

APPENDIX 1

**CONDITIONAL FRANCHISE AGREEMENT BETWEEN WASATCH COUNTY AND
ROCKY MOUNTAIN POWER**

ORDINANCE NO. 10-12
AN ORDINANCE GRANTING AN ELECTRIC UTILITY FRANCHISE
AND GENERAL UTILITY EASEMENT
TO
ROCKY MOUNTAIN POWER

WHEREAS, Rocky Mountain Power (“Rocky Mountain Power” or the “Company”), is a regulated public utility that provides electric power and energy to the citizens of Wasatch County (the “County”) and other surrounding areas;

WHEREAS, providing electrical power and energy requires the installation, operation and maintenance of power poles and other related facilities to be located within the public ways of the County;

WHEREAS, the County, pursuant to the provisions of Utah Code Ann. § 17-50-306 has the authority to regulate power line facilities within public ways and to grant to Rocky Mountain Power a general utility easement for the use thereof;

WHEREAS, the County desires to set forth the terms and conditions by which Rocky Mountain Power shall use the public ways of the County;

NOW, THEREFORE, be it ordained by the County:

SECTION 1. Grant of Franchise and General Utility Easement. The County hereby grants to Rocky Mountain Power the right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as “Electrical Facilities”) in, under, along, over and across the present and future streets, alleys, and public ways (collectively referred to herein as “Public Ways”) within the area of the County described in Exhibit A, for the purpose of furnishing, supplying, transmitting, and distributing electricity to the County and its inhabitants within those areas identified on Exhibit A, a metes and bounds description, and Exhibit B, an aerial photograph for illustration purposes only, upon such terms, conditions, restrictions, and regulations as are contained in this Ordinance.

SECTION 2. Term.

2.1 The term of this Franchise and General Utility Easement shall commence on the latter of (i) the date of acceptance by the Company as set forth in Section 3 below and (ii) the date the Public Service Commission of Utah (“Commission”) approves an amendment to the certificate of public convenience and necessity of Rocky Mountain Power consistent with this Franchise in a final order and shall end on September 28, 2035 unless extended as provided herein.

Rocky Mountain Power shall meet not less than annually with representatives of the County to report HL&P's projected capital improvements in the Public Ways for the next year and to discuss any concerns either party may have.

2.2 For purposes of Section 2.1:

2.2.1 An order of the Commission approving an amendment to the certificate of public convenience and necessity of Rocky Mountain Power consistent with this Franchise shall be deemed a final order when the Commission has issued an order amending the certificate of public convenience and necessity of Rocky Mountain Power in a form reasonably satisfactory to Rocky Mountain Power ("Order") and the time period for any person to seek review, rehearing or reconsideration of the Order by the Commission has passed without any person seeking review, rehearing or reconsideration.

2.2.2 If any person seeks review, rehearing or reconsideration of the Order by the Commission, the Order shall be deemed final when the Commission has denied the relief sought either by order or through inaction in accordance with applicable law.

2.2.3 If any person obtains a stay of the Order, the Order shall not be deemed final until the stay is lifted.

2.2.4 If any person seeks review of the Order or challenges the Order in court and the Order is not stayed, the Order shall be deemed to be final subject to the provisions of Section 2.2.5.

2.2.5 If a court with jurisdiction reverses, vacates or nullifies the Order and the Commission on remand does not reaffirm the Order consistent with the area in Exhibits A and B the County and Rocky Mountain Power will work in good faith to renegotiate an acceptable Franchise.

SECTION 3. Acceptance by Company. Within sixty (60) days after the passage of this ordinance by the County, Rocky Mountain Power shall file an written acceptance thereof subject to the provision of Section 2.1, with the County Recorder otherwise, the ordinance and the rights granted herein shall be null and void.

SECTION 4. Non-Exclusive Franchise. The County reserves the right to use the Public Ways for itself or any other entity for any purpose approved by the County; provided, however, that such use shall not unreasonably interfere with Rocky Mountain Power's Electrical Facilities or Rocky Mountain Power's rights as granted herein.

SECTION 5. County Regulatory Authority. In addition to the provision herein contained, the County reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties or exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Utah, the laws of Utah or County Ordinance.

SECTION 6. Indemnification. The County shall in no way be liable or responsible for any loss or damage to property or any injury to, or death, of any person that may occur in the construction, operation or maintenance by Rocky Mountain Power of its Electrical Facilities. Rocky Mountain Power shall indemnify, defend and hold the County harmless from and against such claims, demands, liens and all liability or damage on account of Rocky Mountain Power's use of the Public Ways within the County, and shall pay the costs of defense plus reasonable attorneys' fees for any claim, demand or lien brought thereunder. The County shall: (a) within forty five days give written notice to Rocky Mountain Power of any claim, demand or lien with respect to which the County seeks indemnification hereunder; and (b) permit Rocky Mountain Power to assume the defense of such claim, demand, or lien. If Rocky Mountain Power fails, after notice and opportunity to assume such defense, Rocky Mountain Power shall be subject to liability for any settlement made. If any claim is settled by the County without giving Rocky Mountain Power notice and an opportunity to assume such defense, Rocky Mountain Power shall not be liable for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, Rocky Mountain Power shall not be obligated to indemnify, defend or hold the County harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or willful act or failure to act of the County or any of its officers or employees.

SECTION 7. Plan, Design, Construction and Installation of Company Facilities.

7.1 All Electrical Facilities installed or used under authority of this Franchise shall be used, constructed and maintained in accordance with applicable federal, state and county laws, codes and regulations.

7.2 Except in the case of an emergency, Rocky Mountain Power shall, prior to commencing new construction or major reconstruction or excavation work in the public way or street or other public places, apply for applicable permit(s) from the County which permit(s) shall not be unreasonably withheld, conditioned, or delayed. Rocky Mountain Power will abide by all applicable ordinances and all lawful rules, regulations and requirements of the County, and the County may inspect the manner of such work and require remedies as may be reasonably necessary to assure compliance. Notwithstanding the foregoing, Rocky Mountain Power shall not be obligated to obtain a permit to perform emergency repairs, but shall notify the County of such repairs as soon as practicable.

7.3 All Electrical Facilities shall be located so as to cause minimum interference with the Public Ways of the County and use by others and all Electrical Facilities shall be constructed, installed, maintained, renovated or replaced in accordance with applicable codes, rules, and regulations.

7.4 If, during the course of work on its Electrical Facilities, Rocky Mountain Power causes damage to or alters the Public Way or public property, Rocky Mountain Power shall (at its own cost and expense and in a manner reasonably approved by the County) replace and restore it in as good a condition as existed before the work commenced.

7.5 The County shall have the right without cost to use all poles and suitable overhead structures owned by Rocky Mountain Power within Public Ways for County wires used in connection with its fire alarms, police signal systems, or other public safety communication lines as well as decorative or informational County banners used for governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the County for a public purpose and shall not include the provision of CATV, internet, or similar services to the public. Provided further, that Rocky Mountain Power shall assume no liability nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the County shall be in such a manner as to prevent safety hazards or interferences with Rocky Mountain Power's use of same. Nothing herein shall be construed to require Rocky Mountain Power to increase pole size, or alter the manner in which Rocky Mountain Power attaches its equipment to poles, or alter the manner in which it operates and maintains its Electrical Facilities. County attachments shall be installed and maintained in accordance with the reasonable requirements of Rocky Mountain Power and the current edition of the National Electrical Safety Code pertaining to such construction. Further, County attachments shall be attached or installed only after written approval by Rocky Mountain Power in conjunction with Rocky Mountain Power's standard pole attachment application process, which process shall be timely and reasonable. Rocky Mountain Power shall have the right to inspect, at its own expense, such attachments to ensure compliance with this Section 8.5 and to require the County to remedy any defective attachments

7.6 Rocky Mountain Power shall have the right to excavate the Public Rights of Ways subject to lawful conditions and requirements of the County. Before installing new underground conduits or replacing existing underground conduits, Rocky Mountain Power shall as early as is practical notify the County of such work by written notice and shall allow the County, at its own expense, to share the trench of Rocky Mountain Power to lay its own conduit therein, provided that such action by the County will not unreasonably interfere with Rocky Mountain Power's Electrical Facilities or delay project completion.

7.7 Before commencing any street improvements or other work within a Public Way that may affect Rocky Mountain Power's Electrical Facilities, the County shall make reasonable efforts to notify Rocky Mountain Power.

SECTION 8. Relocations of Electrical Facilities.

8.1 The County reserves the right to require Rocky Mountain Power to relocate its Electrical Facilities within the Public Ways in the interest of public convenience, necessity, health, safety or welfare at no cost to the County. Within a reasonable period of time after written notice, Rocky Mountain Power shall promptly commence the relocation of its Electrical Facilities. Before requiring a relocation of Electrical Facilities, the County shall identify, with the assistance and consent of Rocky Mountain Power, a reasonable alignment for the relocated Electrical Facilities within the Public Ways of the County. The County shall assign or otherwise transfer to Company all right it may have to recover the cost for the relocation work and shall support the efforts of Rocky Mountain Power to obtain reimbursement.

8.2 Rocky Mountain Power shall not be obligated to pay the cost of any relocation that is required or made a condition of a private development. If the removal or relocation of Electrical Facilities is caused directly or otherwise by an identifiable development of property in the area, or is made for the convenience of a customer, Rocky Mountain Power may charge the expense of removal or relocation to the developer or customer. For example, Rocky Mountain Power shall not be required to pay relocation costs in connection with a road widening or realignment where the road project is made a condition of or caused by a private development.

SECTION 9. Subdivision Plat Approval. Before the County approves any new subdivision and before recordation of the plat, the County shall require that developer send a copy of the plat to Rocky Mountain Power for approval of Electrical Facilities, including underground facilities to be installed by the developer, and associated rights of way depicted on the plat. Rocky Mountain Power shall have fifteen (15) business days to notify developer and County of and concerns or otherwise make objections to the electrical facilities. Copies of such plats shall be sent to the address below.

Rocky Mountain Power
Attn: Property Management / Right-of-Way Department
1407 West North Temple, Suite 110
Salt Lake City, UT. 84116

SECTION 10. Vegetation Management. Rocky Mountain Power or its contractor may prune all trees and vegetation which overhang the Public Ways, whether such trees or vegetation originate within or outside the Public Ways to prevent the branches or limbs or other part of such trees or vegetation from interfering with Rocky Mountain Power's Electrical Facilities. Such pruning shall comply with the *American National Standard for Tree Care Operation (ANSI A300)* and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and problematic. Nothing contained in this Section shall prevent Rocky Mountain Power, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang Public Ways.

SECTION 11. Renewal. At least 180 days prior to the expiration of this Franchise, Rocky Mountain Power and the County either shall agree to extend the term of this Franchise for a mutually acceptable period of time or the parties shall use best faith efforts to renegotiate a replacement Franchise.

SECTION 12. No Waiver. Neither the County nor Rocky Mountain Power shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

SECTION 13. Transfer of Franchise. Rocky Mountain Power shall not transfer or assign any rights under this Franchise to another entity, except transfers and assignments by operation of

law, or to affiliates, parents or subsidiaries of Rocky Mountain Power which assume all of Rocky Mountain Power's obligations hereunder, unless the County shall first give its approval in writing, which approval shall not be unreasonably withheld, conditioned or delayed; provided, however, Rocky Mountain Power may assign, mortgage, pledge, hypothecate or otherwise transfer without consent its interest in this Franchise to any financing entity, or agent on behalf of any financing entity to whom Rocky Mountain Power (a) has obligations for borrowed money or in respect of guaranties thereof, (b) has obligations evidenced by bonds, debentures, notes or similar instruments, or (c) has obligations under or with respect to letters of credit, bankers acceptances and similar facilities or in respect of guaranties thereof.

SECTION 14. Reasonable Accommodation Of Other Electrical Service Providers. In order to reduce, as much as possible, the duplication of electrical infrastructure within the unincorporated County, Rocky Mountain Power will reasonably accommodate Heber Light and Power or any other electrical service providers' use of Rocky Mountain Power's electrical infrastructure where necessary or convenient to the other electrical service provider. This provision is intended to protect the County from the installation of unnecessary and unsightly transmission lines, and it is not intended to create a third-party beneficiary to this Franchise.

Rock Mountain Power shall not place infrastructure in any location where similar infrastructure is already located without written approval by the County. . This section shall not be construed to give Rocky Mountain Power any authority to provide service outside the service area authorized herein.

SECTION 15. Remedies. If Rocky Mountain Power fails to perform any term of this Agreement, the County may give Rocky Mountain Power written notice to cure ("Notice to Cure"). The Notice to Cure shall specify the nature of the alleged failure to perform and the manner in which said failure may be cured.

Rocky Mountain Power shall have 30 days following receipt of the Notice to Cure to correct the failure to perform. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period.

If Rocky Mountain Power does not timely cure the failure to perform, it shall be in default. In the event of Rocky Mountain Power's default, the County may terminate the Franchise by giving Rocky Mountain Power written notice of the termination ("Notice of Termination") of the Franchise. The Franchise shall automatically terminate 120 days after Rocky Mountain Power's receipt of the Notice of Termination.

If Rocky Mountain Power cures within the time period provided in this Section 15 or if the County does not give a Notice of Termination within 120 days of the delivery of the Notice to Cure, then no default shall exist and the County may take no further action without submitting a new Notice to Cure and complying with the other requirements of this Section 15.

SECTION 16. Amendment. At any time during the term of this Franchise, the County through its County Council, or Rocky Mountain Power may propose amendments to this Franchise by giving sixty (60) days written notice to the other party of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the County and Rocky Mountain Power and formally adopted as an ordinance amendment, which is accepted in writing by Rocky Mountain Power.

SECTION 17. Notices. Unless otherwise specified herein, all notices from Rocky Mountain Power to the County pursuant to or concerning this Franchise shall be delivered to the Chair of the Wasatch County Council. Unless otherwise specified herein, all notices from the County to Rocky Mountain Power pursuant to or concerning this Franchise shall be delivered to the Customer Services Vice President, Rocky Mountain Power, 201 South Main, Suite 2400, Salt Lake County, Utah 84111, and such other office as Rocky Mountain Power may advise the County of by written notice.

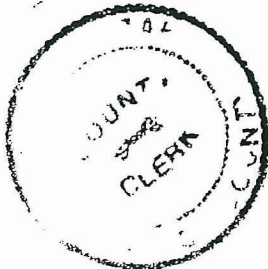
SECTION 18. Severability. If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

Passed by the County Council of Wasatch County, Utah this 25th day of Sept, 2010.

Signed:


KIP BANGERTER chair

Attested:




BRENT TITCOMB, County Clerk

EXHIBIT A

EXHIBIT A

**THE ROCKY MOUNTAIN POWER SERVICE AREA SHALL INCLUDE ALL
OF WASATCH COUNTY EXCEPT THE FOLLOWING DESCRIBED AREA
WHICH IS HEBER LIGHT AND POWER SERVICE TERRITORY**

T.3S.,R.4E.,S.L.M.

- Sec. 22 SE ¼
- Sec. 23 That portion of Section 23 lying south of Wasatch Mountain State Park boundary
- Sec. 24 SW ¼ of SW ¼ lying southwesterly of Dutch Canyon Road; that portion of the SE ¼ lying east of the Provo River
- Sec. 25 All of Section 25 excepting that portion of the NW ¼ of the NW ¼ lying northerly of the intersection of River Road and Dutch Canyon Road north to the north Section line
- Sec. 26-36 All inclusive

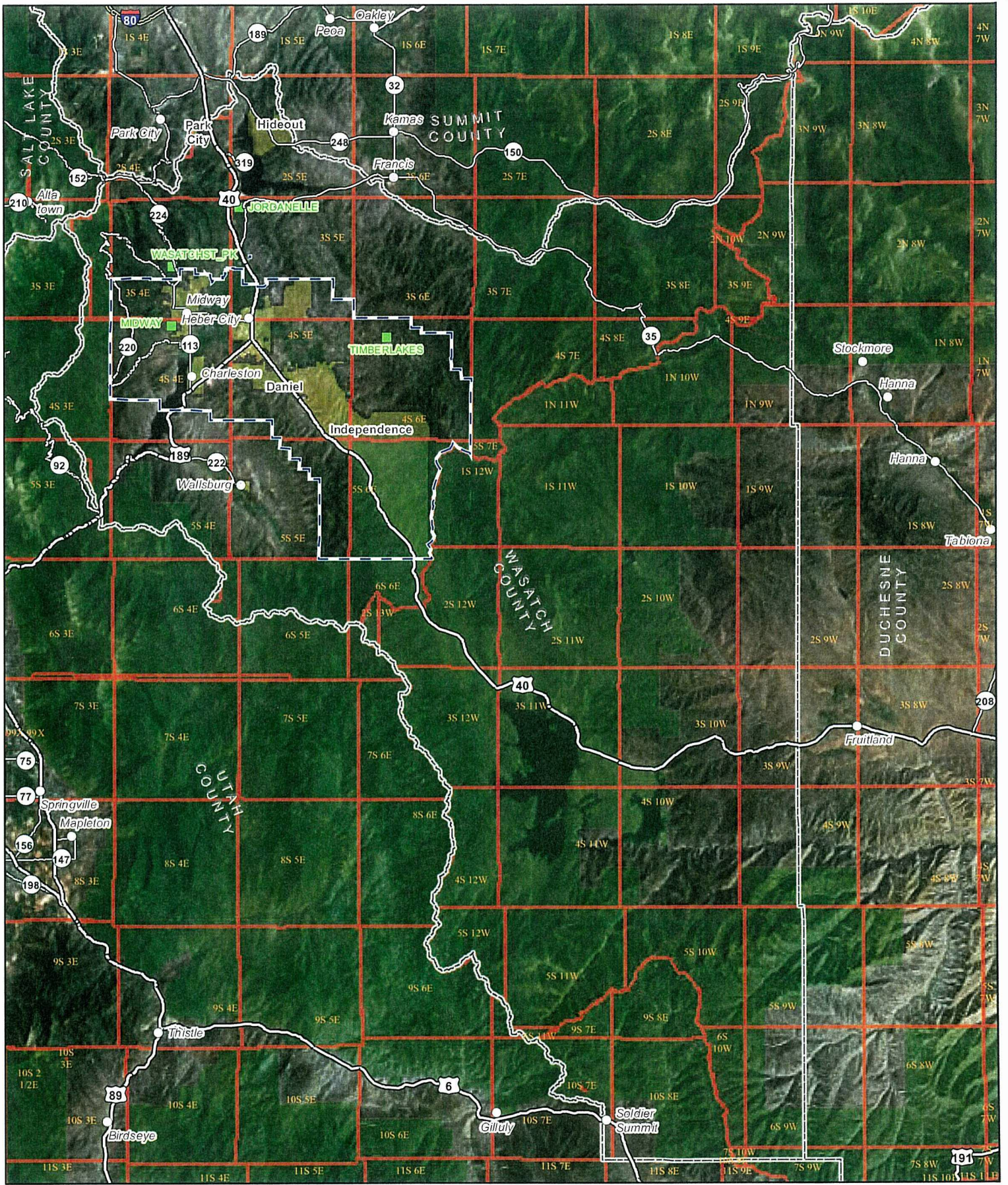
T.4S.,R.4E., S.L.M.

- Sec. 1-25 All inclusive
- Sec. 26 N ½
- Sec. 27 N ½
- Sec. 28 NE ¼

T.3S.,R.5E.,S.L.M.

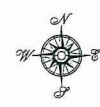
- Sec. 19 SW ¼
- Sec.26-28 All inclusive
- Sec. 29 That portion of Section 29 lying south and east of the following described boundary line: Beginning at the intersection of the west section line of said Section 29 and Potters Lane; thence along said

EXHIBIT B



- Legend**
- Cities
 - Substations
 - Municipalities
 - County Boundary
 - U.S. National Forest
 - Proposed Boundary
 - Transportation**
 - State Route
 - Highway
 - Interstate
 - US Highway

Heber Light and Power Service Area Map



ROCKY MOUNTAIN POWER
A DIVISION OF PACIFICORP

GIS Support Services
Solutions Group
Boulder, Colorado

Data are prepared in UTM Zone 12N ADG, NAD83.

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