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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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**In the Matter of the Application of PacifiCorp for Approval of a Solicitation Process for a Flexible Resource for the 2012-2017 Time Period, and for Approval of a Significant Energy Resource Decision**

Docket No. 07-035-94

**Response of the Division of Public Utilities to the Motion to Suspend the Request for Proposals**

The following is a response by the Division of Public Utilities (DPU or Division) to the Expedited Motion by Rocky Mountain Power (Company) to suspend the All Source Request for Proposal (2008 RFP):

1. On February 26, 2009 Rocky Mountain Power filed this Motion to suspend the 2008 RFP for an indeterminate period of at least six to eight months. The form and substance of the suspension is contained in a letter that the Company intends to send to the bidders attached to its Motion as Appendix A. In essence, the Company would permit bidders to either withdraw their bids or keep them in place with the future possibility of refreshing them. The Company indicated that it would refresh its

benchmark and possibly would also request new bids. Little firm commitment was provided as to what would actually take place at the end of the suspension period. The reasons given for suspending the 2008 RFP are similar to the reasons the Company has given for the cancellation of the Lake Side 2 Plant. See Docket No. 08-035-95. These include: reduction in customer loads, reduction in price of commodities, potential reduction in future construction costs and other changes in economic and market conditions. See Motion to Suspend p. 2.

2. The Division has asked, both in this Docket and in the Lake Side 2 Docket, data requests that address the reasons that the Company has given for its decision to both suspend the 2008 RFP and cancel the Lake Side 2 project. Reviewing these reasons is relevant, particularly in light of forecasts for deficits in the Company's load and resource balance information provided to the Commission in the docket approving the RFP for the 2012-2017 time period.

3. The Division makes the following observations and recommendations:
- a. Assuming an RFP, from receiving bids to executing a contract, takes approximately one year and adding another 36 to 39 months to build a resource, any delay in the RFP at this point will make it unlikely that the Company can have any new resources on line for the Summer of 2013. The reasonableness of any delay, therefore, will depend on the Company's projected load and resource balance. That information is currently being provided in responses to data requests in the Lake Side 2 Docket. With that uncertainty currently existing, the DPU is making the recommendation contained in b.

b. Because of the uncertainties surrounding the factors provided by the Company in making this decision, the DPU recommends that any suspension be for a time certain such as four to six months. At the end of the suspension period, the Company should refine its RFP to reflect the most current information, including refreshing the Company's benchmarks, and inform bidders of any changes. Bidders that do not withdraw now would be able to refresh their bids or submit new bids for consideration. If, after reviewing such new or refreshed bids, the Company wishes to cancel or once-again suspend the RFP, the Company would resubmit its request to the Commission with current information. Without a date certain for new bids, the Division is concerned that current bidders may be more likely to withdraw and that ongoing uncertainty may also pose fairness issues for those that do not. The Company is saying it will refund bidder fees to those that withdraw at this point. If the Company does decide to cancel the RFP after reconsidering the new or refreshed bids, given the unique circumstances of this case, the Division suggests that the Commission may find it advisable to order the Company to refund all bidder fees.

c. That any order issued by the Commission suspending the 2008 RFP clearly state that it is not an order addressing the reasonableness of the Company's decision to suspend the 2008 RFP. A review of the reasonableness of such a decision would occur in some appropriate future docket.

With the above issues addressed in any Commission order suspending the RFP, the Division does not object to the issuance of an order suspending the RFP.

Respectfully submitted this 5<sup>th</sup> day of March, 2009.

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## CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing **Response of the Division of Public Utilities to the Motion to Suspend the Request for Proposals** to be served upon the following by electronic mail to the addresses shown below on March 5, 2009:

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