

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Pending Application of
Rocky Mountain Power for a Certificate of
Public Convenience and Necessity
Authorizing Construction of the Mona –
Oquirrh 500/345 kV Transmission Line

Docket No. 09-035-54

**REBUTTAL TESTIMONY OF
DARRELL T. GERRARD**

May 2010

1 **IDENTIFICATION OF WITNESS**

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

3 A. My name is Darrell T. Gerrard. My business address is 925 NE Multnomah Blvd
4 Portland Oregon 97242. I filed direct testimony in this matter in November 2009.
5 My current position, as well as my education and business experience, are
6 described in that testimony.
7

8 **PURPOSE AND SUMMARY OF REBUTTAL TESTIMONY**

9 **Q. What is the purpose of your testimony?**

10 A. The purpose of my testimony is to respond to a handful of issues raised in the
11 March 30, 2010 testimony of Dr. Joni S. Zenger, who filed testimony in this
12 matter. I will also update and clarify my earlier testimony on the cost of the
13 project, consistent with updated data responses that we are serving coincident
14 with the filing of this testimony.

15 **Q. Please summarize your testimony.**

16 A. First, the Company agrees generally with Dr. Zenger’s recommendation that the
17 CPCN be issued “contingent upon the Company acquiring all necessary permits.”
18 (Zenger Direct Testimony, lines 621-22). I have attached as exhibits the permits
19 that have thus far been approved by governmental entities and explain the current
20 status of the Environmental Impact Statement (EIS) approval from the Bureau of
21 Land Management (BLM). I also clarify the Company’s position that, to the
22 extent the CPCN is “contingent,” it have that status only to segments where the
23 appropriate permit has not yet been granted. As to all other approved sections,

24 the CPCN should be final so that the Company can, at its discretion, proceed with
25 construction.

26

27 Second, as set forth in more detail below, the cost estimate in my direct testimony
28 of \$450 million was for the portions of the project that the Company intends to
29 build immediately, specifically the Mona to Limber transmission line and the
30 Limber to Oquirrh transmission line, the necessary work on the Mona and
31 Oquirrh substations to accommodate the new line, and work at the site of the
32 future Limber substation to connect these segments. The \$450 million estimate for
33 those segments has not changed.

34

35 However, when I filed my direct testimony, I failed to include in the overall cost
36 estimate the line segment and substations that will not be constructed for several
37 years, specifically the construction of the Limber and Mona Annex (now renamed
38 the “Clover”) substations, and the transmission line from Limber to the Terminal
39 substation. These portions are not planned to be completed for several years.

40 However, in my testimony, I provide a high level estimate that those three
41 elements of the project, will be roughly \$609 million (which includes about \$41
42 million for incidental upgrades and additions to the Terminal substation when the
43 Limber to Terminal line is built).

44

45 The Division recommends granting the CPCN, subject to various contingencies
46 and filing requirements. The first involves filing of reports regarding permits.

47 The Company obviously agrees that the CPCN should be granted, but believes
48 that the other filing requirements regarding permits proposed by the Division are
49 unnecessary. The first of these proposals would require the Company, ten days
50 after issuance of the CPCN, to file a report of the current status of permitting.
51 The Company has no great objection to filing such a report, but given the fact that
52 all permits, with the exception of the Tooele County issues, have been granted
53 and are attached, a separate report not necessary. The second proposal, that the
54 Company file a report on permits 90 days from the issuance of the CPCN, is also
55 unnecessary given that all permits but the Tooele County permit have been
56 granted and the Commission and Division are participants in the Tooele County
57 matter.
58
59 The second area in which the Division has proposed additional filing
60 requirements related to the Division's recommendation the Commission's
61 granting of "a conditional CPCN hinges upon the Company obtaining all permits,
62 including Tooele County, before it grants blanket approval of the CPCN." The
63 Company's concern may simply be a matter clarification, as opposed to a real
64 disagreement. The issue is quite simple. The Company has received permits for
65 most of the project (*e.g.*, from Utah County, South Jordan City, and West Jordan
66 City, and anticipates approval within the next few weeks by the BLM of the right
67 to commence construction on federal lands). The Company's ability to begin
68 construction on those undisputed segments should not be contingent upon
69 resolution of the Tooele County Conditional Use Permit issue, even though it is

70 critical to the entire project. While the Tooele County issues may impact the
71 entire project, that issue should not necessarily bring a complete halt to the
72 project. Therefore, the Commission should immediately grant a CPCN that
73 explicitly authorizes the Company, at its discretion, to begin construction on those
74 portions of the project for which it has received the proper government permit.

75

76 The Division also recommends that, “at the time it seeks cost recovery for the
77 Project,” for other projects, and in future CPCN filings, the Company be required
78 to submit detailed short and long-term information related to the relative projected
79 use of the line among “native load,” other Utah public utilities, and network sales.
80 This recommendation should be rejected because it is in the nature of rulemaking
81 that is well outside the limited issues defined by the Commission for this docket.
82 It would, in effect, impose new filing rules on the Company (and potentially other
83 utilities as well). As such, I am informed that the proposal could violate the Utah
84 administrative rulemaking statute and the Commission’s own rulemaking
85 procedures.

86

87 The Division provides testimony relating to the relative capacity by several
88 customer categories of the transmission lines in the project. This testimony
89 appears to be related to issues that could only be relevant in a future cost recovery
90 docket. Given that the Commission has expressly determined that cost and
91 prudence are not issues in this docket, I have not attempted to respond to this
92 specific testimony, other than to note that it is irrelevant in this docket and that the

93 Company reserves its right to make all available arguments on such issues at the
94 right time and place. The key issue here is that the Division agrees that the
95 project meets the standards of Utah Code Ann. § 54-4-25 and that a CPCN should
96 be issued authorizing construction on the project.

97

98 **APPROVED PERMITS AND ENVIRONMENTAL INCOME STATEMENT**

99 **Q. Has the Company obtained most of the necessary permits for the Project?**

100 A. Yes. I have attached to this testimony as exhibits the permits that Attached to my
101 testimony as Exhibits DTG (Rebuttal)-1 through DTG (Rebuttal)-3 are the
102 permits that have thus far been granted:

103 **Exhibit RMP DTG (Rebuttal)-1** is the Conditional Use Permit granted
104 on January 7, 2010 by Utah County (along with supporting
105 documentation).

106
107 **Exhibit RMP DTG (Rebuttal)-2** is the Conditional Use Permit granted
108 on January 12, 2010 by the City of South Jordan.

109
110 **Exhibit RMP DTG (Rebuttal)-3** is the Conditional Use Permit granted
111 on February 2, 2010 by the City of West Jordan (along with supporting
112 documentation).

113
114 As the Commission is aware, the only outstanding permit relates to Tooele
115 County portions of the segment between Limber and Oquirrh. Issues related to
116 that permit are currently being considered by the Facilities Review Board in
117 Docket No. 10-035-39.

118 **Q. What is the status of the EIS from the BLM?**

119 A. On April 23, 2010, the BLM issued the Final Environmental Impact Statement
120 (EIS) which is now in the comment stage. In the EIS, the BLM made some minor
121 changes to the Company's proposed route set forth in Exhibit 1 to my direct

122 testimony. Attached hereto as **Exhibit RMP DTG (Rebuttal)-4** is the cover
123 letter accompanying the Final EIS and the new route map that sets forth BLM's
124 preferred and alternative routes. The next step in the process will be the issuance
125 this summer of the Record of Decision, which will result in the issuance of rights-
126 of-way and authorization for the Company to commence construction.

127

128 Because the EIS is voluminous, we have not provided a full copy here. However,
129 a full copy of the EIS, with all of its subparts, was provided to the Commission in
130 Docket No. 10-035-39. However, the full report can be reviewed at:

131 http://www.blm.gov/ut/st/en/fo/salt_lake/planning/mona_to_oquirrh_transmission
132 [.html](#). Should the Commission desire a complete copy of all of the subparts of the
133 EIS, the Company will be happy to provide it.

134

135 **CLARIFICATION OF COST ESTIMATE**

136 **Q. Does the cost estimate for the Project need to be clarified?**

137 A. After reviewing the testimony of Dr. Zenger and then reviewing the Company's
138 responses to data requests it became clear to me that I needed to clarify the
139 estimates of the cost of the current portions of the project as opposed to the future
140 segments. I will clarify the cost estimates below.

141

142 Before doing so, however, it is important to bear in mind that the cost estimates
143 are not at issue here. The Commission has made it clear that "[t]his proceeding is
144 to determine if *present or future* public convenience and necessity does or will

145 require construction of a transmission line.” (Scheduling Order, 1-12-10, at 1;
146 emphasis added). Further, the Commission made it clear that “prudency issues
147 for ratemaking purposes” is not an issue in this docket. (*Id.* at 2).

148

149 Second, as I described in my direct testimony (lines 60-80), the entire project for
150 which a CPCN is being sought by the Company consists of five distinct pieces,
151 two of which the Company intends to construct immediately. The two segments
152 that will be constructed as soon as possible are: (1) the approximately 65-mile
153 long transmission line from the existing Mona Substation to the planned future
154 Limber Substation in Tooele County; and (2) the approximately 35-mile
155 transmission line from the site of the future Limber substation to the existing
156 Oquirrh Substation, located at 5799 West Old Bingham Highway, in West Jordan
157 (it is this section that is the subject of the current proceeding before the Facilities
158 Review Board). Further, as a result of the construction of these segments, some
159 incidental upgrades and modifications of the existing Mona and Oquirrh
160 substations will also be made. As set forth the Company’s updated response to
161 Data Request 2.5, the specific current cost estimate for those two sections of
162 transmission line plus the incidental work to the Mona and Oquirrh substations is
163 \$450 million.

164

165 The three elements of the project that will not be built immediately are (1) the
166 Clover Substation; (2) the Limber Substation; and (3) the approximately 44-mile

167 transmission line from the site of the Limber substation to the existing
168 Terminal Substation located at 500 South 5600 West in Salt Lake City.

169

170 **Q. With that background, what is the cost issue that you wish to clarify?**

171 A. In my direct testimony, I stated that the cost of the project would be
172 approximately \$450 million. I was not clear, however, that that cost estimate was
173 for the two segments that the Company wishes to construct as soon as possible,
174 but does not include the costs for the three elements that will not be constructed
175 until further in the future. Our exhibit to the original response to Data Request
176 2.5, which provided a breakdown of the \$450 million estimate, is clear that the
177 costs estimated relate to transmission line construction from Mona to Oquirrh and
178 did not include the cost of either substation or the cost of the future line from
179 Limber to Terminal.

180

181 Based on current plans, the Limber Substation is not planned to be built until later in
182 this decade (however, depending on load growth increases, it may need to be
183 built as early as 2013-14); similarly, the Clover Substation will not be fully
184 constructed until later in the decade (however, while the entire substation will not
185 be built immediately, it now appears that some portions of this substation will
186 need to be built for local transmission and reliability purposes by 2013); finally
187 the transmission line from the site of the Limber substation to the Terminal
188 substation has no specific projected construction date at this time: it (and
189 associated changes to the Limber and Terminal substations) will be built when

190 load growth requires that it be built. The reason the costs for these elements were
191 not included in my original testimony is because their construction, at that time,
192 were sufficiently far in the future that we did not have specific, reliable current
193 estimates of cost. However, to provide an order of magnitude, the Company
194 estimates that the cost for these three elements will be: (1) approximately \$216
195 million for the Limber substation (an additional \$5 million will be spent as part of
196 the initial part of the project at Limber for connections between the Mona to
197 Limber line and the line from Limber to Oquirrh, (2) approximately \$169 million
198 for the Clover Substation, and (3) approximately \$184 million for the Limber to
199 Terminal transmission line (in addition, additional incidental work in the
200 Terminal substation at the time this line segment is completed will cost about \$41
201 million). Pursuant to the Commission's approach to cost recovery, the issues of
202 prudence and cost recovery will not occur until these segments are actually
203 constructed and placed into service. Please note that these costs are not intended
204 to include costs for local transmission lines or substation costs to serve local
205 customers. These are the kind of costs that the Company incurs in the normal
206 course of business to meet specific local customer demand.

207

208 **ADDITIONAL CONDITIONS PROPOSED BY THE DIVISION**

209 **Q. Please describe your understanding of the elements of the Division's**
210 **recommendations in this case (Dr. Zenger's Testimony, at lines 621-31).**

211 A. First, the Division recommends issuance of the CPCN, contingent upon the
212 Company acquiring the necessary permits. With some clarifications discussed
213 below, the Company agrees with that recommendation.

214

215 Second, the Division recommends that the Company, ten days after the issuance
216 of the CPCN, file “a report detailing all necessary permits indicating which ones
217 are yet to be obtained and a time line of the expected acquisition for each
218 outstanding permit.” The Company has no great objection to filing such a report,
219 but believes it is unnecessary in this case, given that I have filed the permits that
220 have been granted as part of this testimony. As I note above, the only remaining
221 permit relates to the Tooele County issues that are currently before the
222 Commission (acting as part of the Facilities Review Board) in Docket No. 10-
223 035-39. I believe the Division is taking a role in that docket as well. In light of
224 all that, it appears that a separate report as proposed by the Division would be
225 duplicative of information already provided in this testimony and will impart no
226 new information that will not already be known by the Commission and Division.

227

228 Third, the Division recommends that if, after 90 days from the issuance of the
229 CPCN, all permits have not been granted, the Company file a report with the
230 Commission explaining in detail the delays in obtaining permits. For the reasons
231 set forth above, the Company does not believe such a requirement would be
232 useful in this case. However, should there be a change in status in any of the

233 permits already granted, the Company will inform the Commission and explain
234 the reasons for the change in status.

235 **Q. Please comment on the other Division recommendations (Dr. Zenger**
236 **Testimony, lines 634-66).**

237 A. Dr. Zenger recommends that the Tooele County issue be completely resolved
238 before “the Company is awarded a construction CPCN. Therefore, our
239 recommendation for the Commission to grant a conditional CPCN hinges upon
240 the Company obtaining all permits, including Tooele County, before it grants
241 blanket approval of the CPCN.” (Dr. Zenger Testimony, lines 635-38).

242

243 I am uncertain whether this creates a contested issue between the Company and
244 the Division. To the contrary, I believe a clarification may resolve what I believe
245 is an ambiguity, and not a disagreement. The Company recognizes that, in the
246 absence of a resolution of the issues with Tooele County, it will not be able to
247 begin construction of certain significant portions of the project in Tooele County.
248 However, as noted above, the Company has received approval from Utah County,
249 South Jordan City, and West Jordan City, and will soon receive the Record of
250 Decision from the BLM, that we believe will authorize the Company to
251 commence construction on all federal land. The grant of a CPCN for the project
252 should allow the Company, at its discretion, to begin construction on those parts
253 of the route for which it has received approval by the relevant government
254 permitting authority. The prompt resolution of the Conditional Use Permit in
255 Tooele County is critical to the overall project and a delay in its issuance will

256 require an ongoing assessment relating to the risks the Company might incur by
257 commencing construction on other portions of the project. My point is that it is
258 in the public interest that the Company be given the immediate authority to begin
259 construction in those jurisdictions where the local government authorities have
260 issued permits, if the Company concludes that the risks of going forward are
261 acceptable.

262

263 Therefore, the Company requests that the CPCN granted by the Commission in
264 this docket clearly authorize the Company to begin construction on those portions
265 of the project for which it has received the proper government permit.

266

267 The Division's second recommendation is that, "at the time it seeks cost recovery
268 for the Project," the Company be required to submit detailed short and long-term
269 information related to the relative projected use of the line among "native load,"
270 other Utah public utilities, and network sales. The Division also seeks an order in
271 this docket that would require the same kind of information be provided when
272 cost recovery is sought for projects not under consideration in this docket. This
273 recommendation should be rejected as it is seeking rulemaking that is well outside
274 the issue defined by the Commission for this docket: whether "current or future
275 public convenience and necessity does or will require construction of a
276 transmission line." Thus, the Division's request goes far beyond the limited issue
277 to be addressed in this docket. As I understand it, the point at which cost recovery
278 for new rate base items is considered is during a rate case. I also understand that

279 the Commission has recently adopted rules that set forth the elements of what
280 constitutes a “complete filing.” *Utah Admin. Code* R746-700. The Division
281 proposal here is essentially an effort, through an order in a specific CPCN docket,
282 to engraft a new element to that rule. Not only is it beyond the narrowly-defined
283 issues in this docket, I am informed by counsel that it would raise as serious
284 question whether the adoption of such a rule would violate the Utah
285 administrative rulemaking statute and the Commission’s own rulemaking
286 procedures. Finally, there is nothing in a future rate case to prevent the Division,
287 or any other appropriate party, from obtaining such information through the
288 normal discovery processes that govern rate cases. The Company thus requests
289 that the Commission reject this recommendation.

290

291 Finally, the Division recommends that the Commission order that the type of
292 information discussed above be filed in future CPCN filings. Once again, this
293 proposal is an attempt to create a new rule for cases that are not under
294 consideration. The Company is not the only utility that seeks CPCNs under Utah
295 law. Thus, if such information is relevant, it should be relevant in all CPCN cases
296 (in which case a rule applying to all utilities should be adopted). But even that
297 fails to take into account the fact that such information may easily be obtained
298 through normal discovery procedures. Thus, the Company recommends that this
299 recommendation be rejected.

300

301

RELATIVE USE OF TRANSMISSION CAPACITY

302 **Q. Do you have other concerns about any of Dr. Zenger's testimony?**

303 A. Yes. This issue relates to the Division's proposal about providing information
304 about the relative use of the capacity of the transmission capacity among customer
305 groups. The Division, for example, distinguishes among retail customers system
306 wide, Utah retail customers, and other wholesale customers. The Division also
307 distinguishes between tariff and non-tariff customers. (See Dr. Zenger's
308 testimony, lines 415-500).

309

310 It is not clear to me why the Division has raised this issue. Given the Division's
311 recommendations for filing requirements in cost recovery dockets, the Division
312 appears to believe this information is relevant to that future issue. But the
313 Commission has clearly ruled already that is not an issue relevant to this docket.
314 The Commission stated in its Scheduling Order: "prudency issues for ratemaking
315 purposes" is not an issue in this docket (Scheduling Order, 1-12-10, at 1). Thus,
316 the customer distinctions made by the Division are irrelevant here. The
317 Commission also noted that "[t]his proceeding is to determine if *present or future*
318 public convenience and necessity does or will require construction of a
319 transmission line." (*Id.* at 1, emphasis added). This language, which tracks the
320 language of the Utah certification statute, makes no attempt to define the "public
321 convenience and necessity" determination in terms of any particular class of
322 customers served by a public utility. In light of that, the distinctions the Division
323 makes among customers has no relevance here, particularly given the fact that Dr.
324 Zenger acknowledges that the cost issues relating to the customer groups she

325 identifies “will be an issue to contend with in a future prudence review, which is
326 outside the scope of this proceeding.” (Dr. Zenger Testimony, lines 476-77)

327

328 It is also important to note that the FERC tariff makes none of the distinctions
329 made by Dr. Zenger. More importantly, those distinctions are not relevant at this
330 point because they will be subject to a proper cost/prudency review at the
331 appropriate time under the standards that exist then.

332

333 On this issue, I wish to make two points. First, whether distinctions should or
334 should not be made among customer groups at this point (or in the future), the
335 Division supports the granting of the CPCN in this case.

336

337 Second, Dr. Zenger has described her understanding of the current cost recovery
338 regime for transmission facilities (See Dr. Zenger testimony, lines 470-500). If
339 this were the appropriate time and place to address prudency and cost recovery,
340 the Company would provide testimony on its view of those issues and would, at
341 least on some issues, describe the issues and governing principles in a manner
342 different in some ways from how Dr. Zenger has done so. But this is not the time
343 or place to clarify or dispute cost recovery issues. Thus, rather than get into a
344 lengthy discussion of those issues, the Company will forego responding to or
345 clarifying those issues, but will simply reserve its right to do so when the issue is
346 properly before the Commission.

347

348 What is important now is that the project meets the only standard governing the
349 issues in this docket: that “present and future public convenience and necessity
350 does or will require the construction” of the project. Utah Code Ann. § 54-4-
351 15(1).

352

353 **CONCLUSION AND RECOMMENDATION**

354 **Q. What do you recommend?**

355 A. I recommend that the Commission find and conclude that the Project is needed in
356 order for the Company to provide efficient and reliable service to its customers in
357 northern Utah and that the Project is in the public interest. Based on those
358 findings and conclusions, I recommend that the Commission grant the Company a
359 CPCN for all segments of the Project for which the Company has obtained the
360 necessary permits from the governing permitting authority.

361 **Q. Does this conclude your rebuttal testimony?**

362 A. Yes.

EXHIBITS TO DIRECT TESTIMONY OF DARRELL T. GERRARD

Exhibit RMP DTG (Rebuttal)-1 is the Conditional Use Permit granted on January 7, 2010 by Utah County (along with supporting documentation).

Exhibit RMP DTG (Rebuttal)-2 is the Conditional Use Permit granted on January 12, 2010 by the City of South Jordan.

Exhibit RMP DTG (Rebuttal)-3 is the Conditional Use Permit granted on February 2, 2010 by the City of West Jordan (along with supporting documentation).

Exhibit DTG (Rebuttal)-4: Final EIS cover letter and Map showing Preferred and Alternate Routes.

CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the foregoing **REBUTTAL TESTIMONY OF DARRELL T. GERRARD** was served upon the following via electronic mail on this 5th day of May, 2010:

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