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Proposed Counsel for RaPower-3, LLC

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

In re RAPOWER-3, LLC , Debtor.	Bankruptcy Case No. 18-24865 (Chapter 11) Judge Kevin R. Anderson
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**APPLICATION OF RAPOWER-3, LLC FOR ORDER AUTHORIZING THE
EMPLOYMENT AND RETENTION OF SNELL & WILMER L.L.P. AS GENERAL
BANKRUPTCY COUNSEL FOR DEBTOR**

Pursuant to Section 327(a) of Title 11 of the United States Code and Rule 2014 of the Federal Rules of Bankruptcy Procedure, Debtor RaPower-3, LLC (“**Debtor**”), as debtor and debtor-in-possession, hereby submits this application (the “**Application**”) to employ and retain Snell & Wilmer L.L.P. (“**Snell & Wilmer**”) as its general bankruptcy counsel in Debtor’s Chapter 11 case, effective as of the Petition Date. In support of this Application, Debtor relies on the Declaration of David E. Leta (the “**Supporting Declaration**”) filed contemporaneously herewith and respectfully represents as follows:

I.

JURISDICTION AND VENUE

1. The Court has jurisdiction to hear this Application pursuant to 28 U.S.C. §§ 1334 and 157.

2. This Application represents a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief sought herein is § 327 of the Bankruptcy Code.

II.

BACKGROUND

3. The Debtor is a limited liability company with its principal place of business located in Oasis, Utah.

4. On June 29, 2018 (the “**Petition Date**”), Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

5. Pursuant to Sections 1107 and 1108 of the Bankruptcy Code, Debtor is continuing to manage its property and assets as debtor-in-possession.

6. No trustee or examiner has been appointed in Debtor’s Chapter 11 case.

III.

RELIEF REQUESTED

7. Debtor respectfully requests the entry of an order pursuant to § 327(a) of the Bankruptcy Code authorizing it to employ and retain Snell & Wilmer as counsel effective as of the Petition Date.

8. Debtor has selected Snell & Wilmer because the firm has considerable experience in such cases and is well qualified to represent Debtor as counsel in this case.

9. No previous application for the relief sought herein has been made by Debtor to this or any other Court.

IV.

SERVICES TO BE RENDERED

10. Debtor believes that it would be most efficient and in the best interest of its bankruptcy estate that Snell & Wilmer be retained, pursuant to § 327(a) of the Bankruptcy Code, as counsel to perform the legal services that will be necessary during the pendency of this Chapter 11 case, as more fully described herein. Certain of the necessary professional services to be rendered by Snell & Wilmer include, without limitation, the following:

- (a) Assisting the Debtor to prepare its petition and the documents related thereto;
- (b) Render legal advice with respect to the powers and duties of Debtor that will continue to manage its property and assets as debtor-in-possession;
- (c) Negotiate and prepare on Debtor's behalf a plan of reorganization, disclosure statement, and all related agreements and/or documents and take any necessary action on behalf of Debtor to obtain confirmation of such plan;
- (d) Take all necessary action to protect and preserve the estate of Debtor, including the prosecution of actions on Debtor's behalf, the defense of any actions commenced against Debtor, negotiations concerning all litigation in which Debtor is or will become involved, and the evaluation and objection to claims filed against the estate;
- (e) Prepare, on behalf of Debtor, all necessary applications, motions, answers, orders, reports and papers in connection with the administration of the estate herein, and appear on behalf of Debtor at all court hearings in connection with this case;
- (f) Render legal advice and perform all other legal services in connection with the foregoing and in connection with this Chapter 11 case;
- (g) Advise Debtor in connection with any sale of its assets; and

(h) Perform any other services or representation that may be necessary in the conduct of this case.

V.

COMPENSATION

11. To perform its duty as debtor-in-possession, it is essential that Debtor employ Snell & Wilmer.

12. On June 29, 2018, Snell & Wilmer received payment from Debtor, in the amount of \$100,000.00 for services rendered and to be rendered on behalf of the Debtor that relate to this case.

13. As detailed in the Supporting Declaration, Snell & Wilmer applied a total amount of \$4,615.00 against the retainer for fees and costs for services rendered for Debtor prior to the Petition Date and for the filing fee related to this case. Snell & Wilmer continues to hold the balance of the retainer in its client trust account and will apply the funds to fees and expenses approved by this Court upon approval of a fee application.

14. Subject to Court approval, and in accordance with §§ 330 and 331 of the Bankruptcy Code, compensation to Snell & Wilmer shall be based on its standard hourly rates for professional services and reimbursement of those costs and other expenses for which the firm typically seeks reimbursement, including, among other things, telephone and telecopier toll charges, express mail and mass mail postage charges, special or hand-delivery charges, photocopying charges, scanning charges, travel expenses, expenses for computerized research, transcription costs.

15. The attorneys that may be designated to represent Debtor and their applicable hourly rates are:

- | | | |
|-----|-------------------|-------------------|
| (1) | David E. Leta | \$590.00 per hour |
| (2) | Jeffrey D. Tuttle | \$345.00 per hour |

These hourly rates are subject to periodic adjustment to reflect economic and other conditions, as well as counsel's experience and expertise in this area of law. In addition to those identified above, other attorneys and paraprofessionals employed by Snell & Wilmer may from time to time serve Debtor in connection with the matters herein described.

16. No agreement exists between Snell & Wilmer or any other person for the sharing of compensation to be received by Snell & Wilmer in connection with services rendered in this case.

VI.

DISINTERESTEDNESS

17. Except as otherwise disclosed herein and in the Supporting Declaration, to the best of Snell & Wilmer's and Debtor's knowledge, Snell & Wilmer does not hold or represent any entity having an adverse interest in connection with this bankruptcy case, or their respective attorneys or accountants, the United States Trustee for the District of Utah, or any person employed in the office of the United States Trustee for the District of Utah.

18. As set forth in the Supporting Declaration, Snell & Wilmer may represent one or more creditors in this bankruptcy case in matters unrelated to this bankruptcy case.

19. In the Supporting Declaration, Snell & Wilmer discloses to Debtor, its creditors, parties in interest, and the Court all presently known connections of Snell & Wilmer with the creditors and United States Trustee. Snell & Wilmer also discloses what further efforts it will take to confirm the existence of any other connections. Snell & Wilmer will supplement and amend its Supporting Declaration should it discover further pertinent relationships that require disclosure in this case.

20. To the best of Debtor's knowledge, information, and belief pursuant to the information available, (i) Snell & Wilmer's proposed role as counsel to Debtor presents no adverse interest to Debtor or creditors in this case, and (ii) Snell & Wilmer is otherwise

disinterested as that term is defined in 11 U.S.C. § 101(14). Therefore, Debtor's retention of Snell & Wilmer under 11 U.S.C. § 327(a) is proper and appropriate.

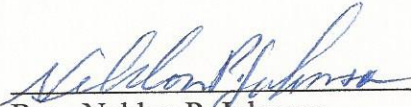
VII.

CONCLUSION

WHEREFORE, Debtor respectfully requests the entry of an order authorizing the retention of Snell & Wilmer, effective as of the Petition Date, to represent Debtor. Debtor further requests such other relief as is just and proper. A proposed form of order is attached hereto as **Exhibit 1**.

DATED: July 12, 2018.

RAPOWER-3, LLC



By: Neldon P. Johnson
Its: Manager

Agreed to:

SNELL & WILMER L.L.P.

/s/ Jeff Tuttle

David E. Leta
Jeff D. Tuttle

Proposed Counsel for RaPower-3, LLC

CERTIFICATE OF SERVICE –BY NOTICE OF ELECTRONIC FILING (CM/ECF)

I hereby certify that on the 13th day of July, 2018, I electronically filed the foregoing document with the United States Bankruptcy Court for the District of Utah by using the Court's CM/ECF system. I further certify that the parties of record in this case, as identified below, are listed as registered CM/ECF users and will be served through the CM/ECF system:

- David E. Leta dleta@swlaw.com, wkalawaia@swlaw.com;smart@swlaw.com
- John K. Mangum john.mangum@usdoj.gov, valerie.maxwell@usdoj.gov
- John T. Morgan tr john.t.morgan@usdoj.gov,
James.Gee@usdoj.gov;Lindsey.Huston@usdoj.gov;Suzanne.Verhaal@usdoj.gov
- Jeff D. Tuttle jtuttle@swlaw.com, jpollard@swlaw.com;docket_slc@swlaw.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov

/s/ Joyce Kyle

EXHIBIT 1

David E. Leta (1937)
Jeffrey D. Tuttle (14500)
SNELL & WILMER L.L.P.
15 W. South Temple, Suite 1200
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Prepared by Proposed Counsel for RaPower-3, LLC

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ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF SNELL & WILMER L.L.P. AS GENERAL BANKRUPTCY COUNSEL FOR DEBTOR

Upon consideration of the *Application of RaPower-3, LLC for Order Authorizing the Employment and Retention of Snell & Wilmer L.L.P. as Counsel for Debtor* (the “**Application**”) filed by Debtor RaPower-3, LLC (“**Debtor**”), as debtor and debtor-in-possession, the *Declaration of David E. Leta in Support of Application for Order Authorizing the Employment and Retention of Snell & Wilmer L.L.P. as Counsel for Debtor* (the “**Supporting Declaration**”), and good cause appearing therefor, the Court:

FINDS and CONCLUDES that:

- A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157(b)(2);
- B. The relief requested by the Debtor in the Application is in the best interest of the Debtor, its estate, creditors, and other parties in interest;
- C. The proposed attorneys at Snell & Wilmer L.L.P. (“**Snell & Wilmer**”) are duly admitted to practice in this Court;
- D. Snell & Wilmer represents no interest materially adverse to the Debtor or its estate in the matter upon which they are to be engaged and it is otherwise disinterested as that term is defined under 11 U.S.C. § 101(14);
- E. Due and proper notice of the Application and Supporting Declaration has been given; no further or additional notice need be provided.

Accordingly, it is hereby

ORDERED that the employment of Snell & Wilmer as counsel for and on behalf of the Debtor, as outlined in the Application and pursuant to 11 U.S.C. § 327(a), is approved; and it is further.

ORDERED that payment of compensation or reimbursement of expenses shall made upon further application, after appropriate notice and hearing pursuant to 11 U.S.C. § 330; and it is further

ORDERED that the employment of Snell & Wilmer shall be effective as of June 29, 2018.

END OF ORDER

DESIGNATION OF PARTIES TO BE SERVED

Service of the foregoing **ORDER** shall be served to the parties and in the manner designated below:

- David E. Leta dleta@swlaw.com, wkalawaia@swlaw.com;csmart@swlaw.com
- John K. Mangum john.mangum@usdoj.gov, valerie.maxwell@usdoj.gov
- John T. Morgan tr john.t.morgan@usdoj.gov,
James.Gee@usdoj.gov;Lindsey.Huston@usdoj.gov;Suzanne.Verhaal@usdoj.gov
- Jeff D. Tuttle jtuttle@swlaw.com, jpollard@swlaw.com;docket_slc@swlaw.com
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/s/ Jeff Tuttle

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/s/ Joyce Kyle