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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

In the Matter of the Investigation of the Costs and Benefits of PacifiCorp's Net Metering Program	Docket No. 14-035-114 <b>MOTION FOR FORMAL DISCOVERY AND STATEMENT OF DISCOVERY ISSUES (AURIC SOLAR, LLC)</b> <b>(Expedited Consideration Requested)</b>
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Pursuant to Utah Admin. Code R746-1-501, Rocky Mountain Power, a division of PacifiCorp ("Company" or "Rocky Mountain Power"), hereby moves the Commission for formal discovery and submits this Statement of Discovery Issues pursuant to Rule 37 of the Utah Rules of Civil Procedure.

## I. RELIEF REQUESTED

Rocky Mountain Power respectfully requests an order compelling intervenor Auric Solar, LLC (“Auric”) to respond and produce documents to Data Requests 6, 7, 8, 9, 10, and 11 (“Requests”). Auric’s responses, as submitted, offer improper objections and incomplete information. The subject Data Requests and responses are annexed hereto for ease of review.

## II. BASIS FOR RELIEF REQUESTED

### Testimony in This Proceeding Contains Unsubstantiated Claims

More fully set forth in a companion motion concurrently filed against Vivint Solar, Inc. (“Vivint”), numerous intervenors have filed testimony in this proceeding claiming catastrophic job loss and economic upheaval if the Commission adopts the NEM structure proposed by the Company. In order to test their claims, the Company propounded data requests to Vivint and Auric to probe the economics of their solar sales businesses. Both parties have objected to providing this data.. A few examples of the statements by intervenors in this action justifying the data requests are:

- “The adoption of RMP proposed study and rate design will cripple the solar industry in Utah to the detriment of Utah citizens and RMP ratepayers.” Richard Collins, Direct Testimony at 44-46.
- “If the Commission changes its net metering policy in this proceeding...will kill the industry in Utah, stifling competition, and eliminating consumer choice.” Dan Black, Direct Testimony at 47-50.
- “It is estimated that between 3,000 – 4,000 jobs will be lost in Utah as well as the associated downstream economic impact to the state.” Thomas Plagemann, Direct Testimony at 249-250.
- “The end result would be that Utah consumers have no choice to go solar and would again become captive consumers of Rocky Mountain Power’s monopoly over energy generation in Utah.” Thomas Plagemann, Direct Testimony at 246-7.
- “Nevada lost thousands of jobs in the solar industry following the Commission’s initial decision. There was a 99% decrease in net metering applications year-over-year, and the rooftop solar industry was decimated, leaving most companies

(including Auric Solar) to pull out of the state and relocate employees.” Dan Black, Direct Testimony at 131-134.

- “The Company’s proposed three-part tariff would effectively destroy the solar industry in Utah, kill thousands of jobs, and impact economic growth with the state.” Richard Collins, Direct Testimony at 187-189.

### Rocky Mountain Requests Relevant Information

The Requests seek documents and information related to the various claims that the proposed revisions to the NEM Program will harm Utah’s economy. Specifically, the Requests seek information from Auric about the number of employees and/or independent contractors it employs, the employees’ status as full-time or part-time, sales commissions paid, and the costs and profit margins for solar installations.

Rocky Mountain Power needs the information regarding Auric’s employees, sales, and profitability in order to provide the Commission with complete and accurate information.

### Auric Has Failed to Adequately Respond to the Requests

Auric objects to each of the six Requests “on grounds that it is overly broad, unduly burdensome, irrelevant, and competitively sensitive.” Consistent with this objection, Auric has not produced any supporting documents as sought by the Requests and offers no response to five of the six Requests.

For example:

#### **RMP Data Request 9**

Please provide the documentation or other information showing the cost to install solar panels and the associated system supplied by Auric to residential customers and showing the payment options Auric’s customers are given to either pay for the system or pay to have the system in this state.

#### **Response to RMP’s Data Request 9**

Auric objects to this data request on grounds that it is overly broad, unduly burdensome, irrelevant, and competitively sensitive.

Auric's objection is improper in that it objects to producing documents merely because they are "competitively sensitive" (but without stating how the Commission's standing Protective Order (R746-100-16) is insufficient or without proposing other force of protection).

*Auric Should Be Compelled to Respond*

Rocky Mountain Power seeks an order from the Commission compelling Auric's production of documents and information responsive to the Requests. Auric's objection that the Requests are "competitively sensitive" is not sufficient and the response must be supplemented in an expedited fashion so that the material can be utilized in surrebuttal testimony. However, no rule of law or of this Commission allows a party to refuse to produce relevant information simply by stating it is "competitively sensitive."

**III. STATEMENT REGARDING PROPORTIONALITY**

The relief Rocky Mountain Power seeks is reasonable considering Auric's participation as an intervenor in this process. Further, Rocky Mountain Power does not seek requests in excess of the limits set forth in the Administrative Code or the Rules of Civil Procedure ("Rules"). Rather, Rocky Mountain Power seeks only that Auric comply with the Rules in responding to the proportional requests.

**IV. CERTIFICATION OF GOOD FAITH ATTEMPT TO CONFER**

The undersigned certifies that he or others at his firm have attempted to confer with counsel for Auric via email and/or telephone conference to attempt to resolve this issue. Because of the short timeframe until surrebuttal, the Company feels compelled to file this motion even if it hasn't yet received a response from Auric relating to its desire to meet and confer.

DATED August 3, 2017.

RESPECTFULLY SUBMITTED,

ROCKY MOUNTAIN POWER

*/s/ D. Matthew Moscon* \_\_\_\_\_

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## CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing **MOTION FOR FORMAL DISCOVERY AND STATEMENT OF DISCOVERY ISSUES (AURIC SOLAR, LLC)** was served by email this 3rd of August, 2017, on the following:

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