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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

***OPPOSITION TO MOTION OF
LATIGO WIND PARK TO RESTRICT
THE APPLICATION OF THE NON-
DISCLOSURE AGREEMENT OF
ANTHONY HALL AND KIMBERLY
CERUTI***

[Confidential-Subject to Utah Public
Service Commission Rule 746-100-16]

INTRODUCTION

Latigo Wind Park, LLC (“Latigo”) has filed an overheated and improper motion to “restrict the application of the Non-Disclosure Agreement of Anthony Hall and Kimberly Ceruti. Latigo argues without support that Ellis-Hall Consultants, LLC (“Ellis-Hall”) is trying to use these proceedings as an “open-pit mine to obtain proprietary or confidential information of a competitive nature from Latigo.” Latigo makes these allegations without ever identifying a single scrap of information which is properly treated as confidential under the Commission’s

rules because the “specific information constitutes a trade secret or is otherwise of such a highly-sensitive or proprietary nature that public disclosure would be inappropriate.”

R746-100-16.A.1.a.

Notwithstanding Latigo’s rhetoric, Anthony Hall and Kimberly Ceruti have properly already been granted access to documents provided in these proceedings. This access was proper for the following reasons:

1. Mr. Hall and Ms. Ceruti properly executed a nondisclosure agreement pursuant to Rule 746-100-16A.1.e. Undertakings were made on August 15, 2013. Latigo did not object to Mr. Hall’s or Ms. Ceruti’s access to confidential information until August 20, 2013.

2. Rule R746-100-16.A.1.d. specifically provides that persons employed by participants are granted access to confidential information “to the extent reasonably necessary for performance of work on the matter.” Mr. Hall’s and Ms. Ceruti’s assistance is not just reasonably necessary but is essential to the presentation of Ellis-Hall’s objections in this matter. Mr. Hall and Ms. Ceruti have substantial expertise in wind projects generally and in San Juan County particularly. Counsel must be able to consult with them during the preparation and presentation of their objection.

3. Latigo asserts without any support that as principals or key employees of Ellis-Hall, Mr. Hall and Ms. Ceruti “could use Latigo’s information in their normal job functions to the competitive disadvantage of Latigo.” Latigo presents this argument as an ipse dixit with absolutely no support, including the identification of any information produced in these proceedings which Mr. Hall and Ms. Ceruti could use to the competitive disadvantage of

Latigo. Indeed, it is unlikely that any such information exists concerning Latigo's proposed PPA.

The foregoing facts establish the absolute failure of Latigo to show its entitlement to the relief it requests. Rule 746-100-16 is very limited in scope. It specifically provides that confidential treatment shall be requested only to the extent a good faith reasonable basis exists for claiming that specific information constitutes a trade secret or is otherwise of such a highly sensitive or proprietary nature that public disclosure would be inappropriate. The rules state that confidential treatment shall be requested narrowly only to that specific information for which protection is reasonably required. Latigo has made no effort to identify documents, data, information, studies, and other materials of a sensitive, proprietary or confidential nature to which confidential treatment could properly be applied under the law.

Furthermore, R746-100-16.A.1.b. specifically provides that all confidential information has to be specifically marked and designated as follows: "CONFIDENTIAL – SUBJECT TO UTAH PUBLIC SERVICE COMMISSION RULE 746-100-16" or a similar legend. Additionally, all copies so marked shall be made on yellow paper.

Latigo made its productions in this matter with no designations or markings, and none of it was on yellow paper. It appears that Latigo is objecting to Mr. Hall's and Mr. Ceruti's access to materials produced by PacifiCorp. However, PacifiCorp made its production more than a week before Latigo's motion. Its production has been treated to the extent it was designated confidential as confidential. However, none of the documents contained the designation required by the rule, nor were they produced on yellow paper.

Thus Latigo's motion is entirely hypothetical. Latigo has never designated any specific information as is a trade secret or otherwise "highly sensitive." It has never designated any such information by applying the appropriate legend to alert Ellis-Hall to any confidentiality concerns. Presuming that such information exists in these proceedings, Latigo has never shown how Mr. Hall and Ms. Ceruti could use this hypothetical information for a competitive advantage.

Given these failures, Latigo's motion must be denied as inconsistent with R746-100-16.

DATED this 5th day of September, 2013.

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of September, 2013, a true and correct copy of the foregoing was served via e-mail to the following:

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