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Attorneys for Three Peaks Power, LLC

Submitted October 30, 2015

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of)	Docket No. 15-035-70
Rocky Mountain Power for Approval of)	
the Power Purchase Agreement between)	REPLY COMMENTS OF
PacifiCorp and Three Peaks Power, LLC)	THREE PEAKS POWER, LLC
)	

Pursuant to the Scheduling Order issued by the Commission on September 10, 2015, Three Peaks Power, LLC (“Three Peaks”) submits its Reply Comments in this proceeding seeking Commission approval of a power purchase agreement (“PPA”) between PacifiCorp and Three Peaks.

The Division of Public Utilities (the “Division”) and the Office of Consumer Services (the “Office”), both filed initial comments to Rocky Mountain Power’s application to the Commission to approve the PPA. The Division, in its initial comments, recommended that the Commission approve the PPA, and determined that the pricing terms set forth in the PPA were consistent with Commission orders in effect at the time PacifiCorp provided Three Peaks with indicative pricing on January 16, 2015.

However, both the Division and the Office pointed out that the Commission's order dated June 26, 2015 (the "Order") in Docket No. 14-035-140 imposed a requirement that a power purchase agreement must be signed within six months from the date a developer receives indicative pricing from PacifiCorp. If a power purchase agreement is not signed within the six-month period, the pricing must be undated. The PPA was not fully executed until August 13, 2015, a few days beyond six months from the date of indicative pricing.

These reply comments are in response to the concerns of the Division and the Office.

Schedule 38

Three Peaks and PacifiCorp negotiated the PPA from the date of the first draft of the PPA until the parties reached agreement on all material terms and conditions during the last week of May 2015. Three Peaks agreed the sell power to PacifiCorp at the indicative price quoted by PacifiCorp and PacifiCorp was obligated to purchase the power. Both Three Peaks and PacifiCorp acted in good faith with the intent of signing the agreement in early June. However, PacifiCorp delayed in getting the document signed until August 13, 2015.

The delay in obtaining signatures was not the result of any action or inaction by Three Peaks. The delays were caused by PacifiCorp failing to obtain management authority to execute the PPA.

Section 1.B.9 of Schedule 38 provides that the six-month time period may be extended if the delays are caused by PacifiCorp, including delays in "obtaining, legal, credit or upper management approval by the Company".

While Three Peaks asserts that the PPA is in compliance with the Commission's Order, if the Commission determines that the PPA violates the six-month requirement of Schedule 38,

Three Peaks requests the Commission to extend the time period pursuant to Section 1.B.9 of Schedule 38 and approve the PPA.

Alternatively, Schedule 38 provides that under “extenuating circumstances, the Company or a QF Developer may request an extension of any deadlines from the Commission.” Based upon the circumstances, Three Peaks hereby requests that the Commission extend the six-month period to allow the indicative pricing to remain in place, and to allow the Commission to approve the PPA on its merits as submitted to the Commission in this Docket.

RESPECTFULLY SUBMITTED this 30th day of October, 2015.

Ballard Spahr LLP

/s/ Jerold G. Oldroyd

Jerold G. Oldroyd, Esq.

Jason D. Boren, Esq.

BALLARD SPAHR LLP

Attorneys for Three Peaks Power, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of October, 2015, an original and ten (10) true and correct copies of the foregoing **REPLY COMMENTS OF THREE PEAKS POWER, LLC** were hand-delivered to:

Gary L. Widerburg
Commission Secretary
Public Service Commission of Utah
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Salt Lake City, UT 84111
psc@utah.gov

and true and correct copies were electronically mailed to the addresses below:

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