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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of Rocky)
Mountain Power for Approval of Solicitation) Docket No. 17-035-23
Process for Wind Resources)

PETITION TO INTERVENE OF sPOWER

Pursuant to Utah Code Ann. § 63G-4-207 and Rule R746-100-8, the undersigned counsel hereby submits this Petition to Intervene in Docket No. 17-035-23 on behalf of sPower (“Petitioner”). In support herereof, Petitioner states as follows:

1. Petitioner is an independent power producer headquartered in Salt Lake City, Utah. Petitioner owns and operates over 150 sustainable energy projects totaling over 1 gigawatt of operating assets, as well as a development and construction pipeline totaling close to another 9 gigawatts. Petitioner’s operating and development assets are located in Utah, Wyoming, and across North America.
2. As an owner and developer of utility-scale renewable energy projects, including projects in Utah and Wyoming, Petitioner’s legal rights and interests will be substantially affected by this

proceeding and will not be adequately represented by any other party. The Energy Resource Procurement Act of 2005 requires a fair solicitation process that ensures the public interest.¹ To so ensure, the process must “most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state.”² The Energy Resource Procurement Act creates a legal interest for those entities that are or may be eligible to compete in the relevant solicitation process as part of ensuring the public interest. Petitioner is concerned the process envisioned by the request for proposals (“2017R RFP”) submitted by applicant Rocky Mountain Power in this docket implicates Petitioner’s interests and rights by failing to ensure a competitive solicitation process and thereby failing to satisfy the Energy Procurement Act. Specifically, Petitioner is concerned that the 2017R RFP’s limited range of qualifying resource types and locations, strict interconnection study requirements, less competitive bidding structure options and PacifiCorp’s overly broad discretion in the process will undermine the opportunity for third-party bidders like Petitioner to receive a fair evaluation of their bids in a manner that results in violation of the public interest. No other party to this proceeding, including the Independent Evaluator, understands the impact of the 2017R RFP’s terms on potential competing bidders in the manner that bidders themselves can. Additionally, no other party can adequately represent competing bidders.

3. Petitioner’s relief sought includes modifications to the 2017R RFP to broaden its eligibility requirements to include wind resources outside of Wyoming and other resource types like solar, lessen the interconnection study burden, lengthen the available Power Purchase Agreement tenor options contained in the 2017R RFP, remove the RFP’s litigation criteria for

¹ Utah Code Ann. § 54-17-101 *et seq.* (the “Energy Resource Procurement Act”).

² Utah Code Ann. § 54-17-201(2)(c)(ii)(A).

bidding eligibility, and remove unfettered PacifiCorp discretion. In addition, Petitioner reserves the right to evolve its specific positions and relief sought as the proceeding progress and as is allowed by Commission regulations and law. Petitioner also reserves the right to present briefing, testimony and evidence, examine witnesses and otherwise participate in this docket based on the testimony, exhibits and evidence presented by any party and as is permitted in this proceeding.

4. The interests of justice and the orderly and prompt conduct of this proceeding will not be materially impaired by allowing Petitioner to intervene. As noted above, the interests of justice encourage participation by independent power producers like Petitioner. The only way to satisfy the Energy Procurement Act is to ensure a competitive solicitation process. The only way to ensure a competitive solicitation process is to ensure that the 2017R RFP provides an opportunity for third-party developers to submit legitimate alternative bids to the benchmark resources. Prohibiting intervention by independent power producer interests would impair the information and data upon which the Commission must exercise its review in this proceeding. In addition, the schedule for testimony and the hearing is already set in this docket. Petitioner is submitting a timely Petition to Intervene along with its Rebuttal Testimony pursuant to the Scheduling Order.³ Whether Petitioner raises issue that have substantive impact on the outcome of this proceeding (and therefore PacifiCorp's desired timing to achieve Commission approval) is irrelevant to the determination of whether this proceeding can be conducted promptly.

5. To reject this routine petition to intervene based on a similar rationale to the one provided in the *Opposition to Amended Petition to Intervene of Enyo Renewable Energy and Motion for*

³ Scheduling Order, August 29, 2017.

*Expedited Treatment*⁴ would establish an unprecedented, unfairly high standard for all Utah interests in Commission proceedings going forward.

6. Notices, filings and other communication in this proceeding should be sent to the following:

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WHEREFORE, Petitioner requests the Public Service Commission of Utah grant this petition to intervene in the above-referenced docket to protect its interests as they may appear.

Dated this 13th day of September, 2017.

Barbanell Environmental Law & Consulting

/s/ Melissa Barbanell

Melissa Barbanell
Counsel for sPower

⁴ *Opposition to Amended Petition to Intervene of Enyo Renewable Energy and Motion for Expedited Treatment of Rocky Mountain Power*, September 12, 2017.

CERTIFICATE OF SERVICE

I certify that on September 13, 2017, a true and correct copy of this petition to intervene was delivered upon the following as indicated below:

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