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Utility Facilities Review Board  
Heber M. Wells Building  
160 East 300 South  
Salt Lake City, Utah 84114

**Re: Rocky Mountain Power v. Tooele County  
Docket No. 10-035-039**

Dear Members of the Board:

The parties to this docket recognize that as demand for electric power grows, new transmission lines will be necessary to meet that demand. But, as the record in this docket shows, new transmission lines, while essential, are unpopular, especially among the residents in areas where the lines must be placed. The Board is in the unenviable position of having to resolve this dispute in a way that best serves the interests of all Utahans in receiving safe, reliable, adequate and efficient electric service.

Tooele County ("County") has denied the application of Rocky Mountain Power ("RMP") for a conditional use permit ("CUP") to locate the Mona to Oquirrh transmission line ("Line") along BLM's preferred route for reasons that are less than clear. Although the County Planning Commission prescribed mitigation measures to which RMP agreed, the Planning Commission's decision to deny a CUP appears to invoke inadequate mitigation as the reason for the denial. Tooele County's Response to RMP's Petition for Review suggests that the decision was in large part based on the "public clamor" raised by Tooele residents.

The County has suggested in its Response to the Petition for Review ("Response") that the transmission line could take an alternate route, "co-locating" it with existing utility and transportation corridors. Response at 5. It has suggested that it could be routed up Middle Canyon from Tooele County and down Butterfield Canyon to the Oquirrh Substation. This route is "close to" the Silcox Canyon route for which environmental studies have been done, but which was not selected as the BLM's preferred route. No one, including Tooele County, has assessed a route through Butterfield Canyon for feasibility in terms of the cost or the delay it would cause in constructing the Line.

The County is correct that there is a natural gas pipeline located beneath and, in some locations, alongside the Butterfield Canyon Road. The roadway itself is 25 feet wide at the bottom of the canyon, and only 15 feet wide toward the top. It would be difficult to place the Line far enough from the roadway so that the transmission towers were not a hazard to those using the road. The width of an easement required for a 345kv power line is generally 150 feet, which is greater than the easement required for a natural gas pipeline, and far greater than current corridor could accommodate without significantly affecting the cost of construction and a greater number of private property rights.

Butterfield Canyon is located in Kennecott's planning and exploration area. Any possible alignment of the Line down Butterfield Canyon would necessarily interfere with Kennecott's current and prospective mining operations. In addition to the cost of constructing the Line to conform to the geography of the canyon, there would be costs, as yet undetermined, associated with the impact of locating the Line in Kennecott's planning and exploration area, including not only surface rights, but also mineral rights and interference damages, all of which would not be insignificant. Those costs would have to be determined and paid, or an adequate bond would have to be posted, before construction begins.

Tooele County has acknowledged it does not have the resources even to study an alternative route. Response at 3. It is very unlikely that it could post the bond required to both study the Butterfield Canyon route and cover the amount by which the cost of that route exceeds the cost of BLM's proposed route, including property acquisition costs. In the meantime, customers of the utility would suffer from the substantial delay involved in determining whether the property can be acquired, what the cost would be, and whether the County could pay for it.

It bears mentioning that no one has assessed the public attitude about using Middle Canyon as a route for the transmission line. While it is clear that Tooele citizens are concerned about the preferred route, it is not clear that they would not be equally concerned about construction of a transmission line through Middle Canyon.

The existence of the road and pipeline in Butterfield Canyon may, at first glance, appear to be an attractive alternative. But without studies which could be obtained only at significant cost and delay, and without a commitment and bond from Tooele County to cover the additional cost of that route, it is simply not a viable alternative to the preferred route. Certainly, it is not a choice that is immediately available to RMP, or one that the Board can or should consider in resolving the matter before it.

The customers of Rocky Mountain Power in the critical load area have an immediate need for new transmission to maintain reliable service. They would be the group of people most directly affected by the delay occasioned by starting over to study the feasibility of a new proposed route. Tooele County's effort to avoid approving the preferred route, and at the same time to avoid the additional cost of an alternative route, would place the risk of increased cost and shortages of power on all ratepayers.

The Board has few alternatives available to resolve this controversy. It must decide “whether the facility should be constructed” and whether “the conditions imposed by the local government” may be imposed. Utah Code Ann. § 54-14-305(2). Based on the record before it, the Board evidently has no choice but to require the County to issue the CUP because the County has not proposed any alternative route, because it has not agreed to cover the excess cost of an alternative route, and because the County has given no reason that the mitigation measures it required would be inadequate.

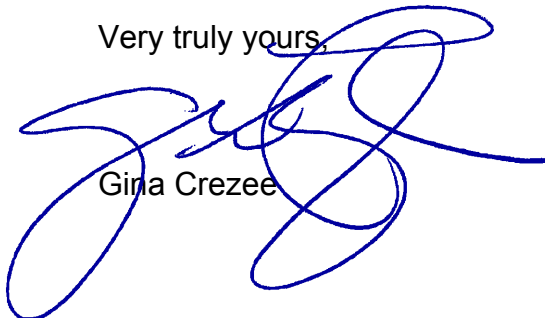
Tooele County’s decision should have been straightforward. Its own ordinances provide that “the planning commission ... shall approve a conditional use permit if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use.” Land Use Ordinances of Tooele County, § 7-5. If the Planning Commission denies a conditional use permit, it must “include its reasons for denial in writing, on the record.” Utah Code Ann. § 17-27a-509.5(2).

The Planning Commission prescribed mitigation measures for the BLM preferred route, all of which were agreeable to Rocky Mountain Power. Yet, in its decision denying a conditional use permit, the Board of County Commissioners catalogued a list of “anticipated detrimental effects” of the preferred route which are virtually indistinguishable from the items for which the County Planning Commission had prescribed mitigation. The Board of County Commissioners’ “Findings of Fact” fails to explain how the list of detrimental effects factored into its decision, or why RMP’s acceptance of the County’s prescribed mitigation measures is insufficient.

It is understandable that the County Planning Commission would hesitate to approve the BLM’s preferred route in the face of public comment opposing it. For the same reason, it could be expected that the Board of County Commissioners would affirm the Planning Commission’s decision. But, in denying the CUP, the County appears to have fallen short of its duty.

The Utility Facilities Review Board was created to ensure that the requirements of a local government did not adversely affect the safety, reliability, adequacy, and efficiency of utility service, or adversely impact the rates and charges of the public utility to customers outside of the jurisdiction of the local government. Utah Code Ann. § 54-14-102. In light of the foregoing, the Board should determine that the transmission line should be constructed, and that RMP’s acceptance of the County’s mitigation measures is sufficient to warrant the issuance of a conditional use permit for the preferred route.

Very truly yours,



Gina Crezee