



State of Utah
Department of Commerce
Division of Public Utilities

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ACTION REQUEST RESPONSE

To: Utah Public Service Commission

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Energy Section Manager

Date: February 22, 2016

Re: **Convene the Utility Facility Review Board**

Docket No. 16-035-09, RMP v. Wasatch County—Petition for Review to the Utility Facility Review Board

RECOMMENDATION

Rocky Mountain Power (“RMP”) requests that the Public Service Commission (“Commission”) convene the Utility Facility Review Board (“Board”). The Division of Public Utilities (“DPU”) has reviewed both the petition of Rocky Mountain Power (“RMP”) and the governing statutes. Based on our review, the DPU recommends that the Commission convene the Board and set an initial hearing to determine a procedural schedule.

ISSUE

On or about February 19, 2016, RMP filed a Petition for Review requesting that the Commission convene the Board to review the decision of the Wasatch County Board of Adjustments (“Wasatch BOA”) denying RMP a conditional use permit to construct a 138 kV transmission line. On the same day, the Commission issued an Action Request to the DPU requesting it review RMP’s request for agency action and make recommendations. This memo reports on the DPU’s review and recommendations.

DISCUSSION/RECOMMENDATION

In its request for agency action, RMP asserts that it has a “legal duty to design, construct, and maintain facilities sufficient to provide safe, reliable, adequate, and efficient electric service to its customers.” RMP also claims that the 74 mile-long Evanston-Silvercreek 138 kV transmission line is necessary to address reliability and capacity needs in Wasatch and Summit counties. However, according to RMP, the Wasatch BOA denied a required conditional use permit for construction of a ¼ mile-long section of the line that passes through Wasatch County. RMP requests that the Commission convene the Board to review the decision of the Wasatch BOA.

The DPU has reviewed the governing statutes, Utah Code Ann. § 54-14, Part 3, Utility Facility Review Board. In particular, Utah Code Ann. § 54-14-303(d) provides that the Board may review the local government’s decision where, “a local government has prohibited construction of a facility which is needed to provide safe, reliable, adequate, and efficient service to the customers of the public utility.” Utah Code Ann. § 54-14-301 specifies that the Board is made of five members: the three Commissioners and two Governor appointees, one from a list provided by the Utah League of Cities and Towns and the other from a list provided by Utah Association of Counties. Finally, Utah Code Ann. § 54-14-304, Initial Hearing, specifies a procedural schedule:

- (1) The board shall convene an initial hearing within 50 days after the date review is initiated.
- (2) At the initial hearing, the board shall:
 - (a) determine how the review will take place, including whether it will be conducted as a formal or informal adjudicative proceeding; and
 - (b) set a schedule for the review proceeding.
- (3) The board shall hold a hearing on the merits within 60 days after the initial hearing.

Based on its review, the DPU recommends that the Commission convene the Board and set a date for the initial hearing.

CC Robert Lively, RMP
Jeff Richards, RMP
Scott Sweat, Wasatch County