

- BEFORE THE UTAH UTILITY FACILITY REVIEW BOARD -

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In the Matter of Rocky Mountain Power's  
Petition for Review to the Utah Utility  
Facility Review Board

DOCKET NO. 16-035-09  
ORDER CONFIRMING BENCH  
RULING GRANTING BLACK  
ROCK'S INTERVENTION

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ISSUED: April 1, 2016

BACKGROUND

1. On February 19, 2016, Rocky Mountain Power (RMP) filed a petition for review with the Utah Utility Facility Review Board (Board) concerning a denial by the Wasatch County Board of Adjustment (Wasatch County) of RMP's application for a conditional use permit for construction of a portion of a transmission line proposed to be located in Wasatch County.<sup>1</sup>

2. On March 14, 2016, Mark 25, LLC, Black Rock Ridge Master Homeowners Association, Inc., Black Rock Ridge Townhome Owners Association, Inc., and Black Rock Ridge Condominium Association, Inc. (collectively, Black Rock) filed a petition to intervene (petition) in this docket.<sup>2</sup>

3. On March 21, 2016, RMP filed an opposition to Black Rock's petition.<sup>3</sup>

4. On March 25, 2016, Black Rock filed a reply to RMP's opposition.<sup>4</sup>

5. On March 28, 2016, the Board held a hearing to address and deliberate on Black Rock's petition.<sup>5, 6</sup>

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<sup>1</sup> See Petition for Review, filed February 19, 2016.

<sup>2</sup> See Petition to Intervene and Request for Formal Adjudicative Proceedings, filed March 14, 2016.

<sup>3</sup> See Opposition to Petition to Intervene, filed March 21, 2016.

<sup>4</sup> See Reply to Rocky Mountain Power's Opposition to Petition to Intervene, filed March 25, 2016.

<sup>5</sup> See Scheduling Order, Notices of Hearing on Petition to Intervene, Public Witness Hearing, Hearing, and Deliberation on Hearing, issued March 24, 2016.

<sup>6</sup> Board members Chair Thad LeVar, Commissioner Dave Clark, Beth Holbrook, and Commissioner Jordan White participated. Member David Wilson was unable to attend.

6. Counsel for Black Rock, RMP, and Wasatch County argued their respective positions at the hearing and responded to questions from the Board.

7. The Board then deliberated and voted to grant Black Rock's petition.<sup>7</sup>

8. This written order confirms the Board's decision to grant Black Rock's petition.

DISCUSSION, FINDINGS, AND CONCLUSIONS

1. Pursuant to Utah Code Ann. § 54-14-301(1) of the Utility Facility Review Board Act (Act), "[t]he . . . Board is created to resolve disputes between local governments and public utilities regarding the siting and construction of facilities . . . ."

2. Given the Board's statutory jurisdiction as described above and because the right to intervene identified in the Act (*see* § 54-14-303(2)) is limited to circumstances not applicable to this docket,<sup>8</sup> we review Black Rock's petition under the Utah Administrative Procedures Act (UAPA), Utah Code Ann. § 63G-4-207.

3. Section 63G-4-207(2) of UAPA states: "The presiding officer shall grant a petition for intervention if the presiding officer determines that: (a) the petitioner's legal interests may be substantially affected by the formal adjudicative proceeding; and (b) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention."<sup>9</sup>

4. Having heard and considered the respective positions before us, the Board finds that: (a) Black Rock's legal interests may be substantially affected by this formal adjudicative

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<sup>7</sup> Three board members voted in favor of granting intervention, and one board member voted against.

<sup>8</sup> *See supra* n.4 at 4 (conceding this point, stating that "Intervenors acknowledge that RMP's objections to intervention under Utah Code section 54-14-303(2) are well-taken.").

<sup>9</sup> Utah Code Ann. § 63G-4-207(2)(a)-(b).

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proceeding,<sup>10</sup> and (b) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing Black Rock to intervene.

5. The Board further finds that granting Black Rock's petition in this docket is limited to the scope of this proceeding as defined under the Act.

ORDER

Based on the foregoing, the Board grants Black Rock intervenor status with the understanding that Black Rock's petition does not expand the scope of this proceeding under the Utility Facility Review Board Act.

DATED at Salt Lake City, Utah, April 1, 2016.

/s/ Thad LeVar, Chair Yea

/s/ David R. Clark, Board Member Yea

/s/ Beth Holbrook, Board Member Yea

/s/ Jordan A. White, Board Member Nay

Attest:

/s/ Gary L. Widerburg

Board Secretary

DW#272935

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<sup>10</sup> The parties hereto previously agreed, and the Board consented, that this matter should be conducted as a formal adjudicative proceeding. *See supra* n.5 at 1 (stating same).

CERTIFICATE OF SERVICE

I CERTIFY that on April 1, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Beth Holbrook ([bholbrookinc@gmail.com](mailto:bholbrookinc@gmail.com))  
Utah League of Cities and Towns

David Wilson ([dwilson@co.weber.ut.us](mailto:dwilson@co.weber.ut.us))  
Utah Association of Counties

Data Request Response Center ([datarequest@pacificorp.com](mailto:datarequest@pacificorp.com))  
PacifiCorp

Robert C. Lively ([bob.lively@pacificorp.com](mailto:bob.lively@pacificorp.com))  
Yvonne Hogle ([yvonne.hogle@pacificorp.com](mailto:yvonne.hogle@pacificorp.com))  
Daniel Solander ([daniel.solander@pacificorp.com](mailto:daniel.solander@pacificorp.com))  
Rocky Mountain Power

D. Matthew Moscon ([matt.moscon@stoel.com](mailto:matt.moscon@stoel.com))  
Richard R. Hall ([Richard.hall@stoel.com](mailto:Richard.hall@stoel.com))

Scott Sweat ([ssweat@wasatch.utah.gov](mailto:ssweat@wasatch.utah.gov))  
Tyler Berg ([tberg@wasatch.utah.gov](mailto:tberg@wasatch.utah.gov))  
Wasatch County

Jeremy C. Reutzel ([jreutzel@btjd.com](mailto:jreutzel@btjd.com))  
Bennett Tueller Johnson & Deere  
Black Rock

Patricia Schmid ([pschmid@utah.gov](mailto:pschmid@utah.gov))  
Justin Jetter ([jjetter@utah.gov](mailto:jjetter@utah.gov))  
Rex Olsen ([rolsen@utah.gov](mailto:rolsen@utah.gov))  
Robert Moore ([rmoore@utah.gov](mailto:rmoore@utah.gov))  
Assistant Utah Attorneys General

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By Hand-Delivery:

Division of Public Utilities  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, Utah 84111

Office of Consumer Services  
160 East 300 South, 2<sup>nd</sup> Floor  
Salt Lake City, Utah 84111

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Administrative Assistant