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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Application of Rocky Mountain Power for Approval of Power Purchase Agreement Between PacifiCorp and Latigo Wind Park, LLC

**Docket No. 13-035-116**

EMERGENCY REQUEST OF  
LATIGO WIND PARK, LLC TO RE-  
SET SCHEDULING CONFERENCE  
FOR AUGUST 2, 2013 AT 9 A.M.

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Latigo Wind Park, LLC (“Latigo”) respectfully requests that the Commission re-set the scheduling conference in this docket from August 8, 2013, to August 2, 2013 at 9 a.m. Latigo requests that the scheduling conference be reset on an emergency basis for good cause, as shown below.

Both of Latigo’s current counsel have scheduling conflicts on August 8. Moreover all potential participants in this docket, including Ellis-Hall Consulting LLC (“Ellis-Hall”), represented last Friday that they were available for a scheduling conference on August 2 at 9

a.m. Latigo was the only party who objected to an August 2 scheduling conference, because it wished to retain the original July 29 scheduling conference and because its client representative will be out of town on August 2. However, setting the scheduling conference on August 8 will not resolve the unavailability of Latigo's client representative. No party will be prejudiced by re-setting the scheduling conference to August 2. On the other hand, postponing the scheduling conference to August 8 could prejudice Latigo's project.

Delaying or denying Commission approval of the Latigo Power Purchase Agreement ("PPA") with Rocky Mountain Power ("RMP") appears to be the primary goal of Ellis-Hall. Ellis-Hall has no legitimate basis for opposing approval of the Latigo PPA. Rather, Ellis-Hall appears to be attempting to use an unsupported and unsupportable allegation of conflict of interest as a diversion and delay tactic.

Ellis-Hall is attempting to develop a wind project near the Latigo project. Ellis-Hall is attempting to delay and thwart the Latigo and Blue Mountain projects<sup>1</sup> in an apparent effort to improve the chances of developing its own aspirational wind project.

Timely approval of its PPA is very important to Latigo, which is facing daunting time constraints and commercial realities in its efforts to obtain financing<sup>2</sup> and start construction in a

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<sup>1</sup>Among other things, Ellis-Hall has filed irrelevant documents and claims with this Commission, opposed County permits, utilized bogus conflict of interest claims in an attempt to disqualify counsel, deliberately appeared at hearings without counsel, retained counsel with alleged scheduling conflicts, refused to accept a schedule on the substantive issues agreed to by all parties with legitimate interests, refused to identify other acceptable dates, demanded delay by insisting that the substantive issue schedule be postponed until after its unasserted and unsupportable conflict of interest claim is resolved and refused to acknowledge even that withdrawal of Latigo's counsel would resolve the alleged conflict, all in an effort to delay and thwart the nearby Latigo project that Ellis-Hall apparently sees as a threat to its own aspirational project.

timely manner so as to meet PPA deadlines and claim critical federal production tax credits that expire by December 31, 2013. Any delay in obtaining timely Commission approval of the Latigo PPA will put the Latigo project at significant risk. Unfortunately, this risk is well known to Ellis-Hall – whose project has no PPA and no realistic ability to meet the tax incentive deadlines, but who apparently believes that thwarting the Latigo project will increase the economics of its aspirational wind project.

Ellis-Hall's Petition to Intervene does not adequately assert a relevant interest in the subject matter of this docket.<sup>3</sup> Unexpressed "concerns" regarding the PPA or the process leading to the PPA are insufficient to support intervention. Despite the lack of a demonstrable interest in the merits of this docket, Ellis-Hall has now successfully delayed the schedule in this docket, and is still seeking further delay.

If Ellis-Hall wishes to assert a claimed conflict of interest,<sup>4</sup> it should be required to do so in a timely manner and in an appropriate forum. Under no circumstances, however, should the

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<sup>2</sup>Financing for wind energy projects generally requires at least 60 days after obtaining PPA approval from the Commission, assuming all other relevant permitting activities have been completed - which is the case with Latigo.

<sup>3</sup>Utah Code Section 63G-4-207(1)(c) requires a person seeking intervention to include "a statement of facts demonstrating that the petitioner's legal rights or interests are substantially affected by the formal adjudicative proceeding." Ellis-Hall's Petition includes no such statement of facts. Rather, it alleges only that it "believes" its interest may be affected, without stating any basis for such belief. Such a claim is insufficient to support intervention.

<sup>4</sup>As will be demonstrated at the appropriate time and in the appropriate forum, Latigo's counsel clearly does not have a conflict of interest with Ellis-Hall. Latigo's counsel has never represented Ellis-Hall nor received any confidential information of relevance to approval of the Latigo PPA. Indeed, a representative of Ellis-Hall specifically assured both the Latigo client representative and counsel that there was no conflict of interest between the Latigo project and the planned Ellis-Hall project in making an unsuccessful attempt to hire Latigo's counsel to also represent Ellis-Hall.

alleged conflict be allowed to delay timely resolution of the substantive issues before the Commission relating to the Latigo PPA. There is no legitimate reason why a schedule for resolution of any substantive PPA issues must or should be delayed pending resolution of the conflicts claim. Indeed, even though no conflict of interest exists, counsel for Latigo is willing to withdraw as counsel if necessary to avoid any delay in resolution of the substantive PPA issues. While Latigo should not be forced to incur the additional expense and hassle of retaining new counsel at this late date, it is willing to do so if necessary to avoid any delay in the substantive issue schedule agreed to by every participant with a legitimate interest in this docket.

Latigo respectfully submits that good cause exists for issuance of an emergency order re-setting the scheduling conference in this docket to August 2 at 9 a.m. All potential participants represented last Friday that those times would work for them and counsel for Latigo has advised each participant to keep those times available. No party will be prejudiced by re-setting the scheduling conference to August 2, while the Latigo project may be materially harmed and prejudiced by any further delay.

DATED this 29<sup>th</sup> day of July, 2013.

HATCH, JAMES & DODGE

/s/ \_\_\_\_\_  
Gary A. Dodge  
Attorneys for LatigoWind Park, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 29<sup>th</sup> day of July, 2013, on the following:

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/s/ \_\_\_\_\_