

Monticello Wind Farm, LLC
Kimberly Ceruti, Executive Director
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kimberly.ceruti@outlook.com

THE PUBLIC SERVICE COMMISSION OF UTAH

In re:

Application of Rocky Mountain Power for
Approval of Power Purchase Agreement
Between PacifiCorp and Monticello Wind Farm,
LLC.

Docket No. 17-035-68

**MONTICELLO WIND FARM, LLC
OPPOSITION TO THE DIVISION OF
PUBLIC UTILITIES AND OFFICE OF
CONSUMER SERVICES' JOINT
MOTION FOR ORDER TO SHOW
CAUSE WHY MONTICELLO WIND
FARM, LLC'S MEMORANDUMS
SHOULD NOT BE STRICKEN**

On March 30, 2018, the Utah Division of Public Utilities (“DPU”) and Utah Office of Consumer Services (“OCS”), collectively (“Agencies”) filed a joint Motion to Show Cause why Monticello Wind Farm, LLC’s (“Monticello”) Opposition to the Agencies’ respective Motions for Summary Judgment should not be stricken for an inadvertent mistake—in a header. The Public Service Commission of Utah (“PSC”) should deny the motion because it is both improper and extreme.

The PSC’s current rules do not provide for an order to show cause. Therefore, the PSC finds the Utah Rules of Civil Procedure persuasive. *See* R746-1-105. The Rules state:

An application to the court for an order to show cause shall be made *only* for enforcement of an existing order or for sanctions for violating an existing order. An application for an order to show cause *must* be supported by an affidavit sufficient to show cause to believe a party has violated a court order.

Utah R. Civ. P. 7(q) (emphasis added).

The Agencies' motion for order to show cause *is not* for enforcement of an order, *is not* for sanctions of an order, and *is not* supported by an affidavit. Because the PSC does not have its own governing provision for an order to show cause, it should follow the Utah Rules of Civil Procedure and deny the Agencies' misconceived motion.

On March 26, 2018, Monticello Wind Farm, LLC and Ellis-Hall Consultants, LLC each filed a Memorandum opposing the Agencies' requests for summary judgment. An entity can represent itself through an officer or employee pursuant to Utah Admin. Rule 746-1-107(1)(c), and both Agencies have interacted directly with Kimberly Ceruti ("Ms. Ceruti") as the known and authorized representative of Monticello Wind Farm, LLC and Ellis-Hall Consultants, LLC. In preparing the March 26 Memoranda, a template from another document was used and incompletely fitted. This is no grounds for dismissal.

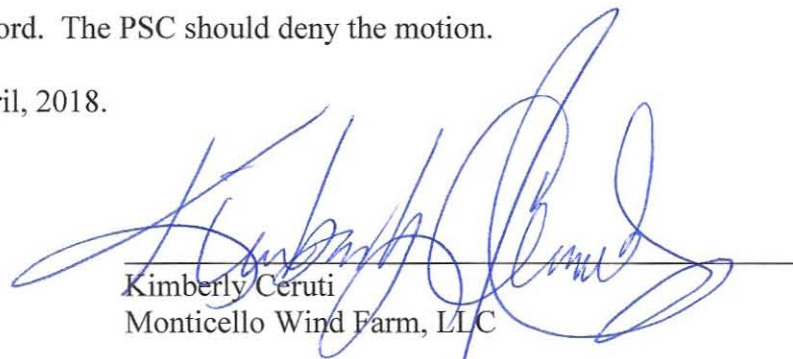
Mr. Moore of the OCS sent an email falsely stating that the Memoranda included a home address. They did not. To complain about an oversight in a header and then assert reckless misrepresentations is beyond hypocritical. Rather than contact Ms. Ceruti to inquire, the Agencies quickly aligned to file the Joint Motion.¹ It is unfathomable that the Agencies, if acting in good faith without bias, would file a motion to strike a substantive pleading without first making a simple phone call or sending a simple email to the contact person they have in this docket—Ms. Ceruti—all over a simple heading. In fact, Mr. Moore *refused* to take a call from Ms. Ceruti on April 2, 2018, at 12:37 pm and *refused* to respond to her email.

¹ Filed late afternoon on Good Friday of the Easter Holiday Weekend.

The Utah Rules of Civil Procedure require that the rules “shall be liberally construed and applied to achieve the just, speedy, and inexpensive determination of every action.” URCP. 1. The Agencies violate both the spirit and the letter of this rule. The Agencies have long known how to contact Ms. Ceruti.² In fact, the OCS’s own exhibit demonstrates that Mr. Moore **believed** that Ms. Ceruti “is a principal of either Monticello Wind or Ellis-Hall Consultants.” At the very least, Mr. Moore should have **included** Ms. Ceruti in his email as the OCS has consistently done before. Emails (Ex. 1). The Agencies made **no** effort to contact her before quickly filing their Motion to seek “clarification” that their Motion purports is necessary.

The Agencies’ recent obsession with technicalities demonstrates further collective institutional bias against Monticello. The DPU’s motion for summary judgment cited to “Utah Admin. Code r.746-100.” This series of rules has been repealed. Yet, Monticello did not move to dismiss the motion because it does not prejudice the parties. The error has been corrected through Errata. This administrative error, and its correction, does not prejudice any party and should not be the basis for striking the March 26 Memorandum. The March 26 Memorandum is substantive argument proving that there are significant disputed issues of material fact and should not be stricken from the record. The PSC should deny the motion.

DATED this 4th day of April, 2018.



Kimberly Ceruti
Monticello Wind Farm, LLC

² Atty. Moore recently sent Ms. Ceruti a cd by courier delivery and the DPU recently emailed her exhibits, both agencies failed to initially provide with their Motions. (Ex. 2).

CERTIFICATE OF SERVICE

I certify that on April 4, 2018, an electronically filed a true and correct copy of the foregoing **MONTICELLO WIND FARM, LLC OPPOSITION TO THE DIVISION OF PUBLIC UTILITIES AND OFFICE OF CONSUMER SERVICES' JOINT MOTION FOR ORDER TO SHOW CAUSE WHY MONTICELLO WIND FARM, LLC'S MEMORANDUMS SHOULD NOT BE STRICKEN** was emailed to the following in Utah Docket 17-035-68:

PacifiCorp
Jana Saba
Yvonne Hogle
PacifiCorp

Jana.saba@pacificorp.com
Yvonne.hogle@pacificorp.com
datarequest@pacificorp.com

Utah Division of Public Utilities
Patricia Schmid
Justin Jetter
Chris Parker
Artie Powell
Erika Tedder

pschmid@agutah.gov
jjetter@agutah.gov
chrisparker@utah.gov
wpowell@utah.gov
dpudatarequest@utah.gov

Utah Office of Consumer Services
Michele Beck
Bela Vastag
Steven Snarr
Robert Moore

mbeck@utah.gov
bvastag@utah.gov
stevensnarr@agutah.gov
rmoore@agutah.gov

Public Service Commission of Utah

psc@utah.gov



Kimberly Ceruti

EXHIBIT 1



Kimberly Ceruti <kimberly.ceruti@ehc-usa.com>

17-035-68 OCS Motion for Summary Judgement

Bela Vastag <bvastag@utah.gov>

Fri, Mar 9, 2018 at 3:36 PM

To: "Commission, Public Service" <psc@utah.gov>

Cc: "Beck, Michele" <mbeck@utah.gov>, Robert Moore <rmoore@agutah.gov>, Steven Snarr <stevensnarr@agutah.gov>, "Schmid, Patricia" <pschmid@agutah.gov>, "Justin C. Jetter" <jjetter@agutah.gov>, "Parker, Chris" <chrisparker@utah.gov>, "Powell, William" <wpowell@utah.gov>, Data Request DPU <DPUDatarequest@utah.gov>, tony hall <tonyhall2004@hotmail.com>, kimberly.ceruti@outlook.com, monticello.wind.farm.project@outlook.com, Tony Hall <mail@ehc-usa.com>, jana.saba@pacificorp.com, "Hogle, Yvonne" <yvonne.hogle@pacificorp.com>, Daniel Solander <daniel.solander@pacificorp.com>, Data Request Response Center <datareq@pacificorp.com>

Please find attached the Utah Office of Consumer Services' Motion for Summary Judgement in Docket No. 17-035-68 - Application of RMP for Approval of PPA between PacifiCorp and Monticello Wind Farm, LLC

Béla Vastag




Utility Analyst

Utah Office of Consumer Services

801.530.6374

bvastag@utah.gov

3 attachments

-  **17-035-68 OCS CERTIFICATE OF SERVICE for OCS Motion for Summary Judgement 03-09-2018.pdf**
136K
-  **17-035-68 OCS Motion for Summary Judgement 03-09-2018.pdf**
239K
-  **17-035-68 REDACTED OCS EXHIBIT A of Motion for Summary Judgement 03-09-2018.pdf**
170K



Kimberly Ceruti <kimberly.ceruti@ehc-usa.com>

Fwd: Docket No. 17-035-68 DPU PROPRIETARY Dispositive Motion - 03-09-2018

DataRequest DPU <dpudatarequest@utah.gov>

Wed, Mar 14, 2018 at 12:12 PM

To: kimberly.ceruti@outlook.com, kimberly.ceruti@ehc-usa.com

----- Forwarded message -----

From: **DataRequest DPU** <dpudatarequest@utah.gov>

Date: Fri, Mar 9, 2018 at 2:21 PM

Subject: Docket No. 17-035-68 DPU PROPRIETARY Dispositive Motion - 03-09-2018

To:

Cc: Danny Martinez <Danny.Martinez@pacificorp.com>, Jana Saba <jana.saba@pacificorp.com>, Michael Snow <michael.snow@pacificorp.com>, PacifiCorp / Data Request Response Center <datarequest@pacificorp.com>, Rosa Oaks <rosa.oakes@pacificorp.com>, Yvonne Hogle <yvonne.hogle@pacificorp.com>, Abdinasir Abdulle <AABDULLE@utah.gov>, Bob A Davis <RADAVIS@utah.gov>, Brenda Gines Salter <BSalter@utah.gov>, Charles Peterson <chpeterson@utah.gov>, Chris Parker <chrisparker@utah.gov>, David Thomas Thomson <Dthomson@utah.gov>, Douglas Drew Wheelwright <dwheelwright@utah.gov>, Eric Neal Orton <eorton@utah.gov>, Jeff Einfeldt <jeffeinfeldt@utah.gov>, Joni Zenger <jzenger@utah.gov>, Justin Christensen <justinchristensen@utah.gov>, Justin Jetter <Jjetter@agutah.gov>, Lane Mecham <lanemecham@utah.gov>, Myunghee Tuttle <mstuttle@utah.gov>, Patricia Schmid <Pschmid@agutah.gov>, William Powell <wpowell@utah.gov>, kimberly.ceruti@outlook.com

CONFIDENTIAL -- SUBJECT TO UTAH PUBLIC SERVICE COMMISSION RULE 746-1-602 and 603

Confidential filing to be submitted to PSC by SFTP server.

5 attachments

-  **17-035-68 DPU PROPRIETARY Dispositive Motion - 03-09-2018.pdf**
295K
-  **17-035-68 DPU PROPRIETARY Dispositive Motion - 03-09-2018 - CoS.pdf**
87K
-  **17-035-68 DPU PROPRIETARY Dispositive Motion - 03-09-2018 - Exhibit A.pdf**
99K
-  **17-035-68 DPU PROPRIETARY Dispositive Motion - 03-09-2018 - Exhibit B.pdf**
50K
-  **17-035-68 DPU PROPRIETARY Dispositive Motion - 03-09-2018 - Exhibit C.pdf**
168K



Kimberly Ceruti <kimberly.ceruti@ehc-usa.com>

17-035-68 DPU & OCS Joint Motion for Order to Show Cause

Bela Vastag <bvastag@utah.gov>

Fri, Mar 30, 2018 at 12:55 PM

To: "Commission, Public Service" <psc@utah.gov>

Cc: "Beck, Michele" <mbeck@utah.gov>, Robert Moore <rmoore@agutah.gov>, Steven Snarr <stevensnarr@agutah.gov>, "Schmid, Patricia" <pschmid@agutah.gov>, "Justin C. Jetter" <jjetter@agutah.gov>, "Parker, Chris" <chrisparker@utah.gov>, "Powell, William" <wpowell@utah.gov>, Data Request DPU <DPUdatarequest@utah.gov>, tony hall <tonyhall2004@hotmail.com>, kimberly.ceruti@outlook.com, monticello.wind.farm.project@outlook.com, Tony Hall <mail@ehc-usa.com>, jana.saba@pacificorp.com, "Hogle, Yvonne" <yvonne.hogle@pacificorp.com>, Daniel Solander <daniel.solander@pacificorp.com>, Data Request Response Center <datareq@pacificorp.com>

Please find attached the Division of Public Utilities and Utah Office of Consumer Services' "Joint Motion for Order to Show Cause Why Monticello Wind Farm, LLC's Memorandums Should Not Be Stricken" in Docket No. 17-035-68 - Application of RMP for Approval of PPA between PacifiCorp and Monticello Wind Farm, LLC

Béla Vastag

Utility Analyst

Utah Office of Consumer Services

801.530.6374

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3 attachments




-  **17-035-68 DPU OCS CERTIFICATE OF SERVICE for Joint Motion to Show Cause 03-30-2018.pdf**
131K
-  **17-035-68 DPU OCS EXHIBIT A of Joint Motion to Show Cause 03-30-2018.pdf**
270K
-  **17-035-68 DPU and OCS Joint Motion to Show Cause 03-30-2018.pdf**
229K

EXHIBIT 2

Extremely Urgent

Only
with the
our
able
the
conditions
press
contact

ORIGIN ID:NPHA (801) 530-6487
ROSE LATU

SHIP DATE: 16MAR18
ACTWGT: 0.50 LB
CAD: 112418068/INET3980

160 E 300 S
2ND FLOOR, RM 201
SALT LAKE CITY, UT 84111
UNITED STATES US

BILL SENDER

TO **KIMBERLY CERUTI**
ELLIS-HALL CONSULTANTS, LLC
4733 S HIDDENWOODS LN

552J1107F5IDCA5

MURRAY UT 84107

(801) 231-2305
INV.
PO.

REF: 17-035-68

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