ROCKY MOUNTAIN POWER
A DIVISION OF PACIFICORP

1407 West North Temple, Suite 330
Salt Lake City, UT 84116

June 11, 2019

VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY

Wyoming Public Service Commission
2515 Warren Avenue, Suite 300
Cheyenne, Wyoming 82002

Attn: Chris Petrie, Chief Counsel

Docket No. 20000-545-ET-18
Record No. 15133

RE: IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER FOR MODIFICATION OF AVOIDED COST METHODOLOGY AND REDUCED CONTRACT TERM OF PURPA POWER PURCHASE AGREEMENTS WITH QUALIFYING FACILITIES – Reply to the Responses to RMP's Motion to Strike

Dear Mr. Petrie:

Enclosed for filing in the above-referenced matter is an original and four (4) copies of Rocky Mountain Power's Reply to the Renewable Energy Coalition and the Rocky Mountain Coalition for Renewable Energy Responses to the Motion to Strike.

All formal correspondence and Staff requests regarding this matter should be addressed to:

By E-mail (preferred): datarequest@pacificorp.com

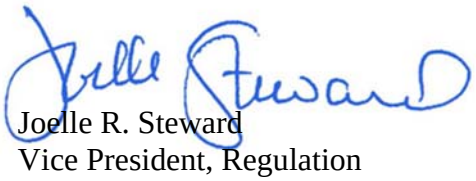
By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, Oregon 97232

with copies to: Stacy Splittstoesser
Wyoming Regulatory Affairs Manager
Rocky Mountain Power
315 W. 27th St.
Cheyenne, Wyoming 82001
E-mail: stacy.splittstoesser@pacificorp.com

Jacob A. McDermott
Senior Attorney
Rocky Mountain Power
1407 W. North Temple
Salt Lake City, Utah 84116
E-mail: jacob.mcdermott@pacificorp.com

Please contact Stacy Splittstoesser, Wyoming Regulatory Affairs Manager at (307) 632-2677 if you have any informal questions.

Sincerely,



Joelle R. Steward
Vice President, Regulation

Enclosure

cc: Service List

Yvonne R. Hogle
Jacob A. McDermott
Rocky Mountain Power
1407 W. North Temple, Suite 320
Salt Lake City, Utah 84116
Telephone No.: (801) 220-2233
Facsimile No.: (801) 220-3299
Email: jacob.mcdermott@pacificorp.com

Attorneys for Rocky Mountain Power

BEFORE THE WYOMING PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF ROCKY MOUNTAIN POWER FOR MODIFICATION OF AVOIDED COST METHODOLOGY AND REDUCED CONTRACT TERM OF PURPA POWER PURCHASE AGREEMENTS WITH QUALIFYING FACILITIES	)))))))	DOCKET NO. 20000-545-ET-18 (Record No. 15133)

ROCKY MOUNTAIN POWER'S REPLY TO THE RENEWABLE ENERGY COALITION AND THE ROCKY MOUNTAIN COALITION FOR RENEWABLE ENERGY RESPONSES TO THE MOTION TO STRIKE PORTIONS OF THEIR DIRECT TESTIMONY

In accordance with the Rules of Practice and Procedure of the Wyoming Public Service Commission (the "Commission") and Wyoming's Administrative Procedure Act at W.S. § 16-3-108, PacifiCorp d/b/a Rocky Mountain Power ("Rocky Mountain Power" or "Company") respectfully submits this reply ("Reply") to the Renewable Energy Coalition's ("REC") and the Rocky Mountain Coalition for Renewable Energy's ("RMCRE") motions in response (respectively, the "REC Response" or the "RMCRE Response") to the Company's motion to strike ("Motion") certain portions of their testimonies.

The Motion requested that lines 535 through line 615 (at pp. 24-28) of John Lowe's direct testimony for REC in this proceeding; and lines 368 through line 404 (at pp. 18-20) of Mark Klein's direct testimony for RMCRE be stricken from the record. The Responses fail to demonstrate that these sections of testimony are relevant and material to the issues presented by the Company's application and supporting testimony in this docket (the "Application"), and RMCRE's Response fails to overcome the fact that the subject portions of its testimony are unnecessarily duplicative of issues raised by Mr. Klein's company in another active case at the Commission.

The Company does not deny that the Federal Energy Regulatory Commission's Open Access Transmission Tariff process for securing interconnection service ("OATT Process"), which is incorporated by reference into the Company's Wyoming Schedule 38 can be long. Indeed, this fact is explicitly recognized in the Company's Commission-approved Schedule 38 language, which is why the Schedule 38 language recommends that a qualifying facility initiate its request for interconnection service as early in the planning process as possible to ensure that necessary interconnection arrangements proceed in a timely manner on a parallel track with the negotiation of the power purchase agreement. The Company does not propose to strike the portions of testimony where the parties make this point. Rather, the Company proposes to strike those portions of testimony where REC and RMCRE go into unnecessary detail on the OATT Process and allege bad faith or non-compliance by the Company. Striking this testimony will not deprive REC or RMCRE of any opportunity to have the Commission consider whether modifications to the Company's proposed changes to Schedule 38 are in the public interest or whether QFs with existing interconnection agreements should be subject to the Commission's final order. The OATT Process is not at issue in this proceeding beyond its potential impact on timing. Accordingly, the

Company should not be forced to defend and correct the record in this case based on these peripheral issues, not relevant to the Application, especially to the extent those same issues have been raised in other active proceedings before the Commission. The Commission should grant the Motion to avoid such needless distraction.

I. RMCRE RESPONSE

RMCRE argues that the subject portions of its testimony should not be stricken because it is broadly relevant in the sense that it has a "tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without evidence." (Wyo. R Evid. 401). RMCRE goes on to state that the portions Mr. Klein's testimony that the Company seeks to strike were offered for the purpose of proposing that qualifying facility ("QF") projects that have signed feasibility or system impact study agreements at least 90 days prior to the Commission's final order on the Application should not be subject to any changes resulting from such order. The Company concedes this is the purpose of the subject portion of Mr. Klein's testimony. However, the Company does not concede that these portions of testimony are relevant or necessary for the Commission to reach a determination as to whether its final order should apply to existing projects in development. The Commission's determination of whether to apply its order to QF's at certain stages of development should be grounded in the customer indifference principle. It is the Company's position that customer indifference requires that the order be applied to all prospective QFs to protect Wyoming customers from the risks identified in its Application, and to ensure accurate and up-to-date avoided cost pricing.

RMCRE's broad claims of relevance might be more compelling if the Company had not already conceded that the OATT Process can take a long time. In an effort to resolve its discovery dispute with the Wyoming Industrial Energy Consumers and Two Rivers Wind ("WIEC/Two

Rivers") on a similar topic, the Company and WIEC/Two Rivers worked out a revised data request, and the Company's response confirmed that the FERC OATT Process can be as short as approximately 30 days or up to approximately two and a half years, depending on the circumstances. More specifically, the Company explained that interconnection study timing can reasonably vary depending on a multitude of factors, including how long it takes for the interconnection customer and any affected third-party transmission system transmission providers to provide all of the information necessary to perform the interconnection study. Once all of the necessary information is received, a simple study (e.g., evaluating the requirements of an interconnection request in an area where there are no higher-queued interconnection requests and the existing system is capable of interconnecting additional generators) could take as short as approximately 30 days, and a more complicated study (e.g., evaluating the requirements of an interconnection request in an area where there are a significant number of higher-queued interconnection requests that, along with their associated upgrades, must be assumed in-service for the study, and the existing system is not capable of interconnecting additional generators) could take up to two years or more depending on the circumstances. [1]

Turning back to RMCRE's position that the subject portions of testimony are relevant because they have a tendency to make a fact that the Company has already conceded is true, more probable—the Company does not seek to remove the parts of Mr. Klein's testimony that simply state this recognized fact, and the Company does not seek to strike testimony where Mr. Klein proposes that the Commission not apply its order in this case to existing QF projects in development. Instead, the Company seeks to strike portions of testimony that go into unnecessary and inaccurate detail about the OATT Process, or that imply that bad faith motives by the Company

[1] *See*, Company's response to WEIC/Two Rivers Data Requests 11.1 – 11.3.

(rather than, for example, the volume of queued requests for generator interconnection with the Company's system or the complexity of a particular chosen interconnection point) result in the interconnection study timeframes experienced by QFs and other interconnection customers. The Company seeks to strike this testimony because it serves no purpose in advancing RMCRE's position, and, given the nature of the allegations, the Company may otherwise be compelled to respond to them. The Application is not about Wyoming's QF interconnection policies. Moreover, the Commission's decision regarding whether or not to apply its final order to QFs that have reached a certain stage of development will not benefit from argument among the parties delving deeper into the OATT Process and the reasons that QFs and other interconnection customers can experience long study timeframes.

In addition to being irrelevant and immaterial, the issues raised in the subject portion of Mr. Klein's testimony are before the Commission in another docket, and it would be inefficient and unfair for the Company to have to defend itself against Mr. Klein's accusations here. Mr. Klein is not simply putting forward facts to support RMCRE's argument that certain QFs should not be subject to changes that may result from a Commission order on the Application. Instead, Mr. Klein alleges that the Company is violating the OATT Process.[2] Mr. Klein's testimony then goes on to describe interconnection issues experienced by a particular QF project that appears to be associated with a complaint that is already before this Commission.[3] These are unsubstantiated claims of bad faith by the Company. Allowing such testimony to remain in the record does not advance RMCRE's arguments over where to draw the line on the applicability of a Commission order in this docket, nor does it provide a better record on which the Commission can base its decision. All this testimony does is advance a dispute that is already before the Commission in another

[2] RMCRE, Direct Testimony of Mark Klein, at p.19, lines 383-386.
[3] *Id.*, at pp.18-20, lines 368-404.

proceeding. The RMCRE Response does much the same, using similarly inflammatory language to suggest bad faith motivations on the part of the Company. Stating that, "the QF process *imposed* by PacifiCorp…will have *thwarted* QF projects…" (RMCRE Response at p. 6, emphasis added). Again, if there is any purpose to this portion of Mr. Klein's testimony, beyond accusations that claim the Company is not complying with its tariffs or implying that the interconnection study process takes a long time due to bad faith motivations, it appears to be that QFs experience long study timeframes in the OATT Process. That is not a point in dispute, and the inflammatory testimony Mr. Klein offers to support that point is not relevant or material to the Application. It is also duplicative of disputed issues and allegations already before the Commission in another docket. Striking the testimony will not deprive RMCRE of any opportunity to have the Commission consider whether QFs with existing interconnection agreements should be subject to the final order in this docket, or not, and granting the Motion will avoid unnecessary testimony and argument over these peripheral issues.

II. REC RESPONSE

The REC Response suffers from many of the same deficiencies as the RMCRE Response. REC goes on at length to defend the relevance of the nearly four pages of testimony Mr. Lowe provided on the OATT Process, but it glosses over a critical point. The key fact that REC claims the subject portions of Mr. Lowe's testimony are intended to support, that the OATT Process can take a long time, has been recognized by the Company and the Commission. REC denies that the purpose of the subject portions of Mr. Lowe's testimony are to turn this docket into an investigation of the OATT Process, while at the same time alleging that the Company is seeking to "thwart" QF's successfully reaching signed power purchase agreements ("PPA"),[4] that the

[4] REC Response at pp. 2&7.

Commission must review the OATT Process in this Application proceeding, [5] and that the subject portions of Mr. Lowe's testimony are relevant because it "goes to a core issue regarding...RMP's compliance."[6] While the Company contends that it is compliant with the requirements of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), and this Commission's related regulations and orders, that is not the purpose of this application docket. This docket is not an investigation into the Company's practices or compliance, nor is it a complaint proceeding where violations are being alleged by a party. The Application requested that the Commission make a determination whether certain proposed improvements to Schedules 37 & 38 and Wyoming's PURPA implementation are in the public interest. The Company does not seek to obscure the reality of interconnection study timeframes, but it is concerned that by providing testimony countering Mr. Lowe's claims that the Company has "weaponized" the OATT Process, it will needlessly distract from the substance of the important policy and PURPA implementation issues that are directly before the Commission in this docket.

In the context of its proposed inclusion of language in Schedule 38 regarding the policy against executing a PPA with a QF when the commercial operation date ("COD") is more than 30 months away (the "30 Month Policy"), the Company explains in its Motion how the fact of long interconnection study timeframes is little different than other potential time-consuming requirements that may impact a QF's COD. The REC Response appears to misunderstand why this is the case and how the Company's Schedule 38 tariff currently works in Wyoming. Under section I.B.4.f of the current Schedule 38, the Company does not proceed with PPA negotiation unless a QF provides "evidence that any necessary interconnection studies have been completed and assurance that the necessary interconnection arrangements are being made." There is good

[5] *Id.*, at p.8.
[6] *Id.*, at p.12.

reason for this requirement, since an interconnection study provides technical corroboration for the COD that the Company used for indicative pricing. The Application does not propose to modify this requirement at all.

REC argues that long lead times in interconnection studies could cause the 30 Month Policy to negatively impact QF development, but this unlikely because by the time the QF reaches the PPA execution stage of Schedule 38 when the 30 Month Policy would apply, a QF will have already been required to produce an interconnection study under section I.B.4.f. In other words, long lead times in receiving an interconnection study do not impact whether or not the Company will execute a PPA under the 30 Month Policy, because a QF at that stage will have already provided one. This is a key reason why the Company acknowledges that interconnection study timeframes are *related* to the 30 Month Policy, but also maintains that such timeframes are not *relevant* or *material* to the Commission's consideration of it.

The 30 Month Policy only becomes relevant at a point in the Schedule 38 process when the QF will already have an interconnection study in hand. If that study says that the COD will be more than 30 months in the future, then the QF must wait to execute its PPA until it is at or within that window. If there have been changes to avoided cost pricing during the period that QF waits, then the Company will update the indicative avoided cost prices to ensure they are as accurate and current as possible. As made clear in the Motion, the 30 Month Policy prevents QFs from locking in prices well in advance of their project delivery date, and study timeframes are related only in the sense that they could impact what that COD may be. However, because Schedule 38 will have already required a QF to produce a study, such timeframes are not relevant or material to the Commission's consideration of whether the policy should be modified. Avoided cost prices set more than two and a half years before delivery are almost certain to be stale by the time the

customers begin receiving the output from those projects. Preventing that result is consistent with the customer indifference requirement, which must be balanced against the need for a QF to have sufficient time to construct its project. A deep dive into QF interconnection policy, or arguments over whether the OATT Process has been "weaponized" or not will not bring any further clarity to this issue for the Commission or others, and is likely to create needless distraction from the important commercial policy issues the Application does raise. The Commission should strike the subject portions of Mr. Lowe's direct testimony for REC to avoid such distraction.

III. CONCLUSION

Testimony from the REC and RMCRE witnesses that delve into the OATT Process and allege tariff violations or imply bad faith by the Company are irrelevant and immaterial to the Commission's determination of whether the 30 Month Policy's inclusion in Schedule 38 is in the public interest. Striking the subject portions of RMCRE's testimony will not harm or meaningfully detract from its request that the Commission not apply any changes to Schedule 38 or Wyoming's PURPA implementation that may result from a Commission order on the Application to QFs that have reached a certain stage of development. This is because the key fact Mr. Klein's testimony is intended to support has already been conceded by the Company. Many of the claims made by RMCRE are also the subject of another proceeding, so not only does RMCRE not need this testimony to make its point, the testimony is duplicative of issues to be decided in that other case.

The Company has offered no testimony on interconnection related issues, and none of its witnesses are qualified to address this technical subject matter. Striking the REC and RMCRE testimony as the Company requests would avoid any need to provide additional testimony from a qualified expert in writing or at hearing, and would not be unprecedented, the Commission has

limited the scope of its proceedings for similar reasons in the past.[7] Because the testimony goes to irrelevant and immaterial issues, that are also already before this Commission for determination in other dockets, Commission rule Chapter 2, Section 22 and W.S, § 16-3-108 require the Commission to grant the Company's Motion.

DATED this 11th day of June, 2019.

Respectfully submitted,
ROCKY MOUNTAIN POWER

s/ Jacob A. McDermott

Jacob A. McDermott
1407 West North Temple, Suite 320
Salt Lake City, Utah 84116
Telephone: (801) 220-2233
Facsimile: (801) 220-3299
Email: jacob.mcdermott@pacificorp.com

[7] *See, In the Matter of the Application of PacifiCorp for Authority to Defer Excess Net Power Costs Incurred, Commencing November 1, 2000*, Docket No. 20000-EP-01-167 (Record No. 6481), Order Granting Motion to Exclude Hunter Generator-Related Costs from Case at ¶7 (Nov. 9, 2001). In this case, the Company had applied for a deferred accounting order related to high power costs, one of the joint movants, WIEC, argued that the Company should not be allowed to seek recovery of costs due to the failure of its Hunter Unit No. 1, because it was introduced after its application and was therefore not within the scope of the case. In granting WIEC's motion, the Commission agreed that allowing the Company to introduce new issues related to the generation unit failure would vastly enlarge the number and scope of issues to be considered.

CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2019, I caused to be served, via Email a true and correct copy of Rocky Mountain Power's **Reply to the Responses to RMP's Motion to Strike** to the following service list:

Office of Consumer Advocate	
Christopher Leger Office of Consumer Advocate 2515 Warren Avenue, Suite 304 Cheyenne, WY 82002 christopher.leger@wyo.gov	
Wyoming Industrial Energy Consumers	
Abigail C. Briggerman (C) Holland & Hart, LLP 6380 S. Fiddlers Green Circle, Ste. 500 Greenwood Village, CO 80111 acbriggerman@hollandhart.com	Michelle B. King (C) Holland & Hart, LLP 6380 S. Fiddlers Green Circle, Ste. 500 Greenwood Village, CO 80111 mbking@hollandhart.com
aclee@hollandhart.com glgargano-amari@hollandhart.com HMOakes@hollandhart.com	
VK Clean Energy Partners, LLC	
Phillip J. Russell (C) HATCH, JAMES & DODGE, P.C. 10 West Broadway, Suite 400 Salt Lake City, Utah 84101 prussell@hjdlaw.com	Dale W. Cottam (C) Bailey Stock Harmon Cottam Lopez LLP 80 E. 1st Ave. Box 850 Afton, WY 83110 dale@performance-law.com
ronnie@performance-law.com	
Two Rivers Wind, LLC	
Abigail C. Briggerman (C) Holland & Hart, LLP 6380 S. Fiddlers Green Circle, Ste. 500 Greenwood Village, CO 80111 acbriggerman@hollandhart.com	Michelle B. King (C) Holland & Hart, LLP 6380 S. Fiddlers Green Circle, Ste. 500 Greenwood Village, CO 80111 mbking@hollandhart.com
aclee@hollandhart.com glgargano-amari@hollandhart.com HMOakes@hollandhart.com	

Northern Laramie Range Alliance	
Crystal J. McDonough (C) McDonough Law LLC 1635 Foxtrail Dr. Loveland, CO 80538 crystal@mcdonoughlawllc.com	Callie Capraro (C) McDonough Law LLC 1635 Foxtrail Dr. Loveland, CO 80538 callie@mcdonoughlawllc.com
Renewable Energy Coalition	
John Lowe Renewable Energy Coalition PO Box 25576 Portland, OR 97298 jravenesanmarcos@yahoo.com	Irion A. Sanger (C) Sanger Law, P.C. 1117 SE 53rd Avenue Portland, OR 97215 irion@sanger-law.com
Dale W. Cottam (C) Bailey Stock Harmon Cottam Lopez LLP 80 E. 1st Ave. Box 850 Afton, WY 83110 dale@performance-law.com	ronnie@performance-law.com marie@sanger-law.com
Rocky Mountain Coalition for Renewable Energy	
Phillip J. Russell (C) HATCH, JAMES & DODGE, P.C. 10 West Broadway, Suite 400 Salt Lake City, Utah 84101 prussell@hjdlaw.com	Dale W. Cottam (C) Bailey Stock Harmon Cottam Lopez LLP 80 E. 1st Ave. Box 850 Afton, WY 83110 dale@performance-law.com
ronnie@performance-law.com	
Rocky Mountain Power	
Stacy Splittstoesser Wyoming Regulatory Affairs Manager Rocky Mountain Power 315 West 27th Street Cheyenne, Wyoming 82001 stacy.splittstoesser@pacificorp.com	Jacob A. McDermott Senior Attorney Rocky Mountain Power 1407 West North Temple, Suite 320 Salt Lake City, Utah 84116 jacob.mcdermott@pacificorp.com
Data Request Response Center PacifiCorp 825 NE Multnomah, Suite 2000 Portland, Oregon 97232 datarequest@pacificorp.com	

Katie Savarin
Coordinator, Regulatory Operations