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BEFORE THE UTILITY FACILITY REVIEW BOARD

ROCKY MOUNTAIN POWER,

Petitioner,

vs.

WASATCH COUNTY,

Respondent.

**DIRECT TESTIMONY OF
DONALD T. WATTS**

1 **BACKGROUND OF WITNESS**

2 **Q: Please state your name, business address, and present position.**

3 A: My name is Donald T. Watts. My business address is 70 North 200 East, American Fork,
4 Utah. I am currently employed as a Regional Business Manager for Rocky Mountain Power
5 (the “Company”). I have held my present position since August 2011.

6
7 **Q: Please describe your education and business experience.**

8 A: I have a Bachelor of Science degree in Electrical Engineering as well as a minor in Business
9 Management from the University of Utah. My experience includes 10 years of electric
10 utility work, six of which have been with the Company, consisting of project
11 commissioning and account management.

12
13 **Q: As a Regional Business Manager for the Company, what are your primary
14 responsibilities regarding the transmission project at issue?**

15 A: I am responsible for the overall satisfaction of large managed energy users and
16 communities I am assigned to serve. I manage the Company’s relationships in Wasatch
17 County and all municipalities designated there in. Some of my responsibilities related to
18 community management include securing franchise agreements and the necessary permits
19 for the Company’s assets in efforts to provide safe, reliable, and efficient and adequate
20 service to our customers.

21
22 **PURPOSE AND SUMMARY OF TESTIMONY**

23 **Q: What is the purpose of your testimony?**

24 A: The purpose of my testimony is to describe the meetings and review the several options
25 that were discussed with Wasatch County and other parties regarding our application for a
26 conditional use permit in Wasatch County (the “County”).

27
28 **Q: Please summarize your testimony.**

29 A: My testimony will demonstrate the Company did extensive community outreach and
30 coordination with County in an effort to obtain a conditional use permit for 0.26 miles of
31 a 67 mile transmission line that runs from Railroad substation north of Evanston,

1 Wyoming, to the Silver Creek substation located near Park City, Utah. This line and
2 substations attached to this line will be referred hereafter as the “Project”. See Mr. Kenneth
3 Shortt’s Testimony for a complete description of the Project.
4

5 The Company initiated outreach activities in 2008; numerous meetings were held with the
6 County; the affected property owner, Promontory Development, LLC, and related entities;
7 the adjacent property owner, Mark 25, LLC; and related entities; in attempts to identify an
8 acceptable alignment and reasonable mitigation for the Project. At no time did the County
9 identify any proposals within the County’s jurisdiction that the County was willing to
10 permit.
11

12 As a result the Company filed an application with the County for a conditional use permit
13 for the Company’s proposed route. The County denied the permit. The Company is
14 requesting that the Utah Utility Facility Review Board, hereafter the “Board,” find the
15 Project is necessary to provide safe, reliable, adequate, and efficient service to its customers
16 and require the County approve a conditional use permit.
17

18 **COMMUNITY OUTREACH**

19 **Q: When did you first begin working on the Project?**

20 A: I was assigned to begin working on the Project in August 2011. Prior to me Mr. Brett
21 Hunter, now deceased, was the Regional Business Manager assigned to my current role on
22 the Project.
23

24 **Q: What community outreach on the Project was conducted by the Company prior to
25 August 2011?**

26 A: In fall of 2009, the Company invited Wasatch County representatives to participate in the
27 Summit-Wasatch Electrical Plan meetings that were being held at the time. Please refer to
28 Mr. Chad Ambrose’s testimony for a description of the Summit Wasatch Electrical Plan.
29 Also, Mr. Hunter attended a Wasatch County Council meeting on June 16, 2010, to update
30 them on the Summit Wasatch Electrical Plan.
31

1 **Q: When did you first contact the County to discuss the permit for the Project?**

2 A: After researching the County's online permit application requirements, I met with Al
3 Mickelson, Planning and Zoning Director at Wasatch County, on October 17, 2011, to
4 discuss the application and the process to obtain a conditional use permit.
5

6 **Q: What did the Company do as a result of this the meeting with the County?**

7 A. The Company developed the application for a conditional use permit and supporting
8 materials, including maps and renderings, and provided them to Mr. Mickelson for review
9 and to determine if the Company's application was complete. He confirmed that the Project
10 is a conditional use in the Jordanelle Basin Overlay Zone (JBOZ), did not request any
11 revisions to the documents or the information to be submitted in support of the application,
12 and indicated that the application was complete to file.
13

14 **Q: Did the Company file an application for a conditional use permit for the Project?**

15 A: Yes, on October 28, 2011. A complete copy of the filed application and supporting
16 materials are marked as Exhibit DTW 1.
17

18 **Q: Did you receive any response from the County on that application?**

19 A: No, the application was withdrawn by the Company approximately two weeks after it was
20 filed.
21

22 **Q: Why was the application withdrawn?**

23 A: Based on section 16.23.06(C) of the County's ordinance, work typically must begin within
24 12 months of the date the conditional use permit is granted. The project schedule had
25 changed and construction on this section of line was not scheduled to happen within one
26 year of when the Company anticipated obtaining the permit. As a result, the Company
27 elected to withdraw the conditional use permit application and re-apply at a later time, to
28 better align with the planned construction activities.
29

30 **Q: Did the Company communicate the reason for withdrawing the application to the**
31 **County?**

1 A: Yes. The County was updated on the timing of the project and was advised that the
2 application would be refiled at a later date.

3

4 **Q: Did the Company file another conditional use application for the Project?**

5 A: Yes, on January 23, 2015, a new conditional use application was filed for the Project,
6 hereafter referred to as the “January 2015 Application.” See Exhibit DTW 2.

7

8 **Q: Did the Company perform additional community outreach prior to filing the January
9 2015 Application?**

10 A: Yes. The Company held four meetings with the County and the adjacent developer, Mark
11 25, between September and December 2014; two of the meetings were site visits. At the
12 County’s request, one site visit involved the Company attempting to use balloons to
13 demonstrate the anticipated height of the poles.

14

15 The Company also met with Promontory Development, LLC, (“Promontory”), the owner
16 of the property where the corridor is located, to discuss the status of the Project, inform
17 Promontory of the concerns raised by the County, and discuss Promontory’s willingness to
18 consider an alternate location for the line.

19

20 **Q: Please describe the meetings with the County and Mark 25 between September and
21 December 2014.**

22 A: On September 3, 2014, the Company presented an overview of the Project including the
23 proposed route and design. Mike Davis (Wasatch County Manager), Doug Smith (Wasatch
24 County Planning and Zoning Director), Jay Price (County Commission Chair), Debbie
25 Mounter (the Company’s project manager), Rich Wolper (principal of Mark 25), and
26 another Mark 25 representative, and I were in attendance. The County raised concerns
27 about compliance with its ridgeline ordinance, and the Mark 25 representatives expressed
28 concern about the proximity of the line to their Blackrock Ridge development. In the
29 meeting, neither the County nor Mark 25 suggested any alignments or recommendations
30 for mitigation. General information regarding placing the transmission line underground
31 was discussed; Company explained the requesting party would pay any cost differential for

1 overhead versus underground. In this meeting the County and Mark 25 did not ask the
2 Company to pursue the underground option.

3
4 The Company agreed to explore alternatives and ways to mitigate concerns identified.
5 After the meeting, the Company developed two conceptual alternative alignments outside
6 the route originally proposed by the Company (“Company Proposed Alignment”):

- 7 • One conceptual option created additional distance from Mark 25’s development by
8 pushing the poles up the mountain towards the ridgeline. This option exacerbated
9 the protrusion of poles above the ridgeline. Refer to Exhibit DTW 3.
- 10 • A second conceptual option was located completely in Summit County and created
11 even more distance from the Mark 25 development, this option places the poles
12 even farther up the mountain onto the ridgeline. Refer to Exhibit DTW 4.

13
14 On September 26, 2014, a site visit, with the County and Mark 25 was held, where the
15 conceptual options outlined above were discussed. Mike Davis, Doug Smith, Jay Price,
16 Mackenzie Flanders-Pino (the Company’s project manager), Rich Wolper and I were in
17 attendance. The County and Mark 25 expressed conflicting priorities and opinions about
18 the two conceptual options presented. The County prioritized ridgeline protrusion concerns
19 and Mark 25 prioritized proximity of the line to their planned development. In the meeting,
20 neither the County nor Mark 25 suggested any alternatives or recommendations for
21 mitigation. The County Manager, Mike Davis, requested another site visit using balloons
22 to demonstrate the approximate height of the poles in the Company Proposed Alignment.

23
24 On October 3, 2014, the County and the Company met onsite to demonstrate the
25 approximate height of the poles per the County Manager’s request. Mike Davis, Doug
26 Smith, Mackenzie Flanders-Pino, Steve Rush (the Company’s Regional Business Manager
27 for Summit County), and I were in attendance. However, due to the weather the balloon
28 demonstration was not helpful. As a result, the Company agreed to prepare visual
29 simulations from the County’s approved view point for the conceptual options as well as
30 the Company’s proposed siting.

1 On November 18, 2014, the County and the Company met at the Wasatch County offices.
2 Mike Davis, Doug Smith, Jay Price, Mackenzie Flanders-Pino, Steve Rush, and I were in
3 attendance. In this meeting the Company presented the visual simulations prepared for the
4 conceptual options and the Company Proposed Alignment (Exhibits DTW 3, 4, 5). The
5 County reiterated it did not support options located in Wasatch County that resulted in
6 protrusion of poles above the ridgeline. The County offered to create new, higher quality,
7 visual simulations of the Company's proposed alignment using its GIS (Geographic
8 Information System) department, and the Company's facility data. The County's visual
9 simulation of the Company's proposed alignment is attached as (Exhibit DTW 6).

10
11 **Q: As a result of the meetings described above with the County and Mark 25 did the**
12 **County identify an acceptable location in Wasatch County for the line route?**

13 A: No. The County supported neither the Company's proposed alignment nor the conceptual
14 option within Wasatch County. The County also did not suggest alternatives.

15
16 **Q: Did the Company meet with Promontory between September and December 2014.**

17 A: Yes. On September 17, 2014, the Company met with Promontory to discuss the status of
18 the Project and the concerns raised by the County about the Company Proposed Alignment.
19 Debbie Munteer, Steve Rush, and Rich Sonntag (Promontory) were in attendance.
20 Company inquired into Promontory's willingness to consider an alternate location for the
21 line. Promontory expressed it was unwilling to consider alternate alignments on their
22 property.

23
24 **Q: At the conclusion of these efforts, did the Company file an application for a**
25 **conditional use permit?**

26 A: Yes. The Company had reason to believe that although no consensus route was ultimately
27 identified and the County did not suggest alternate alignments, the Company's proposed
28 alignment could be granted a permit by the County.

29
30 The County has permitted a transmission project that breaks the ridgeline, which
31 incorporated similar design and configuration. Specifically, in 2004, after the ridgeline

1 ordinance had been adopted by the County, the County granted a conditional use permit to
2 the Company to construct the Jordanelle – Silver Creek 138 kV line. The line crosses above
3 the ridgeline from the Mayflower exit, see Wasatch County Code Section 16.27.22.E.10.A.
4 The conditions imposed by the County were to “incorporate reasonable mitigation” which
5 included wood poles or CorTen, non-specular wire, and to keep poles as short as possible.
6 Exhibit DTW 7, pg. 2.

7
8 The Company filed a conditional use permit application on January 23, 2015 (“January
9 2015 Application”) for the Company Proposed Alignment based on the historical precedent
10 and the fact that, after extensive efforts by the Company, the County did not identify an
11 acceptable alternate alignment.

12
13 **Q: Did the Company propose mitigating the perceived impacts in the January 2015**
14 **Application?**

15 A: Yes. To mitigate the visual impacts of the line the Company proposed the use of:

- 16 • Non-specular wire, dulled to reduce reflection,
- 17 • Single-pole construction to mitigate visual impacts,
- 18 • Shortest poles allowable under expected loading and design clearances, and
- 19 • Smallest diameter poles allowable under expected loading and design clearances.

20
21 **Q. What is your understanding of Wasatch County’s process to review a conditional use**
22 **permit application prior to the public hearing?**

23 A. My understanding is that once a conditional use permit application is received by the
24 County it is routed to the Development Review Committee. The committee consists of
25 several County departments that review applications for potential concerns and provide
26 comment to the County planning department. If concerns are raised by these departments,
27 the County contacts the applicant to inform them of the concern and instructs them to
28 contact the department directly. Once all departments provide their comments, the planning
29 department completes the staff report that is provided to the Planning Commission for the
30 public hearing.

1 **Q: Did the Company receive any response from the County on the application?**

2 A: Yes. The Company received three emails from the County on February 26, 2015, indicating
3 that the Company had not yet received approval and could contact specific County
4 departments for more information (Exhibit DTW 8).

5
6 **Q: Did the Company contact the County departments pursuant to the emails received?**

7 A: Yes, shortly after receiving the emails, I contacted the Public Works department. A
8 member of the Public Works department staff informed me she was instructed in a County
9 meeting by Mike Davis, County Manager, to not advance the Company's application
10 because the application "was illegal," I asked why the application was illegal. The staff
11 member indicated she did not know why the application was illegal and she was just
12 following the instruction from the County Manager. After obtaining this response from the
13 Public Works department I did not contact the other two departments.

14 The Company's legal department contacted the County Attorney's office to discuss the
15 status of the conditional use permit application, and to determine whether the County
16 Manager had instructed the departments not to approve the application. The County
17 Attorney represented that the permit was proceeding normally and he was unaware of any
18 instruction from the County Manager to not approve the application.

19
20 **Q: Did the County schedule a public hearing to review the January 2015 Application?**

21 A: Yes. The County set a public hearing date for March 12, 2015.
22

23 **Q: Did the Company identify any concerns with the staff report?**

24 A: Yes. On March 6, 2015, the Company received a copy of the staff report for the public
25 hearing. The Company identified several items of concern in the Staff Report dated March
26 12, 2015, Exhibit DTW 9:

- 27 • Staff Report indicated the poles could be within 20'-40' of planned structures. In
28 fact, the Company's design placed the poles approximately 100' away from the
29 nearest planned structures, the guy wires were within 20'-40' of the nearest planned
30 structure. See Exhibit DTW 9 page 1, (Background).

- 1 • Company disputes the County’s interpretation the proposed line violates the
2 ridgeline ordinance. Company contends the ridgeline ordinance was never intended
3 to apply to power transmission poles. Alternatively, the ordinance states structures
4 can break the ridgeline provided measures are taken to “mitigate the appearance of
5 such structures if prevention is not possible.” See Exhibit DTW 9 page 2-3,
6 (Analysis, ¶¶ 1, 4, 7).
- 7 • Company disputes the County’s interpretation the proposed line is not compatible
8 with the other uses in JBO zone. Transmission lines are a conditional use in the
9 JBO zone. See Exhibit DTW 9 page 2, (Analysis, ¶ 3).
- 10 • Company disputes the County’s interpretation the proposed line is not consistent
11 with the General Plan because it protrudes above the ridgeline. Company contends
12 this provision of the General Plan was never intended to apply to power
13 transmission structures. See Exhibit DTW 9 page 3, (Analysis, ¶ 5).
- 14 • Company disputes the County’s contention the proposed line will place an
15 unreasonable financial burden on the County. Based on a study from CH2M Hill
16 that shows any impact to property values is minimal. See Exhibit DTW 9 page 3,
17 (Analysis, ¶ 8).
- 18 • Company disagrees with the proposed findings included in the staff report, see
19 Exhibit DTW 9 page 3, (Possible Findings).
 - 20 ○ The proposal does not comply with the ridgeline ordinance (addressed
21 above).
 - 22 ○ The proposal does not comply with the General Plan (addressed above).
 - 23 ○ The ridgeline ordinance refers to structures not dwellings (addressed
24 above).
 - 25 ○ Wasatch County was not consulted prior to obtaining the easement. The
26 Company is not required to consult with local government prior to obtaining
27 easements, and to do so would result in unnecessary burden.

28
29 **Q: Was the Company’s application presented to the Planning Commission at the March**
30 **2015 public hearing?**

1 A: Yes. The Company presented the Company Proposed Alignment for the Project and the
2 mitigation the Company incorporated to address the then known concerns with respect to
3 ridgeline and proximity, including:

- 4 • Non-specular wire, dulled to reduce reflection,
- 5 • Single-pole construction to mitigate visual impacts,
- 6 • Shortest poles allowable under expected loading and design clearances,
- 7 • Smallest diameter poles allowable under expected loading and design clearances,
- 8 • Safety concerns were addressed by following the Company’s standard design and the
9 National Electric Safety Code, and
- 10 • Kept width of vegetation management to minimum with the use of the single pole
11 design.

12
13 **Q: Were concerns raised by the public or the Planning Commission in the March 2015**
14 **public hearing?**

- 15 A: Yes. Two new concerns were brought up in the meeting:
- 16 • A representative of Mark 25 expressed concern regarding the potential impact of the
17 line on property values.
 - 18 • County staff presented a letter from the County Fire Marshall stating concerns with the
19 Company Proposed Alignment based on “the likelihood of loss of life or property in
20 the event of a fire.” The Fire Marshall’s letter also recommends siting the line in the
21 existing 46 kV alignment through Promontory’s development in Summit County.
22 Exhibit DTW 10.

23 In addition, concerns raised in the staff report were discussed in the hearing.

24
25 **Q: How did the Company respond to the concerns raised in the public hearing and staff**
26 **report?**

27 A: Based on the Planning Commission discussion the Company requested the application be
28 tabled to allow the Company time to schedule meetings with interested parties in an effort

1 to address the concerns. The Planning Commission tabled the application until the June
2 2015 hearing.¹

3
4 **Q: What actions did the Company take to address the concerns raised in the public**
5 **hearing?**

6 A: The Company expanded options with modified designs and line configurations and
7 compiled additional information in attempts to address the concerns as follows:

8 • **Ridgeline:**

- 9 ○ The Company verified the pole heights were minimized while maintaining
10 the Company standards and National Electric Safety Code.
- 11 ○ The Company developed additional visual simulations from the County's
12 approved viewpoint.
- 13 ○ The Company developed a lower profile design option to mitigate breaking
14 the ridgeline within the County. The Company also prepared visual
15 simulations for the lower profile design option.
- 16 ○ The Company identified the potential benefits of using vegetation and
17 landscape berms to provide visual screening.

18 • **Proximity**

- 19 ○ The Company redesigned the two-pole guyed corner pole to a self-
20 supporting steel monopole. This change eliminated the need for guy wires,
21 increasing the distance to over 100 feet between Company facilities and
22 planned structures in the Mark 25 development.
- 23 ○ The Company identified the potential benefits of using vegetation and
24 landscape berms to provide visual screening.

25 • **Land Value**

- 26 ○ Prepared for submittal to the County the report by CH2M Hill that shows
27 any impact to property values is minimal.

28 • **Safety**

¹ The Company ultimately requested the application be deferred until the August 2015 hearing in an effort to address the concerns raised in the March 2015 hearing.

- The Company verified the transmission line designs met the Company standards and National Electric Safety Code.

Q: When did you present the Company’s expanded options with modified designs and line configurations to the County?

A: The Company representatives met with the County on June 16, 2015, and on July 13, 2015. At the June meeting, the Company presented the expanded options and gave the County copies of the visual simulations the Company had prepared. The County confirmed their primary concern was the ridgeline ordinance, and expressed a desire to further explore the lower profile option. Those in attendance were Kendall Crittenden (Chair Wasatch County Commission), Mike Davis, Doug Smith, Mackenzie Pino (Rocky Mountain Power project manager), Brian Bridge (Rocky Mountain Power property agent), Heidi Gordon (Rocky Mountain Power legal), and myself. At the close of this meeting the County indicated it would review the lower profile design, and the Company committed to meet with Mark 25 and present the expanded alternatives and information.

In July, Doug Smith, Tyler Berg (Wasatch County Attorney), Heidi Gordon, and I met to discuss the applicability of the ridgeline ordinance to power transmission lines. During the meeting the Company stated its position that the County Planning staff’s interpretation of the ridgeline ordinance is incorrect, specifically, power transmission lines were never intended to be subject to the ordinance, and furthermore, the ordinance allows structures to break the ridgeline if measures are taken to “mitigate the appearance of such structures if prevention is not possible.” The County did not change its position on the ridgeline ordinance’s applicability to power transmission lines.

In addition, the County articulated a new concern regarding noise from transmission lines. The Company committed to review the concern related to noise.

Q: Did the County contact the Company to provide a response to the expanded options, modified designs, or other compiled information?

A: No.

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Q: What did the Company do to address the County’s new concern with sound levels of the transmission line?

A: The Company calculated the expected sound levels for the line. The calculations showed that the sound levels directly below the line will be no higher than 31.0 decibels (dB). The following approximate sound levels are provided below for comparison:

- 30 dB for a whisper,
- 40 dB for a refrigerator,
- 50 dB for moderate rainfall, and
- 60 dB for conversation or a dishwasher.

The decibel sound levels diminish moving horizontally away from the line. These calculations were later submitted to the County to supplement the permit application. See Exhibit DTW 11.

Q: Did the Company meet with Mark 25, as requested by the County in the March public hearing?

A: Yes, Rich Wolper, Jeremy Reutzler, another representative from Mark 25, Heidi Gordon, Brian Bridge, and I met on June 18, 2015. The Company presented expanded options, potential benefits of using vegetation and landscape berms, either in front of or behind the line, to provide visual screening, and visual simulations to Mark 25.

Mark 25 expressed concerns that the lower profile design includes additional poles and breaks the ridgeline, and ultimately discounted the benefits of visual screening. In addition, Mark 25 maintained their concern that the transmission line was too close to their planned development. The Company asked Mark 25 what an acceptable distance would be from their planned development, Mark 25 did not provide an answer.

Mark 25 requested information about placing the transmission line underground in Wasatch County. In compliance with Utah tariff (Utah Rule 12 section 6), the Company committed to provide Mark 25 with high level estimates for Mark 25’s costs responsibility to underground this section of the transmission line.

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Q: Did the company provide this cost estimate to Mark 25?

A: Yes. The Company estimated Mark 25's costs responsibility to underground this section of the transmission line to be \$6.8 million.

Q: Did the Company supplement its January 2015 Application with the additional information developed over the last several months?

A: Yes. The Company submitted supplemental information, specifically:

- Sound level calculations (Exhibits DTW 11),
- CH2M Hill study on the effects of power lines on property values (Exhibit DTW 14, Appendix 10 (pg. 228 – 245)),
- A study on the health effects of electromagnetic fields (Exhibit DTW 14, Appendix 11 (pg. 247 – 311)),
- Visual simulations of options 1 and 2 (Exhibits DTW 12 -1, 12-2), and
- A letter from Heber Light & Power dated July 28, 2015. Heber Light & Power's letter describes the need for the transmission line and expresses its support for the Project (Exhibits DTW 12-3).

Q: Did the Company receive a revised staff report for the August hearing?

A: Yes.

Q: What information was included in the August staff report and did the Company identify any items of concern in the report?

A: The County's staff report contained many of the same items of concern that were in the March staff report, as well as some additional items. See Exhibit DTW 13.

- Staff report indicates the poles could be within 20'-50' of planned structures (the March report staff identified this as 20'-40'). In fact, the Company's revised design placed all transmission facilities over 100' away from the nearest planned structures. See Exhibit DTW 13, page 1, (Background).
- The staff report analysis states: "it appears [the poles] will be under the ridgeline, however, the poles within Summit County will violate the ridgeline. We cannot

1 enforce the ordinance outside of the County boundaries. Along with the ridgeline
2 issue, is the impact of the proposal on the neighboring development and if the
3 impacts can be mitigated. Mitigating any impacts, in staffs (sic) opinion, would
4 require moving the poles away from the dwellings.” In spite of the fact that the
5 Company’s application met all requirements of the ordinance, the County points to
6 items that are outside their jurisdiction or beyond the scope of the County’s
7 ordinances as justification to deny the permit. See Exhibit DTW 13 page 2-3,
8 (Analysis, ¶¶ 1, 4, & 6).

- 9 • The Company disputes the County’s interpretation that the proposed line is not
10 compatible with the other uses in JBO zone. Transmission lines are a conditional
11 use in the JBO zone. See Exhibit DTW 13 page 2, (Analysis, ¶ 3).
- 12 • The staff report analysis states: “Even with poles below the ridgeline there will still
13 be impacts. Vegetation will be removed, poles will still be visible and within close
14 proximity to residential uses. Can these impacts be mitigated other than by moving
15 them away from the residences?” For a second time in the staff report, the County
16 states the Company’s lower profile design no longer breaks the ridgeline. The
17 County appears to conclude that the burden is to eliminate all impacts associated
18 with a conditional use, yet the ordinance only requires mitigation of impacts. The
19 Company has offered to utilize similar mitigation measures that have been
20 previously approved by Wasatch County and by providing alternate line
21 configurations. Exhibit DTW 13 page 2, (Analysis, ¶ 4)
- 22 • The Company disputes the County’s contention the proposed line will place an
23 unreasonable financial burden on the County. The staff report analysis states: “The
24 applicant has provided in his submittal a study showing that power lines [do] not
25 have a detrimental impact to property values. It could be argued that they do
26 however.” The Company provided published studies as evidence of minimal impact
27 to property values as part of its supplemental data. The County based their analysis
28 solely on conjecture. See Exhibit DTW 13 page 3, (Analysis, ¶ 8).
- 29 • The Company disagrees with the following “possible findings” included in the staff
30 report, see Exhibit DTW 13 page 4, (Possible Findings):

- 1 ○ “The existing power line is currently in the middle of the Promontory
2 development within an easement wholly in Summit County. RMP
3 purchased a new easement in Wasatch County with the intent to re-align the
4 power poles for the benefit of Promontory residents and the development.”
5 Please refer to Mr. Chad Ambrose’s testimony for the history and facts
6 surrounding the Company’s application of Utah tariff (Utah Rule 12 section
7 6) for the relocation of Company transmission facilities. (Exhibit DTW 13
8 page 4)
- 9 ○ “Due diligence was not done to see what approvals, if any, would be
10 required to locate the power line in Wasatch County.” The Company filed
11 an application for a conditional use permit in accordance with the County
12 ordinance. The Company understood the requirement to obtain a permit as
13 evidenced by the submittal of an application. (Exhibit DTW 13 page 4)
- 14 ○ “The Planning Commission should review this with no regard to its history
15 or the easement and should not feel obligated to approve the alignment just
16 because of the recorded easement which, again, was purchased without any
17 due diligence on the part of the applicant.” The Company agrees the
18 application should be analyzed on its merits, but again, disputes the
19 assertion that it did not perform “due diligence.” This latter issue of “due
20 diligence” is irrelevant to the conditional use permit application. (Exhibit
21 DTW 13 page 4)
- 22 ○ “The County is not obligated to fix a problem created by the applicant.” The
23 County does not identify what “problem” it has been tasked to solve. The
24 Company has addressed the concerns raised by the County, proposed
25 mitigation to reduce impacts, and provided an alternate design that
26 complied with the County’s interpretation of the ridgeline ordinance.
27 (Exhibit DTW 13 page 4)
- 28 ○ “The proposal does not comply with policy 1.1.2 of the Wasatch County
29 General Plan.” This item was not analyzed in the staff report; nevertheless,
30 the Company’s application complies with the general plan. (Exhibit DTW
31 13 page 4)

- “The ridgeline ordinance refers to structures not dwellings.” Although this statement is true on its face, the specific requirements of the ridgeline ordinance pertain to lots, building pads, roofs, plats and building envelopes, which indicate that the ordinance was intended to apply to buildings and not power transmission lines. (Exhibit DTW 13 page 4)

In summary, the Company contends that, based on the County’s analysis and findings in the staff report, the County departed from the standards set forth in Utah law and its own ordinances for conditional uses.

Q: Did the County hear this application in August?

A: Yes.

Q: What happened at the August hearing?

A: Based on the analysis and findings in the staff report, the Company believed the County intended to deny the permit at the hearing despite the Company’s mitigation efforts. As stated in Mr. Ken Shortt’s testimony, the Project is essential to serve the needs of customers in the Load Area; therefore, the Company requested a continuance rather than risk significant schedule impacts to the Project by having the Planning Commission deny the permit.

The Planning Commission indicated that it was inclined to vote on the application notwithstanding the Company’s request for a continuance. The Company then indicated its intent to withdraw the application in an effort to have further discussion and determine if another acceptable option could be identified. The Planning Commission took public comment, after which the Company formally withdrew its application.

Q: What steps did the Company take next?

A: The previous alternatives had been developed by the Company to be cost-neutral to the County. Based on the Company’s inability to obtain a permit from the County for the previous alternatives, the Company developed two additional alternatives that, although

1 they were technically feasible for the Company to construct, invoked potential incremental
2 excess cost obligations for the County, as provided in the Utah Utility Facility Review
3 Board Act.

- 4 • Underground - The option of undergrounding the transmission line had been
5 discussed conceptually with a high-level cost estimate provided to Mark 25, but
6 had not been presented to the County.
- 7 • Brown's Canyon Road - This alternative was developed using a new alignment
8 along Brown's Canyon Road.

9
10 **Q: Did the Company submit a new application for a conditional use permit?**

11 **A:** Yes. The Company filed a new application on September 4, 2015 ("September 2015
12 Application"), seeking a conditional use permit in the Company Proposed Alignment, and
13 providing three additional designs for the County's consideration:

- 14 • Option 1 – Company Proposed Alignment, as proposed by the Company in the
15 August 2015 hearing.
- 16 • Option 2 – lower profile design option, as presented by the Company in the August
17 2015 hearing.
- 18 • Option 3 – Underground the transmission facilities, contingent on the County's
19 agreement to pay the incremental excess cost of approximately \$6.8 million. This
20 option contained no poles within Wasatch County, so no conditional use permit
21 would have been required.
- 22 • Option 4 – Brown's Canyon Road, contingent on the County's agreement to pay
23 the incremental excess cost of approximately \$3.35 million.

24
25 The Company also submitted the following additional information with its application:

- 26 • CH2M Hill study showing property values adjacent to transmission lines are
27 minimally impacted.
- 28 • Sound levels calculated for Option 1 and 2 line design.
- 29 • Calculated electromagnetic fields for Options 1 and 2, and a report from the
30 National Institutes of Health showing the fields were substantially below
31 recommended exposure limits.

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A complete copy of the application is attached as Exhibit DTW 14.

Q: Did the Company have any meetings with the County after it submitted the September 2015 Application?

A: The Company met with County staff on October 14, 2015, to review the application, including the two new options, and discuss the cost requirements. Attendees included Doug Smith, Tyler Berg, Don Watts, and Benjamin Clegg (Company project manager). County staff expressed their position that this line should be built in Summit County. The Company indicated the siting is pursuant to an agreement with Promontory, and is located in an easement granted by Promontory. The Company again expressed its interpretation that the ridgeline ordinance pertains to buildings and not transmission lines. To illustrate this point, the Company compared the shape, size, components, and visual impacts of ski-lift structures, which commonly break the ridgeline, to the structures and wires associated with power lines. The County staff commented that they didn't like any of the options included in the September 2015 Application and disagreed with the Company's interpretation of the ridgeline ordinance.

Q: Did the Company request that the Planning Commission schedule a work session to discuss the application?

A: Yes. The work session was held on November 5, 2015. In the meeting the Company presented all of the options that were submitted to the County as part of the September 2015 Application. The Company also addressed the concerns that had been raised previously, and the steps the Company had taken mitigate them.

Q: When was the public hearing scheduled for the September 2015 Application?

A: November 12, 2015.

Q: Did you receive a staff report for this hearing?

A: Yes. Exhibit DTW 15, Staff Report, dated November 12, 2015, is attached for reference.

1 **Q: Did the Company have any concerns with the staff report?**

2 A: Yes. The County did correct some of the errors in the previous reports but several
3 inaccuracies. The Company had the same general concerns with this staff report as
4 discussed above for the August 2015 staff report.
5

6 **Q: What happened at the hearing?**

7 A: Staff presented its staff report, including its preference for constructing the line in Summit
8 County. The Company presented its application, including the four options and the various
9 mitigation measures it proposed. Much of the discussion between the commissioners and
10 the Company involved the location of the current line across Promontory's property, or
11 placing the line at another location within Summit County. The Commission took
12 comments from the public, which consisted primarily of concerns relating to the effects the
13 transmission line would have on property values.
14

15 **Q: What was the outcome of the November 12, 2015, hearing?**

16 A: The Planning Commission denied the permit. The transcript of the hearing is attached as
17 Exhibit DTW 16, see pgs. 32-34.
18

19 **Q: What were the stated bases for the Planning Commission's denial?**

20 A: Commissioner Jacobsmeyer moved to deny the permit based on "the information furnished
21 [in the public meeting] and the owners in the neighborhood who are vehemently opposed
22 against it." He went on to state the Company should not be allowed to reapply if the
23 Company was going to "come back with the same snake oil." Chair Gappmayer then
24 prompted Commissioner Jacobsmeyer that he "also need[s] to include in [his] motion that
25 we can't see a way that this can be mitigated." Commissioner Jacobsmeyer then added:
26 "there appears to be no chance to mitigate the objections."
27

28 There was no further discussion on the motion.
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30 Commissioner Lewis seconded the motion and the Planning Commission voted
31 unanimously in favor of Commissioner Jacobsmeyer's motion, denying the permit.

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Q: Did the Company appeal the Planning Commission’s decision?

A: Yes. The Company filed an appeal to the Wasatch County Board of Adjustments on November 20, 2015.

Q: Did the County prepare a staff report for this Board of Adjustments appeal?

A: Yes. Exhibit DTW 17, Staff Report, dated January 21, 2016, is attached for reference.

Q: How did this staff report differ from the one prepared for the Planning Commission in November?

A: The report was substantially similar, including the items and conclusions that the Company had previously contested.

Q: Did the County refute the need for the Project?

A: No. In fact, during the hearing the County acknowledges the need for the project: “The proposal is an upgraded line to provide the necessary power for the growth in the valley. I don’t think that there is any argument there that there needs to be upgraded lines into the Heber Valley.” See Exhibit 18 pg.10, lines 5-8.

Q: Please summarize what occurred at the Board of Adjustments hearing on the Company’s appeal.

A: The appeal was heard by the Board of Adjustments on January 21, 2016. The County staff presented its analysis and recommendations.

The Company then presented the Company Proposed Alignment (Option 1) and the other options, mitigation incorporated into the design, and expert reports and published data refuting concerns raised in the staff report. The Board of Adjustments then allowed for public comment.

In its deliberations, the Board of Adjustments discussed the following aspects of the application:

- 1 • One Board member stated he disagreed with the Company’s property value report,
2 stating “If I were a property owner there I don’t care what CH2M Hill said.” See
3 Exhibit DTW 18 pg. 56 lines 9-10.
- 4 • The Board discussed the potential that property owners might file a lawsuit if the
5 Board reversed the Planning Commission. See Exhibit DTW 18 pg. 55 line 22 –
6 pg. 56 line 2.
- 7 • The Board discussed the relative standing of the property owners regarding land
8 use, contemplating which party should be granted higher standing on siting, the
9 landowner where the poles will be placed or the neighbor. See Exhibit DTW 18 pg.
10 56 line 19 – pg. 57 line 12.

11
12 The Board of Adjustments upheld the Planning Commission’s decision to deny the
13 conditional use permit. The Board’s analysis was that:

- 14 • The application did not comply with Title 16 of the County’s ordinances because
15 Option 1 breaks the ridgeline; and Option 2 might break the ridgeline, was deemed
16 to be too close to the Mark 25 development, and the Promontory easement is not
17 wide enough to accommodate the wider configuration. See Exhibit DTW 18 pg. 59
18 line 10 – pg. 65 line 1.
- 19 • The line was not compatible with nearby uses because the poles in Option 1 would
20 be too high and the line would be too close to the Mark 25 development, creating
21 aesthetic concerns. See Exhibit DTW 18 pg. 65 line 5 – pg. 66 line 18.
- 22 • The proposed use caused visual and safety impacts that could not be mitigated
23 because vegetation management would occur beneath the transmission line and
24 concerns with fire safety were expressed. See Exhibit DTW 18 pg. 66 line 22 – pg.
25 67 line 22.
- 26 • The effects of any future expansion in use and scale cannot be mitigated through
27 conditions because the Board members were unsure whether any future expansion
28 could be mitigated within the easement. See Exhibit DTW 18 pg. 67 line 22 – pg.
29 68 line 9.

- 1 • The financial burden to the County could not be mitigated because “there is no
2 value to the unabated view line.” See Exhibit DTW 18 pg. 69 line 15 – pg. 70 line
3 8.
- 4 • The line would negatively impact the health, safety or welfare of the County based
5 on the County Fire Marshall’s letter. See Exhibit DTW pg. 70 line 9 – pg. 70 line
6 23.

7

8 **Q: Please summarize your testimony.**

9 A. The Company has worked with the Wasatch County beginning in 2011 to site a
10 transmission line needed to provide safe, reliable, adequate, and efficient service to Rocky
11 Mountain Power’s customers within the Load Area. During that period of time Rocky
12 Mountain Power has identified numerous technically acceptable options for the
13 transmission line which have all been rejected, and the County has not identified any option
14 that would be acceptable to the County, or other reasonable mitigation measures. Wasatch
15 County, through its conditional use permit process has prohibited the construction of a
16 facility which is needed to provide safe, reliable, adequate, and efficient service to the
17 customers of the Company.

18

19 **Q: Does this conclude your direct testimony?**

20 A: Yes.

21

22

23

1 **EXHIBITS TO DIRECT TESTIMONY OF DONALD T. WATTS**

- 2
- 3 **Exhibit DTW 1 – 2011 Conditional Use Permit Application**
- 4 **Exhibit DTW 2 – January 2015 Application**
- 5 **Exhibit DTW 3 – Conceptual Side of Hill Route, Fall 2014**
- 6 **Exhibit DTW 4 - Conceptual Summit County Route, Fall 2014**
- 7 **Exhibit DTW 5 - Company Proposed Visual Simulation**
- 8 **Exhibit DTW 6 - County Produced Visual Simulation (part of January 2015 Application)**
- 9 **Exhibit DTW 7 – Wasatch County Planning Commission Meeting Minutes Jan. 15, 2004**
- 10 **Exhibit DTW 8 – Wasatch County Application Status Emails**
- 11 **Exhibit DTW 9 – March 12, 2015 Staff Report**
- 12 **Exhibit DTW 10 - Letter from Wasatch County Fire Marshall**
- 13 **Exhibit DTW 11 - Calculated Sound Levels**
- 14 **Exhibit DTW 12 – Supplemental Information**
- 15 **Exhibit DTW 13 - August 2015 Staff Report**
- 16 **Exhibit DTW 14 - September 2015 Application**
- 17 **Exhibit DTW 15 - November 12, 2015, Staff Report**
- 18 **Exhibit DTW 16 – Board of Adjustments Public Hearing Transcript, November 12, 2015**
- 19 **Exhibit DTW 17 - January 21, 2016, Board of Adjustments Planning Staff Report**
- 20 **Exhibit DTW 18 - Transcript of Board of Adjustments Hearing, January 21, 2016**