

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Rocky Mountain Power for Approval of the Power Purchase Agreement Between PacifiCorp and Blue Mountain Power Partners, LLC)
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DOCKET NO. 13-035-115
ORDER DENYING MOTION TO DISQUALIFY

ISSUED: August 28, 2013

By The Commission:

On August 26, 2013, Ellis-Hall Consultants, LLC (“Ellis-Hall”) filed a motion and supporting memorandum (“Motion”) to disqualify Mr. Gary Dodge as counsel for Blue Mountain Power Partners (“Blue Mountain”). The Motion alleges Mr. Dodge formed an attorney-client relationship with Ellis-Hall and is therefore disqualified from representing Blue Mountain in this proceeding. In support of the Motion, Ellis-Hall points to the Utah Rules of Professional Conduct and an opinion of the Utah State Bar Ethics Advisory Opinion Committee.

We note that Utah Code Admin. R746-100-6 provides the Commission with authority to preclude representation of more than one party by an attorney or firm in a proceeding. That rule provides, in relevant part that “[t]he Commission may, if it finds an irresolvable conflict of interest, preclude an attorney or firm of attorneys, from representing more than one party in a proceeding.” We are not aware of representation by Mr. Dodge or his law firm of any parties in this proceeding other than Blue Mountain. Therefore, this rule is inapplicable.

Beyond the rule referenced above addressing representation of multiple parties, we are not aware of anything vesting the Commission with authority to disqualify a licensed attorney as counsel for a single party in a Commission proceeding. Moreover, Ellis-Hall points

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to no such authority. In short, we do not believe the resolution of attorney-client conflict of interest matters is within the purview of our statutory authority.

ORDER

Pursuant to the foregoing discussion, we deny Ellis-Hall's Motion.

DATED at Salt Lake City, Utah this 28th day of August, 2013.

/s/ Ron Allen, Chairman

/s/ David R. Clark, Commissioner

/s/ Thad LeVar, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary

DW#246654

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the Commission within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 28th day of August, 2013, a true and correct copy of the foregoing ORDER DENYING MOTION TO DISQUALIFY was served upon the following as indicated below:

By Electronic-Mail:

Data Request Response Center (datarequest@pacificorp.com)
PacifiCorp

Dave Taylor (dave.taylor@pacificorp.com)
Daniel E. Solander (daniel.solander@pacificorp.com)
Rocky Mountain Power

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Michael D. Cutbirth (mcutbirth@champlinwind.com)
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