

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Application of Rocky Mountain Power for Approval of Purchase and Transfer Agreement and the Power Supply Agreement with Navajo Tribal Utility Authority (NTUA) and Amendment of Certificate of Public Convenience and Necessity

DOCKET NO. 15-035-84

NOTICE OF PUBLIC WITNESS
HEARING AND INVITATION TO
SUBMIT LEGAL BRIEFING

ISSUED: February 29, 2016

In its Scheduling Order, Directive to Stipulate to Date for Technical Conference and Notices of Hearing and Public Witness Hearing issued January 12, 2016, the Commission invited parties to provide input as to whether they believed it would be beneficial to schedule a public witness hearing on or near the potentially affected service territory in this docket. The Commission asked parties to provide such input by January 29, 2016.

On February 11, 2016, Resolute Natural Resources, Company, LLC (“Resolute”), whose petition for intervention the Commission granted on February 1, 2016, filed a Request for Public Witness Day On or Near the Areas Affected by Application (“Request”). In its Request, Resolute represents that several chapters of the Navajo Nation have passed resolutions opposing the Application.

On February 25, 2016, the Division of Public Utilities (“Division”) and the Office of Consumer Services (“Office”) filed responses to the Request in support of holding a public witness hearing near the affected service territory. The Navajo Tribal Utility Authority (“NTUA”) also filed a response on February 25, 2016. NTUA represents it “has no objections to the Commission holding a properly focused public witness hearing on the Navajo Nation,” but NTUA disputes the relevance of the chapter resolutions Resolute attached to its Request. (NTUA

Response at 2.) NTUA expresses concern the public witness hearing will be used as a forum for parties to make arguments irrelevant to the matters before the Commission and to present issues beyond the Commission's jurisdiction. NTUA also points out the Request was untimely.

While Resolute did not file its Request before January 29, as the Commission requested, we note Resolute was not granted intervention until February 1, 2016. More significantly, the Request was filed sufficiently early in the process that no party might be prejudiced by the brief delay.

Additionally, no party has opposed the holding of a public witness hearing, in principle, near the affected service territory, and the Commission believes it is appropriate to provide the individuals whom the Application stands to affect a reasonable opportunity to address the Commission. The chapter resolutions Resolute attached to its Request have not factored into the Commission's decision to schedule the public witness hearing. (Request at 2.) The interest of those members of the public whom the Application will affect to provide input to the Commission is reason enough to facilitate their opportunity to do so.

Please note, the public witness hearing noticed here will be held in addition to, not in lieu of, the public witness hearing previously noticed to be held in Salt Lake City on May 19, 2016 at 5:00 p.m. (MDT).

INVITATION TO SUBMIT PRE-HEARING BRIEFS

In its Response, NTUA raises concerns about the scope of the public witness hearing and raises issues relating to the Commission's jurisdiction. We are not inclined, at this early stage, to restrict individuals of the public from speaking to topics they believe are of import with respect to the Application. The Commission does appreciate, however, that this docket potentially

involves delicate and relatively complex legal questions, such as the parameters of the Commission's jurisdiction as regards the relief RMP requests in its Application and arguments that might be raised in opposition to the Application. Given that the parties, with the exception of the Application and its attachments, have not yet filed any written testimony or other statements of position, the Commission cannot project with confidence those legal issues that the parties may ultimately raise. However, the Commission invites the parties to submit pre-hearing legal briefs with respect to any legal matter they believe is pertinent to the issues before the Commission and on which they intend to rely at the hearing on the merits. The Commission is particularly interested in any sovereignty or jurisdictional issues the parties believe may exist. For example, the Commission would appreciate comment on whether the Utah Supreme Court's decision in *Heber Light & Power v. Utah Public Service Commission*, 2010 UT 27, 231 P.3d 1203 governs or should otherwise inform the Commission's analysis.

Accordingly, the Commission invites and encourages, but does not require, parties to submit pre-hearing legal briefs on or before **Wednesday, May 4, 2016**, coinciding with the scheduled due date for written rebuttal testimony. Parties may submit reply briefs on or before **Monday, May 16, 2016**, coinciding with the due date for written surrebuttal testimony.

NOTICE OF PUBLIC WITNESS HEARING

A Public Witness Hearing in this docket will be conducted by the Commission on **Tuesday, May 17, 2016 at 5:00 p.m. (MDT)** at the Bluff Community Center, 190 North 3rd Street East, Bluff, Utah 84512. The Commission will provide reasonable opportunities to speak to all individuals who are present by 6:00 p.m.

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The Commission may limit presentation of testimony or comments that are unduly repetitious or irrelevant to the matters the Commission has been asked to decide in the Application. The Commission desires to provide an opportunity for all individuals who desire to provide testimony or comment. As such, the Commission may limit the length of testimony or comments. Individuals may offer comments or sworn testimony but should note that individuals presenting sworn testimony are subject to cross-examination. Any individual wishing to present a statement of position to the Commission that is unable to do so during either of the public witness hearings scheduled in this docket may file a written statement of position to the Commission at its office, Fourth Floor, Heber M. Wells Building, 160 East 300 South, Salt Lake City 84111 in person, by mail, by electronic mail to psc@utah.gov, or by facsimile to 801-530-6796. Please indicate that the statement pertains to Docket No. 15-035-84.

In accordance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the public witness hearing should notify the Commission at 160 East 300 South, Salt Lake City, Utah 84111, (801) 530-6716, at least three working days prior to the public witness hearing.

DATED at Salt Lake City, Utah, February 29, 2016.

/s/ Michael J. Hammer
Presiding Officer

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#272060

CERTIFICATE OF SERVICE

I CERTIFY that on February 29, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

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