



*Daniel E. Solander
Senior Attorney
1407 West North Temple, Suite 320
Salt Lake City, UT 84116
801-220-4014 Office
daniel.solander@pacificorp.com*

December 19, 2019

VIA ELECTRONIC FILING

Public Service Commission of Utah
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Administrator

RE: Docket No. 19-035-41 – In the Matter of the Formal Complaint of the Poplar Grove Neighborhood Alliance against Rocky Mountain Power

Dear Mr. Widerburg:

Rocky Mountain Power (the “Company”) hereby submits for filing its Answer and Response to the Formal Complaint of the Poplar Grove Neighborhood Alliance against Rocky Mountain Power. The Company respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): datareq@pacificorp.com
jana.saba@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,

Daniel E. Solander
Senior Attorney

Enclosures
Cc: Service List (w/ enclosures)

Daniel E. Solander (11467)
Rocky Mountain Power
1407 West North Temple, Suite 320
Salt Lake City, Utah 84116
Telephone: (801) 220-4014
Fax: (801) 220-3299
daniel.solander@pacificorp.com

Attorney for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Poplar Grove Neighborhood Alliance (PGNA),	:	
	:	
Complainant,	:	Docket No. 19-035-41
	:	
vs.	:	
	:	ROCKY MOUNTAIN POWER’S
Rocky Mountain Power,	:	ANSWER AND
	:	MOTION TO DISMISS
Respondent.	:	
	:	

Rocky Mountain Power, a division of PacifiCorp (“RMP” or the “Company”), pursuant to Utah Code Ann. §§ 63G-4-204(1) and Utah Admin. Code R746-1-203, R746-1-206, and R746-1-301, provides its Answer to the formal complaint (“Complaint”) filed by Poplar Grove Neighborhood Alliance (“PGNA” or “Complainant”) with the Public Service Commission of Utah (the “Commission”). In addition, the Company moves that the Complaint be dismissed in its entirety, with prejudice, because Rocky Mountain Power has not violated any provision of law, Commission order or Rule, or Company tariff.

I. PRELIMINARY MATTERS

Communications regarding this Docket should be addressed to:

By e-mail (preferred): datarequest@pacificorp.com
jana.saba@pacificorp.com
daniel.solander@pacificorp.com

By mail: Data Request Response Center
Rocky Mountain Power
825 NE Multnomah St., Suite 800
Portland, OR 97232

Jana Saba
Rocky Mountain Power
1407 West North Temple, Suite 330
Salt Lake City, UT 84116
Telephone: (801) 220-2823

Daniel Solander
Rocky Mountain Power
1407 West North Temple, Suite 320
Salt Lake City, UT 84116
Telephone: (801) 220-4014

II. BACKGROUND

1. On November 13, 2019, Michael Clara filed an informal complaint on behalf of PGNA stating its opposition to the Beck Street Transmission Project (the “Project”). PGNA stated several reasons for its opposition, including: (1) its members are working to obtain funding to build an overpass on 900 West at the South Temple railroad crossing; (2) its members are concerned about tree removal; (3) it intends to petition the Salt Lake City Planning Commission to exercise its authority under the conditional use process to ensure that provisions of the franchise agreement are adhered to; (4) it believes the Project is in violation

of the 2010 County plan; and (5) that the Project is contrary to the legislative purpose of Utah Code Title 54, Chapter 8, Underground Conversion of Utilities.

2. On November 15, 2019, Rocky Mountain Power provided a response to the informal complaint. The Company noted that it evaluated several options with Salt Lake City, and the route was selected because a large percentage of the route has an existing transmission line that will be replaced with the upgraded line. The Company's response stated that the Company has already obtained additional easements from individual property owners needed to complete the Project. The Company also noted that it held several public meetings and open houses in the area to discuss the Project in detail, and that construction had been approved and began in October 2019.

3. On November 22, 2019, PGNA filed its Formal Complaint with the Commission. The Complaint reiterates its statements from the informal complaint related to building an overpass on 900 West; removal of trees; the Salt Lake City Planning Commission conditional use process; the 2010 County Plan; and the legislative purpose of Utah Code Title 54, Chapter 8, Underground Conversion of Utilities. The Complaint also states the PGNA believe that Salt Lake City should exercise its authority as set forth in the Franchise Agreement to ensure that the transmission lines are not subjecting residents to hazardous levels of electromagnetic fields.

4. The Complaint does not allege that Rocky Mountain Power has violated any provision of law, Commission Order or Rule, or Company tariff under the jurisdiction of the Commission.¹

¹ Utah Code § 54-8-1, *et seq.*, the Utah Underground Conversion of Utilities Law creates a mechanism for the establishment of local improvement districts to provide for the conversion of existing overhead electric and communication facilities to underground locations and the construction, reconstruction or relocation of any other electric or communication facilities. *See* Utah Code § 54-8-4.

III. ANSWER AND MOTION TO DISMISS

5. The Company moves under Utah Rules of Civil Procedure, Rule 12(b)(6) for an Order dismissing the Complaint. As noted above, the Complaint does not include any allegations that Rocky Mountain Power has violated any provision of law under the jurisdiction of the Commission, Commission Order or Rule, or Company tariff. Further, the Complaint does not allege that the proposed project will violate any applicable NESC standards related to clearance or safety.

6. Utah Code Ann. § 54-7-9(2) states a complaint against a public utility “shall specify the act committed or omitted by the public utility that is claimed to be a violation of the law or a rule or order of the commission” As described above, PGNA’s complaint fails to meet this standard.

7. Although the Commission has broad jurisdiction, granted to it by Utah Code Ann. §54-4-1 “to supervise and regulate every public utility in this state and to supervise all of the business of every such public utility” the Utah Supreme Court has stated that “the primary purpose of the Commission is to fix the rates that a public utility may charge its customers.”² The test for whether a utility activity is Commission-jurisdictional is “whether the activity the Commission is attempting to regulate is closely connected to its supervision of the utility’s rates and whether the manner of the regulation is reasonably related to the legitimate legislative purpose of rate control for the protection of the consumer.”³ In this case, the allegations in PGNA’s Complaint related to the construction of an overpass on 900 West, removal of trees, the Salt Lake City Planning Commission conditional use process, the 2010 County Plan, and

² *Bear Hollow Restoration, LLC v. Pub. Serv. Comm’n of Utah*, 2012 UT 18 (Utah 2012), citing *Kearns-Tribune Corp. v. Pub. Serv. Comm’n*, 682 P. 2d 858, 859 (Utah 1984).

³ *Id.* at ¶ 32.

the legislative purpose of the Utah Underground Conversion of Utilities Law do not meet this standard. None of the concerns raised in the Complaint contain allegations of a violation of a law, rule, or Order under the jurisdiction of the Commission.

8. With respect to clearances that may be specified in Rocky Mountain Power's franchise agreement with Salt Lake City, there is no allegation that the Project will not meet applicable National Electrical Safety Code standards, which are the governing standards for electrical safety and construction.

9. Rocky Mountain Power appreciates and understands the concerns of PGNA and its other customers in the area of the proposed project regarding the upgrade of the transmission line. Rocky Mountain Power has met with its customers and others in the area to explain why the upgrade is needed, and how it is working to minimize the impacts of the upgrade.

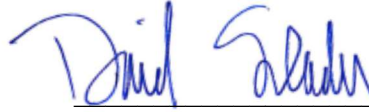
10. Rocky Mountain Power has already received all required permits for the Project and began construction in October 2019. In addition, Rocky Mountain Power has obtained all necessary easements from private landowners for the construction of the Project. Any concerns related to property rights associated with the Project are not issues over which Commission has jurisdiction.

IV. CONCLUSION

WHEREFORE, having fully answered Complainant's complaint and finding no violation of law, Commission rules, or Company tariffs to base an award of the relief requested, the Company prays for the dismissal of the Complaint with prejudice.

Dated this 19th day of December 2019.

Respectfully submitted,



Daniel E. Solander

Attorney for Rocky Mountain Power

CERTIFICATE OF SERVICE

Docket No. 19-035-41

I hereby certify that on December 19, 2019, a true and correct copy of the foregoing was served by electronic mail to the following:

Utah Office of Consumer Services

Cheryl Murray cmurray@utah.gov

Michele Beck mbeck@utah.gov

Division of Public Utilities

dpudatarequest@utah.gov

Assistant Attorney General

Patricia Schmid pschmid@agutah.gov

Justin Jetter jjetter@agutah.gov

Robert Moore rmoore@agutah.gov

Steven Snarr stevensnarr@agutah.gov

Community Organizer

Michael Clara donmiguelslc@gmail.com

Rocky Mountain Power

Data Request Response Center datarequest@pacificorp.com
customeradvocacyteam@pacificorp.com

Jana Saba jana.saba@pacificorp.com;
utahdockets@pacificorp.com

Daniel E. Solander daniel.solander@pacificorp.com



Kaley McNay
Coordinator, Regulatory Operations