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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Application of Rocky Mountain Power for Approval of the Power Purchase Agreement between PacifiCorp and Thayn Hydro LLC	Docket No. 16-035-04
	<b>DIRECT COMMENTS OF THAYN HYDRO, L.L.C.</b>

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Pursuant to the Scheduling Order and Notice of Hearing issued by the Public Service Commission of Utah (“**Commission**”) February 17, 2016, Thayn Hydro L.L.C. hereby files its direct comments to the Application and Request for Expedited Approval (“**Application**”) filed by Rocky Mountain Power (“**Rocky Mountain Power**”) on February 4, 2016.

**DIRECT COMMENTS**

Thayn Hydro supports Rocky Mountain Power’s Application. As noted in the Application, Rocky Mountain Power and Thayn Hydro have been involved in negotiations relating to the execution of a new PPA between Rocky Mountain Power and Thayn Hydro. The parties began negotiations for a new PPA in early July, 2015. Thayn Hydro is an existing and operating qualifying facility (“**QF**”), and PPA contract renewals can and are generally processed more expeditiously than new QF PPAs. Thayn Hydro’s operations and circumstances have not changed. On July 22, 2015, Thayn Hydro communicated to Rocky Mountain Power that it was committing to sell power at the Schedule 37 rates effective in July.

At the time the Commission issued its order approving new Schedule 37 pricing on September 18, 2015 (“**SCH 37 Order**”), the only potentially outstanding issue relating to the new PPA was a question from Thayn Hydro about the necessity of a significant increase in the liability insurance requirements for its hydroelectric power generation facility (the “**Facility**”). While Thayn Hydro asked Rocky Mountain Power about the necessity of a significant increase in liability insurance requirements, Thayn Hydro did not state to Rocky Mountain Power that the increased insurance requirement would prevent Thayn Hydro from executing the draft PPA in its current form. Indeed, had the parties known the date the SCH 37 Order was to be effective, Thayn Hydro would have executed the new PPA prior to that date. Further, Thayn Hydro believes that the new PPA would have been executed prior to the SCH 37 Order but for certain personnel changes at Rocky Mountain Power and a lack of a thorough understanding of the PPA renewal process and timeline on the part of Thayn Hydro. Accordingly, Thayn Hydro believes that it has the legal right to sell power to Rocky Mountain Power at the rates in effect prior to the SCH 37 Order, that it is just and reasonable for Thayn Hydro to receive the Schedule 37 pricing in effect immediately prior to the SCH 37 Order, and that an order authorizing that pricing is justified and well-supported by the facts of this case. Likewise, Thayn Hydro believes that approving the new PPA with a 20-year term is just and reasonable and supported by the facts. Rocky Mountain Power stated in its application that it “would support a finding that it is just and reasonable for Thayn Hydro to receive the Schedule 37 pricing that was in effect immediately prior to the date of the SCH 37 Order.”

The Facility has been in operation for decades and Thayn Hydro has been selling its generated power to Rocky Mountain Power for over twenty years. Thayn Hydro had no intention of seeking a PPA with another entity or not executing a new PPA with Rocky Mountain Power. The circumstances and timing of the PPA renewal and the issuance of the SCH 37 Order

complicated the PPA renewal process, which Thayn Hydro expected to be very straightforward. Unfortunately, the fact that the parties did not execute the PPA prior to the issuance of the SCH 37 Order has necessitated the Commission's involvement in this matter.

Thayn Hydro's previous PPA with Rocky Mountain Power expired on December 31, 2015; however, Thayn Hydro will likely not resume generating power until the end of March or the beginning of April 2016 due to the ongoing replacement of the diversion dam in the Green River. Thayn Hydro recognizes that this timeline for resuming power generation is very shortly after the hearing scheduled in this Docket for March 15, 2016. Accordingly, Thayn Hydro and Rocky Mountain Power have discussed the possibility of executing an interim power purchase agreement to allow Rocky Mountain Power to purchase power (at currently-effective Schedule 37 rates) generated by Thayn Hydro during the short period between the date on which Thayn Hydro resumes power generation and the date the Commission issues its eventual order in this docket. As Thayn Hydro has requested that the Commission approve this PPA with the old Schedule 37 rates, Thayn Hydro also requests that the Commission order a "true up" of power purchase payments under any interim PPA to match the payments that would have been made under the rates authorized for the PPA in this docket.

The Facility generates a very small amount of power (0.575 MW nameplate capacity) and the impact of allowing the new PPA to be executed with the old Schedule 37 rates would be wholly immaterial to Rocky Mountain Power and Rocky Mountain Power has stated that it would support a finding that Thayn Hydro was entitled to the old Schedule 37 rates. Receiving the old Schedule 37 rates is extremely important to Thayn Hydro and will allow Thayn Hydro to pay for improvements being made to the diversion dam on the Green River.

The diversion dam improvements are extremely important to ranchers, farmers, and other

local water users (in addition to Thayn Hydro) and the economic health of much of the area. The diversion dam was originally constructed in the early twentieth century and was significantly damaged during floods in 2011. The diversion structure provides water to three irrigation canals, a historic irrigation water delivery system, the City of Green River, and the Thayn Hydro Facility. The diversion dam is necessary for the local economy and the reconstruction project is supported by numerous state and federal agencies. The improvements to the diversion dam are being paid for in large part by contributions from local water users; Thayn Hydro will be paying a significant portion of the local water users' contribution and will be making payments on those improvements for the next 25 years. Authorizing a PPA with the old Schedule 37 rates will allow Thayn Hydro to make the payments on the diversion dam improvements and continue to contribute to the economic health of the Green River and surrounding area.

Thayn Hydro respectfully requests that the Commission approve the PPA with the Schedule 37 rates in effect immediately prior to the SCH 37 Order issued on September 18, 2015 and with a 20 year term. Such an order would be just and reasonable, would not have a material impact on Rocky Mountain Power's finances or its ratepayers, and is well-supported by the facts of this case. Thayn Hydro also expresses its appreciation to the Commission and to Rocky Mountain Power for their consideration of this matter.

DATED this 2<sup>nd</sup> day of March, 2016.

Respectfully Submitted,  
**SMITH HARTVIGSEN, PLLC**

          /s/ Adam S. Long            
Adam S. Long  
*Attorney for Thayn Hydro, L.L.C.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on this 2<sup>nd</sup> day of March, 2016 upon the following as indicated below:

Via hand delivery and email to:

UTAH PUBLIC SERVICE COMMISSION  
c/o Gary Widerburg, Commission Secretary  
160 East 300 South, Fourth Floor  
Salt Lake City, Utah 84111  
psc@utah.gov

Via e-mail to:

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/s/ Adam S. Long