differently.

287 **Q. What is your recommendation as to how the Commission should respond to**
288 **RMP's request for a "stay" of the Market Pricing methodology for Wasatch**
289 **Wind's Latigo project?**

290 A. I recommend that the Commission deny the stay as to the Latigo project
291 because Wasatch Wind has invested significant time and money over several
292 years into that development in reasonable anticipation that the Market Proxy
293 pricing methodology approved and reaffirmed by Commission orders would
294 apply. I recommend that the Commission then proceed in a deliberative manner
295 to decide whether that pricing methodology should be retained, revised or
296 abandoned going forward for new projects. I do not believe the answer to this
297 latter question is clear. I believe there were sound reasons for adopting that
298 methodology in 2005 and there are sound reasons for retaining it today.
299 However, an informed decision on this issue can only be reached after all parties
300 have had a full and fair opportunity to provide evidence in the second phase of
301 this docket.

302 **Q. Does this conclude your direct testimony?**

303 A. Yes, it does.