

Steven W. Snarr, #3022
Marie B. Durrant, #13199
HOLLAND & HART
222 South Main Street, Suite 2200
Salt Lake City, UT 84101
Telephone: 801-799-5839
Facsimile: 801-618-4060
Emails: swsnarr@hollandhart.com
mbdurrant@hollandhart.com

Attorneys for Latigo Wind Park, LLC

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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

LATIGO WIND PARK, LLC'S
RESPONSE TO PETITION FOR
INTERVENTION OF ELLIS-HAL
CONSULTANTS, LLC

Latigo Wind Park, LLC (“Latigo”) hereby responds in opposition to the Petition for Intervention (“Petition”) filed by Ellis-Hall Consultants, LLC (“Ellis-Hall”) in this docket. Ellis-Hall’s petition for intervention is facially defective in that it fails to articulate any legitimate legal right or interest in any relevant issues pending before the Commission relating to the Power Purchase Agreement (“PPA”) executed between Rocky Mountain Power (“Rocky Mountain”) and Latigo.

This proceeding was initiated by Rocky Mountain Power as a “purchasing utility” as that term is used in Utah Code Ann. §54-12-2 in order to provide the Commission the opportunity to review the proposed PPA. Rocky Mountain represents that the PPA conforms to the requirements established by this Commission in Docket No. 03-035-14 for avoided cost power purchase agreements with a Qualifying Facility project. The purchase prices set forth in the PPA were calculated using the methodology approved by the Commission in that docket. The issues to be resolved in approving Latigo’s PPA should be simple and straightforward.

Pursuant to Commission Rule R746-100-7 and Utah Code Annotated § 63G-4-207(1)(c), a petition for intervention before this Commission must include “a statement of facts demonstrating that the petitioner's legal rights or interests are substantially affected” by a proceeding. Ellis-Hall’s Petition asserted:

EHC requests leave to intervene to give the PSC notice of concerns it has relating to the Project and the manner in which the Power Purchase Agreement (“PPA”) was approved and submitted under this docket. EHC believes that its interest will be substantially affected by the current adjudicative proceeding. EHC seeks to intervene for the purpose of protecting its interests and its projects. EHC is also concerned about a conflict of interest with Latigo Wind Park’s current counsel.

Ellis-Hall provides no factual support for how its interests may be affected. Even as illuminated by Ellis-Hall statements made at the August 2, 2013, Scheduling Hearing, its assertions of “concerns” is without factual support. There are no allegations explaining how Ellis-Hall might be adversely affected in its project by the filing made by Rocky Mountain to secure approval of the PPA entered into with Latigo. Rocky Mountain’s Schedule 38 tariff provides clear guidance and an open path for any developer to follow in securing a PPA related

to any possible Qualifying Facility generation project. Moreover, securing a generator interconnection agreement with PacifiCorp is governed by the Open Access Transmission Tariff on file at the Federal Energy Regulatory Commission. The vague and unsupported suggestion that Ellis-Hall is “concerned” about a supposed conflict of interest with Wasatch Wind’s former counsel, Gary Dodge, is totally irrelevant to the issues the Public Service Commission must deal with in reviewing and approval Latigo’s PPA, particularly now that new counsel has entered his appearance on behalf of Latigo.

Before the Commission can properly grant a petition for intervention, Commission Rule R746-100-7 and Utah Code Annotated § 63G-4-207(2)(b) require the Commission find that “the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired” by allowing the intervention. As explained by Andrew Fales, a representative of the Latigo project in some detail at the Scheduling Hearing, it is critical for the Latigo project that its PPA be timely approved by the Commission so that it can proceed with financing commitments that are necessary to support construction efforts that must be completed prior to the end of 2013. This timeline is dictated by the expiration of tax credits for the development of wind projects if construction has not commenced or wind turbines have not been purchased prior to the end of the year.

While the Commission might consider the on-the-record statements of Ellis-Hall as possibly curing its facially defective intervention, the scope of issues in this proceeding should be carefully circumscribed to those falling within the jurisdiction of the Commission. At issue

here is whether the PPA executed between Rocky Mountain and Latigo appropriately complies with Rocky Mountain's Schedule 38 tariff and whether the terms, conditions, and pricing within in the PPA fall within Commission policies. Ellis-Hall's actions to date and further participation in this matter have the potential of disrupting the orderly and prompt conduct of these proceedings as it relates to obtaining timely PSC approval of the PPA for those entities who are parties to the PPA. Clarifications provided by Ellis-Hall concerning its participation in this proceeding at the Scheduling Conference held on August 2, 2013, show that it's asserted legal interests fall outside the purview of this Commission's jurisdiction.

The interests of due process will not be served by having an indefinite delay in resolution of the substantive issues before the Commission, purportedly to allow Ellis-Hall to pursue in some manner claims that are irrelevant to this proceeding or which should be pursued in other forums. Latigo respectfully submits that Ellis-Hall's disruptive conduct to date demonstrates that its intervention, unless limited to issues that may be cognizable before this Commission, would materially impair the interests of justice and the orderly and prompt conduct of these proceedings.

Latigo respectfully requests that the Ellis-Hall intervention be denied, or in the alternative, limited to such issues that were identified by Ellis-Hall in the Scheduling Hearing held on August 2, 2013, that fall within the purview of this Commission's jurisdiction. Latigo further requests that the Commission promptly proceed with its consideration of Latigo's PPA that has been provided by Rocky Mountain for Commission review, so that and Latigo's interests in an orderly resolution of this proceeding will not be compromised. Securing approval of

Latigo's PPA is critical for it to continue to move forward with its project and ensure viability for additional financing.

DATED this 5th day of August, 2013.

HOLLAND & HART

/s/ Steven W. Snarr
Steven W. Snarr
Attorney for Latigo Wind Park, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email this 5th day of August, 2013, on the following:

Rocky Mountain Power:

Mark Moench	mark.moench@pacificorp.com
Yvonne Hogle	yvonne.hogle@pacificorp.com
Daniel. E. Solander	daniel.solander@pacificom.com
David L. Taylor	dave.taylor@pacificorp.com

Division of Public Utilities:

Patricia Schmid	pschmid@utah.gov
Justin Jetter	jjetter@utah.gov
Chris Parker	chrisparker@utah.gov
William Powell	wpowell@utah.gov

Office of Consumer Services:

Brian Farr	bfarr@utah.gov
Michele Beck	mbeck@utah.gov
Cheryl Murray	cmurray@utah.gov

Latigo Wind Park, LLC:

Gary A. Dodge	gdodge@hjdllaw.com (former counsel)
Christine Mikell	christine@wasatchwind.com

Ellis-Hall Consultants, LLC

Mary Anne Q. Wood	mawood@woodbalmforth.com
Stephen Q. Wood	swood@woodbalmforth.com

/s/ Ruth H. Lundberg