

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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	)	<b>DOCKET NO. 15-066-01</b>
<b>IN THE MATTER OF THE FORMAL</b>	)	
<b>COMPLAINT OF INSITE TOWERS</b>	)	
<b>DEVELOPMENT, LLC AGAINST</b>	)	
<b>DIXIE-ESCALANTE RURAL</b>	)	<b>Direct Testimony</b>
<b>ELECTRIC ASSOCIATION, INC</b>	)	<b>Douglas D. Wheelwright</b>
	)	
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**FOR THE DIVISION OF PUBLIC UTILITIES  
DEPARTMENT OF COMMERCE  
STATE OF UTAH**

**Testimony of  
Douglas D. Wheelwright**

**June 4, 2015**



27 A: Yes. On April 9, 2015, InSite Towers Development, LLC, (InSite) filed a formal complaint  
28 and request for declaratory and injunctive relief and request for agency action with the Public  
29 Service Commission of Utah (Commission). On May 11, 2015, Dixie-Escalante Rural  
30 Electric Association (Company) filed answers, motion to dismiss and for declaratory relief.  
31 On May 20, 2015, the Company submitted responses to discovery requests of InSite. On  
32 May 22, 2015, the Division filed a response to the Company's motion to dismiss.

33 **Q: What is the purpose of your testimony in this matter?**

34 A: My testimony is limited to addressing only a broad geographical review of the area, certain  
35 provisions set forth in the Company's Commission-approved current tariff and a discussion  
36 of the public interest.

37 **Q: What have you been able to determine about the location of the proposed tower?**

38 A: The Company and InSite have provided maps for the location and the proposed tower and the  
39 Division has been able to review similar information using readily available maps for the  
40 City of St. George (City) and aerial photographs available from Google Maps. InSite and the  
41 Company also have made representations in their pleadings addressing pertinent  
42 geographical information.<sup>1</sup>

43 DPU Exhibit 1.1 Direct is a portion of the City map. The proposed communication tower  
44 site has been marked with a red square (Tower Site) and has been included to show the City  
45 boundaries in relation to the proposed tower. The Tower Site is located on a narrow strip of  
46 land that has not been annexed into the City. InSite represents that the property is owned by  
47 Velda and Orwin Gubler and that InSite has leased a portion of property with the stated  
48 purpose of installing a telecommunications tower.<sup>2</sup> The Gubler family owns a number of  
49 parcels in the area that have not been annexed into the City. The unannexed Gubler property  
50 can be seen on DPU Exhibit 1.1 and extends as a peninsula into the City. The property is

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<sup>1</sup> InSite Complaint, Exhibit 1 and Dixie Motion to Dismiss, Exhibit A.

<sup>2</sup> InSite Complaint, Page 2, Paragraph 5 - 7

51 surrounded on three sides by the City and the western boundary is owned by the Bureau of  
52 Land Management (BLM).

53 **Q: From what you can determine in the maps and aerial pictures, are there electrical**  
54 **connections in this area?**

55 A: Yes, it appears so. The InSite complaint included an aerial photo which shows the homes  
56 and business that are in the area and also identifies an existing 15 kV electrical box located  
57 near the Tower Site on Dixie Drive. The existing electrical connection appears to be less  
58 than 800 feet from the proposed site.<sup>3</sup> Homes and businesses in this area receive electric  
59 service from the City.

60 **Q: Have you been able to determine who currently provides electric service to property**  
61 **owned by the Gubler family?**

62 A: Yes. Even though these properties are outside the city limits, the City has provided electric  
63 service to parts of the Gubler property since approximately 1981.<sup>4</sup> The existing power box  
64 located on Dixie Drive is part of the City's power system.<sup>5</sup> The City will continue to serve  
65 the Gubler Ranch property, but now is requiring that the Tower Site and other Gubler  
66 property be annexed into the City before additional connections are allowed.<sup>6</sup>

67 **Q: If the City will not provide the Tower Site power and it is determined that the Company**  
68 **must provide power to the Tower Site, how could the Company physically do so?**

69 A: Note that I am not addressing any legal or jurisdictional issues in my answer, but instead am  
70 providing only general factual information regarding electrical service. In order to provide  
71 power to the Tower Site, a significant line extension from the Company's existing facilities  
72 would be required. Pursuant to the Company's tariff, prior to the Company providing a  
73 detailed analysis, InSite or any customer is required to pay the Company for a study to  
74 determine the feasibility and estimated cost of a line extension.<sup>7</sup> In response to a data

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<sup>3</sup> The distance has been estimated using the scale located in the lower left corner of the Complaint - Exhibit A.

<sup>4</sup> Dixie Escalante's Answer, Motion to Dismiss, Page 9, No. 35.

<sup>5</sup> Dixie Escalante's Answer, Motion to Dismiss, Page 10, No. 41.

<sup>6</sup> Dixie Escalante's Answer, Motion to Dismiss, Page 7, No. 20 & 21.

<sup>7</sup> Dixie Escalante – Electric Service Regulation No. 10.

75 request, the Company indicated that InSite has not initiated or paid for a detailed engineering  
76 study.<sup>8</sup> (See DPU Exhibit 2.1 at lines 165-180)

77 In order to address InSite's complaint, the Company has taken a preliminary look at a likely  
78 path which could extend the existing distribution system from the western portion of  
79 Bloomington to the proposed site. This path would require procurement of permits and  
80 rights-of-way from the City, Utah Trust Lands (SITLA) and the BLM.<sup>9</sup> The Company has  
81 estimated that the line extension would be approximately 5.2 miles in length. Furthermore,  
82 the Company estimates that obtaining the necessary permits, right-of-ways and construction  
83 requirements would take years to accomplish.<sup>10</sup> A new feeder line, if constructed would be  
84 built to comply with the Company's system design criteria which is different from and not  
85 compatible with the municipal electric system that is operated by the City.<sup>11</sup>

86 **Q: Does the Company's existing tariff outline and identify the requirements for a line**  
87 **extension?**

88 A: Yes. The Company's Electric Service Regulation No. 10 outlines the line extension policy.  
89 The current policy was effective as of July 1, 2012, and reads as follows;

90 1. General Provisions: Dixie Escalante Rural Electric Association, Inc. (Association)  
91 will provide electric service within the boundaries of its service area when rights-  
92 of-way are furnished and applicant complies with the conditions of one of the  
93 following classifications as determined by the Association. The Association will  
94 own, operate and maintain all extensions made under this rule.

95 Construction Advances will be calculated to reflect the estimated construction  
96 costs as determined by the Association. An estimate fee will be charged before an  
97 estimate is calculated. This fee will be credited toward the construction advance.

98 2. Extension of Permanent Service:

99 a. The applicant will be required to make a Construction Advance for the entire  
100 construction investment.

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<sup>8</sup> Dixie Escalante Response to First Discovery Request, Page 5, No. 9.

<sup>9</sup> Motion to Dismiss, and for Declaratory Relief, Exhibit A, Dixie Power Map of Proposed 5.2 Mile Power Line.

<sup>10</sup> Dixie Escalante's Answer, Motion to Dismiss, Page 11, No. 46.

<sup>11</sup> Dixie Escalante's Answer, Motion to Dismiss, Page 15, No. 65.

101 The approved tariff requires the applicant to obtain the necessary permits and pay for the  
102 engineering and construction of a line extension.

103 **Q: Has InSite followed the existing tariff requirements for a line extension from the**  
104 **Company?**

105 A: No. The Company represents that InSite has not obtained permits and right-of-way  
106 approvals or fulfilled other prerequisites, and that detailed engineering design has not been  
107 initiated.<sup>12</sup>

108 **Q: Should the Company have maintained the unused “Idle Feeder Line” for possible**  
109 **future use?**

110 A: No. It is not reasonable to expect the Company to continue to own and maintain a  
111 distribution asset that has no metered connections and is not in a used and useful condition.  
112 Such an action would not have been in the public interest.

113 **Q: If the Company must construct a line extension which is not paid for by InSite, who**  
114 **would pay for that extension?**

115 A. The Company represents that if InSite does not pay for the line extension but the Company is  
116 required to make such a line extension the additional acquisition and construction expense  
117 could easily exceed \$375,000 which would represent a sizeable portion of the total annual  
118 margin.<sup>13</sup>

119 **Q. Is requiring the Company to pay for such a line extension reasonable and in the public**  
120 **interest?**

121 A: No. InSite has argued that the Company should not have disposed of unused facilities in the  
122 service area but should have maintained these unused assets for the past 35 years and that the  
123 Company now should pay for the line extension. Requiring the Company to pay for InSite’s  
124 line extension would not be reasonable or in the public interest because maintaining the  
125 unused line was not reasonable or in the public interest.

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<sup>12</sup> Dixie Escalante Response to First Discovery Request, Page 5, No. 9.

<sup>13</sup> Motion to Dismiss, and for Declaratory Relief, Page 12, Paragraph 48.

126 The possible line extension should be constructed and paid for according to the current line  
127 extension requirements that are outlined in the Company's tariff, where the applicant pays  
128 costs. In the original complaint, InSite stated it was aware that the Company facilities were  
129 not close to the proposed site and that if InSite was responsible for the costs of the line  
130 extension under the tariff, "Paying all costs to connect the Company Power's existing  
131 facilities to the Tower Site would make the InSite Tower project prohibitively uneconomic.  
132 InSite would be forced to abandon its Tower Site project under such a financial burden."<sup>14</sup>

133 It would not be in the public interest to require existing customers to pay for a 5.2 mile line  
134 extension in order to make the InSite cell tower an economic project. This would be a  
135 violation of the tariff, and would be unreasonable, given that other Company customers that  
136 have paid the cost for their line extensions. The proposed extended line to InSite would  
137 serve only one customer and the line will be incompatible with the City's electrical  
138 distribution system if this area is annexed into the city in the future.<sup>15</sup> Thus, requiring the  
139 Company to pay for the line extension would not be in the public interest.

140 **Q: Is it reasonable or in the public interest to require the Company to provide a diesel or**  
141 **natural gas powered generator in order to provide electric service to the InSite**  
142 **location?**

143 A: No. While the Division recognizes that the Company has an obligation to serve consistent  
144 with its certificate of convenience and necessity, applicable statutes and Commission rules,  
145 the Company's tariff language identifies the requirements for providing electric service to  
146 customers. There is no provision that requires or permits the Company to provide a  
147 generator to a customer's location. The Division has not looked at the possibility of InSite  
148 providing its own generator to the facility if the line extension option is not economical.

149 **Q: Can you summarize your final conclusion and recommendation?**

150 A: If the Company is required to provide service to the Tower Site, such service must be  
151 provided pursuant to the Company's applicable tariff provisions. Such provisions would

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<sup>14</sup> Complaint, Request for Declaratory and Injunctive Relief and Request for Agency Action, Page 6, Paragraph 30.

<sup>15</sup> Motion to Dismiss, and for Declaratory Relief, Page 15, Paragraph 65.

152        require InSite to obtain permits and rights-of-way from the City, SITLA and the BLM pay  
153        design costs, and pay for the construction of the line extension.

154        It is the Division's finding and recommendation that if electricity is to be provided by the  
155        Company, InSite should be required to follow the approved line extension guidelines as  
156        outlined in the Company's tariff.

157        **Q: Does this conclude your testimony?**

158        A: Yes.

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DPU EXHIBIT 2.1  
Response to InSite Data Request #9

*9. If Dixie Power were to be required to supply InSite with electric service at its tower site, as described in ¶ 12 and ¶ 5 of the Complaint, explain in how Dixie Power would provide such service, including general specification of new facilities that would be required and any connections to existing Dixie Power facilities.*

**Answer:** Dixie objects to the request because it asks for information that would require Dixie to undertake a detailed engineering and surveying analysis, the cost for which must be paid in advance by a requesting customer in accordance with the filed electric service regulations promulgated as part of Dixie’s filed rate tariffs. Without waiving the foregoing, a likely path that could be studied for such service would be to extend a primary distribution line from the end of the existing Dixie Power distribution system in the western portion of Bloomington to the tower site on the west side of Green Valley. Such a route would probably be along the west edge of the City of St. George, where there would likely be less encumbrances on the properties to be crossed, then across properties owned by the BLM and SITLA, depending on the exact locations where InSite could procure rights-of-way and obtain the necessary conditional use permits from the City, and complete/obtain any other studies, permissions, and permits as needed from BLM and SITLA. The distribution line would be built according to standards promulgated by the United States Rural Utility Service; the exact wire size and number of phases would depend on the load requested and the height, class, and quantity of poles would depend on the terrain to be traversed.