

April 8, 2013

Public Service Commission of Utah

Heber M. Wells Building, 4<sup>th</sup> Floor

160 East 300 South

Salt Lake City, UT 84114

Attention: Gary Widerburg

Commission Secretary

RE: In the Matter of the Formal Complaint of Ros Vrba for Energy of Utah against Rocky Mountain Power - Docket No. 13-035-22

Dear Mr. Widerburg:

Energy of Utah hereby submits its reply to Rocky Mountain Power's response (March 25, 2013) to the above complaint.

Energy of Utah respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By mail: Energy of Utah

PO Box 900083

Sandy, Utah 84090-0083

Telephone No: 801-708-2086

Submitted Respectfully,

Ros Rocco Vrba

For Energy of Utah

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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<b>In the Matter of the Formal Complaint of Ros Vrba for Energy of Utah against RockyMountain Power</b>	<b>DOCKET NO. 12-035-22</b>
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**Energy of Utah Reply to Rocky Mountain Power (Company) Response**

We thank the Commission for this opportunity to reply to the Company's response<sup>1</sup> to our complaint. It is not our intention to cause harm to ratepayers, to inconvenience the Company or to burden the Commission with complaints. We would prefer to begin the development of a cost-effective resource that should provide many benefits for Utah.

As the correct allocation of RECs appears to relate to underlying legal issues, rather than to our particular circumstances, we will not comment further on this issue, and we defer to the Commission's judgment. The balance of our reply relates to our experience with Schedule 38 delays.

We apologize for the apparent lack of clarity in our complaint, as read by the Division. We have one complaint: that our projects have been repeatedly delayed, and that these delays have put the projects at risk. This corresponds to issue #2 in the Division's Action Request Response.<sup>2</sup> The individual details in our informal and formal complaints were examples of delays that occurred (issues 1, 3, 4 and 5).<sup>3</sup> The apparently-incorrect PDDRR pricing, for example, ultimately resulted in a very significant delay. These delays have compounded to an extent that is

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<sup>1</sup> Docket No. 13-035-22 RESPONSE OF ROCKYMOUNTAIN POWER TO ROSVRBA FOR ENERGY OF UTAH COMPLAINT March 25, 2013

<sup>2</sup> Docket No. 13-035-22 Action Request Response, Division of Public Utilities, March 25, 2013, p. 4

<sup>3</sup> Ibid. 2

not, in our opinion, reasonable. The relief that we request (issue 7)<sup>4</sup> should resolve the remaining PPA contractual issues prior to the expected June conclusion of docket 12-035-100 (another potential delay), and allow us reasonable time to complete the projects.

The Company has offered two counter arguments: a procedural argument that the informal complaint process was not finished, and a second argument that the complaint consists of non-issues and that our request for relief is not in the public interest.

### **Reply to Argument 1**

The Company's response<sup>5</sup> to our informal complaint made it clear to us that there would be no resolution through negotiation or arbitration. After requesting procedural guidance from the Division, we filed a formal complaint.

### **Reply to Argument 2**

The "free option" referred to in the Company's response<sup>6</sup> is not free; we have already paid dearly. The effort to obtain a Schedule 38 contract with the Company has consumed eleven months of our time, attention and capital. We have already noted many of the events that occurred, along with the resulting delays. Under the circumstances, the Company's new commitment to an executed interconnection agreement, as a condition for PPA execution, seems particularly onerous. We are well-along in the interconnection process, properly triggered by the receipt of the first correct indicative price in January of this year. We have overcome many hurdles, but we have many left ahead of us. Execution of the contracts with the requested conditions would be just one more step along a risky path, and would not guarantee success.

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<sup>4</sup>Ibid. 2

<sup>5</sup>Pacificorp Energy response to Division of Public Utilities, Re: informal complaint by Energy of Utah Feb 14, 2013

<sup>6</sup>Docket No. 13-035-22 RESPONSE OF ROCKYMOUNTAIN POWER TO ROSVRBA FOR ENERGY OF UTAH COMPLAINT March 25, 2013, p. 12

On the subject of risk, and the second part of Argument 2, we do not understand how to reconcile the Company's concerns for ratepayers in this docket and in the associated docket, 12-035-100.<sup>7</sup> If the Company argues that Wind Proxy pricing is far above avoided costs in Docket 12-035-100, what risk does the Company expect the cost of replacement power for a failed wind project to pose to ratepayers? The deposit requested by the Company is very large; approximately \$2 million for each project, and is at risk due to our experienced delays. Had we received the correct pricing in May of 2012, according to Schedule 38 guidelines, we believe that we would now be close to an executed interconnection agreement, and well-ahead of the PTC extension deadline. We would also like to offer a clarification for the Company's assertion (Company Response p.12-13) that we did not provide a 12 x 24 matrix with our April 24, 2012 Indicative Price Request. We did include the matrix, in Microsoft Word format. After numerous inquiries from us, the Company replied in July that they would like the 12 x 24 matrix in Excel format. This series of events was reviewed extensively during the cross examination of Paul Clements by Rocco Vrba during the Docket 12-035-100 Motion to Stay hearing.<sup>8</sup>

To summarize, we do not feel that we have received fair treatment under Schedule 38 guidelines, and we do not believe that the relief we have requested will harm ratepayers. Once again, we thank the Commission for their continuing consideration of this matter.

Submitted Respectfully,

Ros Rocco Vrba, for Energy of Utah

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<sup>7</sup> Docket 12-035-100 RMP - Changes to Renewable Avoided Cost Methodology

<sup>8</sup> Ibid. 7, Motion to Stay Hearing Pt 1. Dec 12, 2012

CERTIFICATE OF SERVICE

I hereby certify that a true and correct electronic copy of the foregoing was served by email this 29th day of March, 2013 on the following:

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Ros Rocco Vrba for Energy of Utah

April 8, 2013