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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of the Application of Rocky Mountain Power for Approval of its Electric Vehicle Infrastructure Program</p>	<p>Docket No. 20-035-34</p> <p>RESPONSE OF WESTERN RESOURCE ADVOCATES TO MOTION FOR PROTECTIVE ORDER</p>
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Pursuant to the August 26, 2021, Notice of Virtual Scheduling Conference and Motion for Protective Order of the Utah Public Service Commission (“Commission”), Western Resource Advocates (“WRA”) submits this response to PacifiCorp’s (d/b/a Rocky Mountain Power, “the Company”) Motion for Protective Order (“Motion”) in the above-referenced docket. WRA objects to the Motion to deny all parties access to confidential information and requests that the Commission allow WRA counsel and technical staff access to confidential information subject to the Commission’s confidentiality rules.

On August 23, 2021, PacifiCorp filed an application for approval of an electric vehicle infrastructure program (EVIP) pursuant to Utah Code section 54-4-41. Additionally, PacifiCorp requested that the Commission enter a protective order, pursuant to Utah Administrative Rule R746-1-602(2), denying all intervening parties access to information and material designated as

confidential by the company. WRA objects to the request because R746-1-602(2) does not apply to WRA or its employees. Additionally, PacifiCorp has not met its burden in demonstrating any claim of competitive disadvantage posed by WRA.

In its Motion, PacifiCorp states that certain information could put the Company at a competitive disadvantage, including detailed estimates of yearly expenditures, cost estimates for charging station locations, estimated operating costs of the EVIP, and the Company's calculations of revenue breakeven at various utilization levels. PacifiCorp Application, para. 27. However, WRA cannot use this information to competitively disadvantage PacifiCorp. WRA is a non-profit public interest organization whose purpose in this docket is to ensure that the proposed EVIP is just and reasonable, results in prudent and equitable investments in electric vehicle charging infrastructure, and is successful in reducing transportation sector air pollutants and greenhouse gas emissions.

PacifiCorp also states that the confidential information could be used by intervening parties during the performance of normal job functions to competitively disadvantage the Company during the request for proposal (RFP) process for the operator of the network of Company-owned chargers or to compete directly with the Company as a provider of charging station locations. PacifiCorp Application, para. 28. WRA is not a business; WRA does not operate, own, or provide electric vehicle charging services; nor will WRA be participating in the RFP process. WRA cannot directly compete with PacifiCorp because WRA is a non-profit organization whose funding comes from grants and donations.

PacifiCorp cannot be competitively disadvantaged by allowing WRA to review and receive confidential information subject to the Commission's confidentiality rules. Denying

access to confidential materials to all parties is unreasonable and does not make a distinction between intervenors who can and cannot put PacifiCorp at a competitive disadvantage.

PacifiCorp has made no effort to explain why it is reasonable, or justified under the rules, to exclude parties, like WRA, who are not competitors and who cannot put the Company at a competitive disadvantage, from reviewing confidential information for purposes of intervention in this docket.

Rule R746-1-602(2) excludes persons who could use confidential information in the “person’s normal job functions” to the competitive disadvantage of the Company. WRA staff have no job functions that could competitively disadvantage PacifiCorp. WRA staff do not perform job functions comparable to PacifiCorp, in general, in operating an electric vehicle infrastructure program, or in providing charging services to electric vehicles. As an intervenor, WRA is in a comparable position to the Division and the Office, not as an entity that could potentially benefit as a competitor.

WRA’s ability to participate in this docket and make recommendations consistent with our interests will be impaired without access to confidential information. For example, information and analysis related to how the Company determined the rates for Company-owned charges is redacted. Campbell Direct Testimony, p. 8, ll. 134-152. As a result, WRA will not be able to evaluate the reasonableness of PacifiCorp’s proposed rates. Additionally, PacifiCorp has redacted all budget information, including high-level estimates for spending on equipment, infrastructure, and incentives during the initial five years of the program. Campbell Direct Testimony, p. 11, ll. 207-213. As a result, WRA cannot evaluate the reasonableness of the program’s administrative costs, incentive amounts, or even the general allocation of costs to specific program components. For example, WRA cannot evaluate whether the relative

contributions of funds to Company-owned vs. make-ready infrastructure support the objectives of the EVIP program and comply with statutory guidance.

It is PacifiCorp's burden to demonstrate the competitive disadvantage claimed. The Company has not done this with respect to WRA. Without any demonstration that WRA can put the Company at a competitive disadvantage, PacifiCorp cannot reasonably restrict access to confidential information to WRA, subject to the confidentiality protections of the Commission's rules. WRA counsel and staff have signed non-disclosure agreements with respect to the review and use of confidential information in this docket.

WRA respectfully requests that the Commission deny PacifiCorp's motion for a protective order to the extent it denies access to confidential information to WRA's counsel and representatives.

Dated this 7th day of September, 2021.

Respectfully submitted,



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