

BEFORE THE UTAH UTILITY FACILITY REVIEW BOARD

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In the Matter of Rocky )  
Mountain Power's Petition ) Docket No. 16-035-09  
for Review to the Utah )  
Utility Facility Review ) Initial Hearing  
Board )

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March 23, 2016  
9:00 a.m.

Location: Utah Public Service Commission  
160 East 300 South, 4th Floor  
Salt Lake City, Utah 84111

Job No: 296512  
Reporter: Teri Hansen Cronenwett  
Certified Realtime Reporter, Registered Merit Reporter

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A P P E A R A N C E S

Board Members:

Thad Leva  
David Clark  
Jordan White  
Beth Holbrook

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1 March 23, 2016

9:00 a.m.

2 P R O C E E D I N G S

3 MR. LEVAR: We are here -- well, first, good  
4 morning everybody. We're here for the initial hearing  
5 of the Utah Utility Facility Review Board. Just by way  
6 of introduction, this board does not meet very often.  
7 But the board consisted of three members of the Public  
8 Service Commission, which is myself, Mr. David Clark and  
9 Jordan White at the end.

10 It has two additional members. Beth Holbrook  
11 is a member from the Utah League of Cities and Towns.  
12 You're on the Bountiful City Council; is that right?

13 MS. HOLBROOK: That's correct.

14 MR. LEVAR: Then a fifth member was appointed  
15 two days ago and is not able to be here today.  
16 David Wilson from the Weber County attorney's office is  
17 a fifth board member, and he has given us dates that he  
18 is or isn't available for hearings so we should be able  
19 to work out the scheduling issues that way today.

20 And just as an announcement, I just want to  
21 let everybody in the room know, this is an odd  
22 announcement, but we were informed yesterday that the  
23 Utah Highway Patrol is doing active shooter training in  
24 the building today and tomorrow so there may be noise  
25 from that. It's something that's being conducted by

1 highway patrol. So if there's noises, that's what's  
2 going on.

3 Why don't we go to appearances next then.  
4 Those who are here, make an appearance. We'll start  
5 with the applicants.

6 MR. MOSCON: Matt Moscon and Heidi Gordon for  
7 Rocky Mountain Power.

8 MR. LEVAR: Okay. Thank you.

9 MR. BERG: Tyler Berg with Wasatch County.

10 MR. REUTZEL: Jeremy Reutzel on behalf of the  
11 parties seeking to intervene, BlackRock Ridge Home  
12 Owners Association and Mark 25.

13 MR. LEVAR: Okay. Thank you. We have a few  
14 issues to go through in this hearing -- in this initial  
15 hearing today. So the first issue is whether this will  
16 be a formal versus informal proceeding. We've received  
17 a few comments from parties recommending that it be a  
18 formal proceeding. To my knowledge, we have not  
19 received any request for it to be an informal  
20 proceeding.

21 Do any of the parties in the room wish to  
22 address that issue before we take that issue under  
23 advisement, starting with the applicant.

24 MR. MOSCON: No. In fact, thank you,  
25 Mr. Commissioner. We spoke again before the

1 commencement. I think all the parties agree that formal  
2 makes the most sense.

3 MR. LEVAR: Okay.

4 MR. BERG: For Wasatch County as well.

5 MR. LEVAR: Okay. And BlackRock have any  
6 different feelings on that?

7 MR. REUTZEL: No, your Honor.

8 MR. LEVAR: Okay. This -- for those who are  
9 used to participating with the Public Service Commission  
10 here, this board acts a little bit differently. So I  
11 think we have to do public votes as a board on any issue  
12 that we deliberate or decide. So I'll come back to the  
13 board. Is there any discussion of the issue of whether  
14 this should be a formal or an informal proceeding? I  
15 guess I'll just start with Mr. White.

16 MR. WHITE: And based upon the consensus of  
17 the parties, I think it's appropriate to proceed forward  
18 as a formal proceeding.

19 MR. LEVAR: Any other comments? I guess I'll  
20 entertain a motion.

21 MR. CLARK: So moved.

22 MS. HOLBROOK: Second.

23 MR. LEVAR: Okay. All in favor of proceeding  
24 as a formal adjudication under UAPA say yes or aye.

25 BOARD MEMBERS: Aye.

1 MR. LEVAR: Any opposed?

2 (Silence.)

3 MR. LEVAR: Okay. So that seems to be  
4 unanimous. The next item of business is a hearing date.  
5 So under statute, with today as the initial hearing, the  
6 last day that this hearing could be held is May 20th.  
7 Just to let, let everybody in the room know a few  
8 issues. There are Public Service Commission hearings  
9 the 17th, 18th, 19th and 20th of May in a matter  
10 involving the Navajo Tribal Utility Authority. So those  
11 are not available as hearing dates.

12 We've heard back from Mr. Wilson who is the  
13 fifth board member who is unavailable due to a family  
14 event out of state May 12th through the 17th. So those  
15 are dates that are off the table. And I think maybe  
16 the -- well, let me ask you if in the weeks before May  
17 20th, are there dates that you are or are not available?

18 MS. HOLBROOK: So I will be in St. George in  
19 April for the Utah League conference, and that's April  
20 4th through the 9th.

21 MR. LEVAR: Okay.

22 MS. HOLBROOK: And I do have a little bit of  
23 traveling for my company. So 13th and 14th, I'm gone as  
24 well in April.

25 MR. LEVAR: Of April?

1 MS. HOLBROOK: But May is fine. I don't have  
2 any issues with May.

3 MR. LEVAR: Okay. Let me go to the parties  
4 then and just get a sense for what you're thinking in  
5 terms of how long of a hearing, how much time we need to  
6 reserve for hearing in this matter. I'll start with the  
7 applicant.

8 MR. MOSCON: Sure. And if it helps, I'll also  
9 represent this is something that prior to the hearing we  
10 discussed possible dates, recognizing it may or may not  
11 work for the board. I think that we agree that this is  
12 a one day hearing. I recognize the board may want to  
13 include or add at a separate time a public comment  
14 period. That may be at the same day. But we -- I don't  
15 think any of the parties believe we need more than one  
16 day to hear the issues regarding the company's position.

17 MR. BERG: The county agrees with that, and we  
18 also discussed possible dates. And I think we had an  
19 agreement, based on what would work with the board, that  
20 May 11th would work for the parties involved. So that  
21 would be the day before -- I guess you'd said the 12th  
22 through the 17th and then the 17th through the 20th were  
23 all blocked out.

24 MR. LEVAR: Right.

25 MR. BERG: So the 11th, that Wednesday, I

1 believe would work for the parties.

2 MR. LEVAR: Okay. And everyone's in agreement  
3 on the May 11th date?

4 MR. MOSCON: Yes.

5 MR. LEVAR: Any concerns from any of the board  
6 members?

7 (Silence.)

8 MR. LEVAR: Okay.

9 MR. CLARK: I guess my only concern would be  
10 if for some reason one day is not adequate, we don't  
11 really have options beyond, beyond that point. So  
12 we're -- just so the parties understand that we would  
13 have -- we would be absolutely constrained to that day.

14 MR. BERG: I guess maybe if we wanted to say,  
15 just for sake of that purpose, if we wanted to say May  
16 10th, which is what Rocky Mountain Power had originally  
17 proposed, if we just said we start the hearing on May  
18 10th and just reserve the 11th as a possible day. But  
19 we think we should be able to complete it in one day.  
20 But having that safety net's a good idea.

21 MR. LEVAR: Okay. Any objection to that from  
22 any parties?

23 MR. MOSCON: No. We agree.

24 MR. LEVAR: Any objection to that from any  
25 board members?



1 MS. HOLBROOK: Huh-uh.

2 MR. LEVAR: Okay. I don't think that's an  
3 issue that requires a board motion. So we will probably  
4 have a board motion on all the dates for getting a  
5 scheduling order out, but we'll set May 10th and 11th as  
6 the hearing date. Next let me ask the parties their  
7 thoughts on time and/or place for a public witness  
8 hearing. First with the applicant.

9 MR. MOSCON: This is, I have to concede, an  
10 area we haven't really discussed. The company  
11 recognizes that it's probably appropriate to have the  
12 ability of members of the public to, to address the  
13 board. So should there be one? We absolutely think,  
14 yes, there should be.

15 We haven't addressed actually the location or  
16 time or place. In my mind I was thinking it would be  
17 kind of a continuation of our hearing or proceeding.  
18 But I have to admit that's not anything that we  
19 specifically addressed, but I don't know that the  
20 company feels strongly.

21 If the board thinks it's better to, to do that  
22 up in Wasatch County, I can see why you would want to do  
23 that. We just have to find a different date and time  
24 that we could do that.

25 MR. LEVAR: Okay. And of course the public

1 witness hearing doesn't necessarily have to be right  
2 around the time as the -- as the substantive hearing  
3 either.

4 MR. MOSCON: Agreed.

5 MR. LEVAR: So I'll move -- Wasatch County  
6 have any thoughts or comments?

7 MR. BERG: I think it would work best just for  
8 county residents, if there are any that want to come and  
9 want to be to that public hearing, that it would be  
10 located in Wasatch County.

11 If we were to do that after May 20th, that  
12 would be outside the 60 days. But I think the statute  
13 would allow for that. That would allow the parties to  
14 have their formal hearing on the 10th and possibly the  
15 11th and then allow the board the time to meet, meet  
16 with the public at the public hearing.

17 MR. LEVAR: So --

18 MR. BERG: Are we --

19 MR. LEVAR: What about thoughts of having the  
20 public witness hearing prior to the -- prior to the  
21 substantive hearing?

22 MR. BERG: I don't have any objection to doing  
23 that at all. I don't -- I don't know that there's an  
24 issue with that. I haven't considered that. I think  
25 that would be something I would need to talk with our

1 county counsel about --

2 MR. LEVAR: Okay.

3 MR. BERG: -- scheduling-wise as to where, a  
4 location as well as making sure we had notice out to the  
5 public. But that's something we could definitely do.

6 MR. LEVAR: Okay. Well, let me go to  
7 BlackRock. Not yet an intervened party -- not a party  
8 at this point. That's still an issue to deal with. But  
9 I still think get your input on this issue.

10 MR. REUTZEL: We think -- we obviously think  
11 the public comment's appropriate. We don't have a real  
12 opinion on when it should be, other than I think it  
13 should be sometime after the company's produced their  
14 documents and their testimony so those things can be  
15 addressed by the public as well.

16 MR. LEVAR: Okay. Let me go to the utility.  
17 Any concerns with if there's a public witness hearing in  
18 county facilities in Wasatch County?

19 MR. MOSCON: No. I don't think we have an  
20 objection if the hearing is in Wasatch County or in  
21 county facilities. I think we would -- and also we  
22 don't have any objection if the public hearing is after  
23 parties file memos, prefiled testimony, anything like  
24 that.

25 I think it would be appropriate to have the

1 public comment at the same -- at the same time or prior  
2 to the formal hearing of this body because if members of  
3 the public were to raise questions that actually gave  
4 any of the board members questions, I would like my  
5 witnesses to be able to answer and address those. And  
6 if it's held afterwards, I would hate to have there be a  
7 question in your mind that wasn't addressed, so I would  
8 suggest that it be prior to May 10th.

9 MR. LEVAR: Okay. Well, should we talk about  
10 May 9th as a potential public witness hearing in Wasatch  
11 County, or were you indicating that you needed to maybe  
12 touch bases with, with others in the county if county  
13 facilities were going to be used for that?

14 MR. BERG: I would like to find out, and I  
15 think it's far enough in advance I don't think that the  
16 9th would be an issue. But if I could at least have a  
17 few days to confirm with the county council and make  
18 sure that location of where they would want to do that  
19 at.

20 The timing, I don't have a schedule of all the  
21 different possible buildings that we could have it in or  
22 what might be already taking place at those locations.  
23 But I would think the 9th as a preliminary date would  
24 work. I could get back to all parties if that date  
25 wouldn't work.

1 MR. LEVAR: Okay. And one option for timing,  
2 let's just throw that out, is starting a public witness  
3 hearing at 5:00 p.m. with the condition that we'll hear  
4 public comments from anyone who's present by 5:30 or so.  
5 Does that sound like a reasonable time frame to -- for  
6 any of the parties in the room?

7 MR. BERG: Well, I know with, at least with  
8 the planning commission, and as well as the board of  
9 adjustments that have already taken place, at least the  
10 public comment, the planning commission went, I'd say,  
11 at least an hour, and that was with director of the  
12 commission cutting people off and keeping it short and  
13 stopping people from repeating. So I would think we  
14 would probably need more than half hour amount of time.

15 MR. LEVAR: I was just indicating, saying  
16 anybody who's there by 5:30 --

17 MR. BERG: Oh, by 5:30.

18 MR. LEVAR: -- we'll stay long enough to let  
19 the people who were there by that time speak.

20 MR. BERG: Okay.

21 MR. LEVAR: Not cutting off the hearing then,  
22 but...

23 MR. BERG: Okay.

24 MR. MOSCON: The only -- and I don't mean to  
25 interrupt. But the only thing I'm just thinking is, if

1 we have an evening hearing, which I understand makes  
2 sense so that people can go to their day jobs and then  
3 participate, and if that's up in Wasatch County, and  
4 then if we are starting early the next morning for the  
5 formal hearing, I just want -- I'm just noting you will  
6 have people up there until midnight the night before and  
7 then starting down here eight hours later.

8 I wonder if it might be worth considering  
9 having the public comment on the Thursday or Friday  
10 right on the other side of the weekend just to avoid  
11 that. I'm not demanding it. I'm just thinking out  
12 loud.

13 MR. LEVAR: No. That's a really good  
14 suggestion, and I think it makes sense considering we  
15 don't know how late that, that hearing will go. Well,  
16 should we look at days the previous week then? Looking  
17 at some travel for some board members, it looks like  
18 Monday, May 2nd could be a possibility. I'm not sure if  
19 Thursday, May 5th is a -- might or might not be. But  
20 Friday, May 6th could be also.

21 Is there a preference between those three  
22 dates? Let me go to the board members first, if we're  
23 looking at May 2nd, 5th or 6th for a public witness  
24 hearing.

25 MR. CLARK: From my perspective, the 6th would

1 be preferable. I'll be at a NERC board of trustees  
2 meeting on the -- on the -- well, on the 4th and 5th.  
3 And the meeting will end at noon, but I'll be in  
4 Chicago. So noon on the 5th.

5 So it would be -- either I would have to leave  
6 that board meeting early, which is -- it's conceivable.  
7 I could do that. Or do it on the 6th. So I'm just  
8 going to express a preference for the 6th. But if  
9 people have unavailability on that date, the 5th could  
10 work for me.

11 MR WHITE: I could do the 6th. You're saying  
12 Monday the 2nd you'll be traveling?

13 MR. LEVAR: No. Monday the 2nd is a  
14 possibility also from at least our schedule. I haven't  
15 talked to them yet.

16 MR. WHITE: I could do either.

17 MR. LEVAR: 2nd or the 6th.

18 MS. HOLBROOK: Same. I could do either, 2nd  
19 or the 6th.

20 MR. LEVAR: Any preference between those two  
21 options, or are they both good options?

22 MR. BERG: As far as I can tell, they're both  
23 good options. I'll just need to again be able to check  
24 and make sure that we have a location and make sure that  
25 that will work.

1 MR. LEVAR: Okay.

2 MR. MOSCON: If Commissioner Clark is  
3 available on the 2nd, I think the company would prefer  
4 the 2nd over the 6th. But we'll make either day work.  
5 If he is traveling on the 2nd, then we would make the  
6 6th work.

7 MR. CLARK: I'm fine on the 2nd.

8 MR. MOSCON: That'd be our preference of those  
9 two days.

10 MR. LEVAR: Okay. Well, why don't we pencil  
11 this down for the 2nd. We will probably have to issue  
12 an amended scheduling order once we have the location,  
13 but we'll plan for 5:00 p.m. on May 2nd. Next issue to  
14 discuss is -- well, I think I'll come back to that one.

15 Let's talk about an intervention deadline.  
16 What would be a -- with the hearing on May 10th or 11th,  
17 are there thoughts from parties on what would be a good  
18 deadline for any petition to intervene? Let me start  
19 with the applicant.

20 MR. MOSCON: So I -- I assume the come -- the  
21 board recognizes the company's position that the only  
22 other party that would have standing to intervene would  
23 be Promontory. But without addressing that, I suppose  
24 any decision to intervene needs to be made relatively  
25 promptly just because this is such an abbreviated



1 schedule.

2 And we had, between the parties, discussed  
3 some timing of filing papers between us that we would  
4 propose to the board. The first of those dates is April  
5 8th, and the board may or may not accept that. But I  
6 guess what I would say is, whoever is or is not going to  
7 be a party probably ought to be in the case before  
8 papers start being filed officially.

9 So if that helps as far as scheduling a time,  
10 we have the 8th as being the first due date for filings  
11 in our schedule that we were going to kind of jointly  
12 propose to the board.

13 MR. LEVAR: And so you're suggesting an  
14 intervention deadline prior to April 8th?

15 MR. MOSCON: Yes.

16 MR. LEVAR: Like --

17 MR. MOSCON: Let's see here. So I would say  
18 April -- a petition to have -- if there's a -- if anyone  
19 wants to move to intervene by April 4th, and I don't  
20 know how long the board needs to make a decision, I  
21 think we would just say we're going to be -- our  
22 proposal to the board will be that papers start being  
23 filed on April 8th. So that week, whenever the -- that  
24 week of April 4th, I guess is what I propose.

25 MR. LEVAR: Okay. And I'll just mention -- I

1 was going to mention in context of another issue, one  
2 difference between this board and the Public Service  
3 Commission is, for example, making a decision on a  
4 petition to intervene has to be done by this board in a  
5 public deliberation meeting. So once petitions come in,  
6 this board will have to meet and make a decision on  
7 whether to grant intervention.

8 Board members who aren't Public Service  
9 Commission employees obviously could participate by  
10 telephone, if more convenient. Telephonic participation  
11 is appropriate, but I just want to make sure everybody  
12 is aware of that, that that's part of the process that  
13 will have to happen post intervention petition.

14 So April 4th, still considering that, does  
15 that make sense from your point of view?

16 MR. MOSCON: If the board would be able to, by  
17 telephone or otherwise, meet sometime between the 4th  
18 and the 8th, then that seems to work for me.

19 MR. LEVAR: Okay. Let me go to Wasatch  
20 County. Any thoughts on that?

21 MR. BERG: I think that would work fine. My,  
22 my thought on it is that the parties who'd be  
23 intervening have already filed their petition. There is  
24 as a possibility someone else might file a petition, but  
25 given the location of where the transmission line would

1 go, I'm not sure who else, other than Promontory, would  
2 be able to even claim any right to intervention. And so  
3 I would think that deadline of the 4th would be more  
4 than sufficient.

5 MR. LEVAR: Okay. Any thoughts from board  
6 members on that? We could pencil that down for now. I  
7 think we probably need a motion at the end of the  
8 hearing for all the dates for a scheduling order. So  
9 pencil that down. Any objections? No, okay.

10 MR. WHITE: Sounds reasonable.

11 MR. LEVAR: The other thing that needs to be  
12 on the schedule towards the end is a final deliberation  
13 meeting posthearing, for the board members to deliberate  
14 after the hearing on the 10th and the 11th. And it  
15 seems to me to make sense, since we're reserving two  
16 days, parties are thinking it's probably a one day  
17 hearing -- I'm thinking through this issue as I'm  
18 speaking. We probably should plan to use some time on  
19 the 11th for board deliberation.

20 We could schedule that for the afternoon of  
21 the 11th, assuming that if the hearing runs late on the  
22 11th, we could just push it back. If the hearing  
23 finishes on the 10th, we would just know that we're  
24 going to reconvene in the afternoon on the 11th to  
25 deliberate. Let me just go to board. I think this is

1 an issue just to board members, but...

2 Noticing up a deliberation meeting the  
3 afternoon of the 11th with the understanding that it  
4 might get pushed back if the hearing is still going on,  
5 is that acceptable to -- reasonable to the three of you.

6 MS. HOLBROOK: I just had a question. Pushed  
7 back as in the same day? Pushed at a later time or  
8 pushed back at a totally different day?

9 MR. LEVAR: I'm thinking worst case scenario  
10 is if we noticed it for, you know, early afternoon on  
11 the 11th, there's some chance the hearing's still going  
12 on. I think we've heard from the parties that that's  
13 not likely. So the if we schedule it for afternoon of  
14 the 11th, we'll probably start on time.

15 But, but there's a chance we'd have to just  
16 push it later into the afternoon rather than starting it  
17 -- if we noticed it for 1:00 p.m., there's a possibility  
18 we might have to start later.

19 MR. WHITE: So are you suggesting it would be  
20 noticed up either the conclusion of the actual hearing,  
21 or in other words, there would be some fluid nature to  
22 the date? Or we could move it back or forward?

23 MR. LEVAR: Well, that's what I'm not -- I was  
24 thinking we would just schedule it for a definite time.  
25 So if the hearing concluded on the 10th --

1 MR. WHITE: Okay.

2 MR. LEVAR: -- then we would simply plan to  
3 come back on the 11th.

4 MR. WHITE: Okay.

5 MR. LEVAR: That way.

6 MR. WHITE: That makes sense.

7 MR. CLARK: I like that, because it will give  
8 us some time to digest what we receive during the  
9 hearing as well -- likely will give us time, and that  
10 would be useful to me.

11 MR. LEVAR: You know, what this board will  
12 have to do is discuss what's in front of us, make a  
13 preliminary decision directing the drafting of an order  
14 and then some process after that to, to issue the order.  
15 The or -- the order issuing deadline is June 6th, I  
16 believe. So we have between the hearing on the 10th,  
17 the 11th and the 6th to do that. But for an initial  
18 deliberation meeting, does that work for you?

19 MS. HOLBROOK: Uh-huh, that would work.

20 MR. LEVAR: Okay. Why don't we pencil that  
21 for 1:00 p.m. on May the 11th. Okay. A couple other  
22 issues, motion deadline. We'll go to the applicant.  
23 Any suggestions for a motion deadline?

24 MR. MOSCON: No. Other than, one of the  
25 things that we had anticipated and as referenced in the

1 company's petition is the company does anticipate filing  
2 a legal memorandum kind of setting forth its case with,  
3 and this is again an issue to be addressed by the board.  
4 But assuming the board agrees, prefile testimony on  
5 April 8th. So to the extent that that's considered a  
6 motion, we -- I guess I'll note that for you.

7 I don't anticipate there being a lot of other  
8 motions being filed by the parties. So to be candid, I  
9 don't know that we really have decided or discussed  
10 motion deadlines between us, and I'm not -- I'm -- as I  
11 sit here, I'm trying to consider what motions. I mean I  
12 suppose there could be some dispute that comes up along  
13 the way, but I don't anticipate there being a lot of  
14 motions in this matter.

15 MR. LEVAR: Okay. Well, why don't we kind of  
16 look at all the dates then. I don't know if parties  
17 have talked about -- you mentioned written testimony  
18 filed in advance or whether that's going to be done in  
19 this case or whether it'll simply be replies and  
20 responses. Has there been discussion about what, what  
21 would be filed between now and the hearing? Let me go  
22 to the county.

23 MR. BERG: We discussed, as Rocky Mountain  
24 Power is indicating, filing of memorandums, legal  
25 information and everything that way. We discussed April

1 8th as the deadline for Rocky Mountain Power to file  
2 their memorandum and any accompanying documents.

3 Then we discussed April 22nd for Wasatch  
4 County as well as BlackRock Ridge, if they're allowed to  
5 intervene, for that to be their filing deadline for  
6 memorandum. And then also April 29th as a reply  
7 deadline for Rocky Mountain to be able to reply to any  
8 issues brought up.

9 I can't -- again, as Rocky Mountain indicated,  
10 I don't see this as being a lot of motions. I know that  
11 I'll have a discovery motion for them later this  
12 afternoon. Aside from any motions to compel or any  
13 discovery issues, I don't really see any other -- any  
14 other motions glaring out at me right now. But I also  
15 don't know all the legal issues that they're going to  
16 file in their memorandum on the 8th.

17 I would think maybe if the hearing is going to  
18 be the 10th and the 11th, if we said that we had a  
19 motion cutoff date maybe that week prior, the 3rd, May  
20 3rd, that would allow at least a few days after they  
21 filed their reply memorandum for parties to get any  
22 additional motions in that we may feel we needed to have  
23 addressed.

24 And I would assume that we would probably just  
25 address those motions at the hearing on the 10th. I

1 wouldn't see a real need to intervene. But then again,  
2 we don't know exactly if there will even be any motions.  
3 We don't anticipate any. But if there are, is that  
4 something we would need to hold a public hearing on with  
5 this board to address any motions?

6 MR. LEVAR: Well, I would think any motion  
7 that's filed in the neighborhood of May 3rd, the  
8 earliest it could be ruled on would be the first day of  
9 the hearing.

10 MR. BERG: Okay.

11 MR. LEVAR: On the 10th. And then we would  
12 have to work out what we needed from parties before  
13 ruling on that. So I guess I am hearing a proposal for  
14 legal briefing or comments from Rocky Mountain Power on  
15 April 8th, legal briefing and/or comments, legal  
16 briefing and/or comments from Wasatch or any other  
17 intervenor April 22nd, replies from Rocky Mountain Power  
18 on April 29th and a motion deadline that hasn't been  
19 previously discussed but possibly May 3rd. Mr. Moscon.

20 MR. MOSCON: A couple of quick things. I had  
21 in my notes that the company was going to file its  
22 rebuttal on May 2nd rather than the 29th. And I'd have  
23 to open my calendar to see even what day of the week  
24 that was, but I don't know if that matters, but --

25 MR. BERG: I apologize. I might have written



1 that down wrong as we were talking. The 2nd is a  
2 Monday. The 3rd would be the Tuesday. And I would have  
3 no objection to having them have that weekend to do a  
4 reply. So if we did May 2nd for their reply and then we  
5 even just moved the motion out, I think if we even moved  
6 the motion out to the 5th, Thursday, or the 6th, then if  
7 it's something we're going to address at the hearing, we  
8 could -- that would be adequate time to do that.

9 VOICE: Yeah.

10 MR. MOSCON: I don't think the company has a  
11 lot of concern about a motion deadline being late in the  
12 process candidly, just because I don't anticipate there  
13 being a lot of motions as -- I would agree, as was  
14 indicated, it's possible someone may along the way think  
15 there's some discovery issue or something.

16 But in any event, I don't know that there's  
17 going to be real substantive motions that are going to  
18 be filed. And by that time we're kind of past the --  
19 you know, everything's been filed. So I don't think  
20 that you're going to be having discovery issues coming  
21 up post May 3rd in any event.

22 One thing that I will note, I think it is the  
23 company's preference, and I realize it's not requirement  
24 in this meeting, the board has not formally adopted  
25 this, but I think the company would propose for the

1 board to consider that to the extent that any of the  
2 parties are going to offer affirmative witness  
3 testimony, that the parties file prefiled testimony in  
4 the same time frame, when we said legal memoranda or  
5 other papers or arguments.

6 And I'll explain why. Those of you that are  
7 members of the commission will recognize that some of  
8 the information, data that the company relies upon is  
9 relatively dense, and it may not be something that you  
10 want to hear someone go through on the stand but is  
11 necessary as part of the record.

12 One of the things that my client needs to do  
13 in this case is to demonstrate a need, that we need  
14 this. And someone can just say that in the thing and  
15 have a bunch of exhibits. But to put that through live  
16 testimony may be a burden that no one wants to go  
17 through. So that's just one example of why I think it  
18 would make sense to have prefiled testimony.

19 I think that just because the condensed time  
20 frame and the limited discovery, I'm not saying there  
21 won't be any discovery, but the relatively limited  
22 ability of the parties to get discovery from each other  
23 means that we probably ought to know what each other is  
24 going to say before we show up to the hearing on the  
25 10th.

1 I also think that if we did that, it would be  
2 more conducive to having everything done in one day  
3 rather than people are trying to do quasi discovery,  
4 what do you really mean questions and  
5 cross-examinations, if there hasn't been prefiled  
6 testimony.

7 So the company would propose, and I believe  
8 that, if I am not mistaken, this has been the practice  
9 of the Facility Review Board the only other times I'm  
10 aware of it convening, that affirmative testimony be by  
11 prefiled testimony.

12 MR. LEVAR: Let me go to the county.

13 MR. BERG: At this point, I don't know exactly  
14 what type of testimony we would have. Until I've seen  
15 their legal briefing, exactly what they -- what they'll  
16 be arguing on it. And so I don't know that -- I don't  
17 know that I can stipulate to say yes, we could have  
18 everything by April 27th, our deadline for all of our  
19 briefing to be filed. But we would make our best --

20 MR. LEVAR: I thought I heard you say before  
21 April 22nd. Is it 22nd or 7th that we were looking at  
22 for your -- for your deadline?

23 MR. BERG: I thought we had April 22nd.

24 MR. LEVAR: 22nd? Is that right?

25 (Crosstalk.)

1 MR. LEVAR: Okay. Yeah, that's what I have.  
2 Okay.

3 MR. BERG: We would obviously make our best  
4 efforts to do that, but at this point I don't know  
5 exactly what prefiled testimony we might have. And I  
6 think the two weeks that we would have to do our reply  
7 we could probably discover a lot of that. Anything we  
8 know ahead of time we would be able to do.

9 I don't know if we could say we could have all  
10 of our briefing done on the 22nd and then have an  
11 extension up until, you know, another week or two to  
12 have any prefiled testimony that we're just finding out  
13 we're going to do at that point.

14 I don't know that -- well, we're not -- we  
15 wouldn't be trying to hide the ball. If we have  
16 prefiled testimony, I agree with Rocky Mountain Power  
17 that we want to get that in front of the board as  
18 quickly as possible. We want to make that hearing truly  
19 just a one day hearing. There's no reason to call a  
20 whole bunch of witnesses that we can already have all  
21 their information on the record.

22 MR. MOSCON: And let me clarify, too, what I  
23 mean by prefiled testimony of affirmative witnesses. I  
24 don't want the county or any members of the board to  
25 think that the company is suggesting that literally any

1 word spoken will already be in writing.

2 So I believe that Wasatch County, for  
3 instance, should be able to cross-examine any of my  
4 witnesses live in the courtroom. If they want to say,  
5 is this what you mean, and didn't you mean that, and let  
6 me show you a document, and isn't it true this says  
7 that. So there would still be that opportunity. I'm  
8 only talking about affirmative statements.

9 So for instance, if Wasatch County -- and they  
10 haven't said they were going to do this, but if they  
11 were going to say, we've hired an expert that believes  
12 you don't really need this transmission line. There's  
13 no need to get more power and bring it out of Wyoming  
14 and bring it into this territory. If this is going to  
15 be a meaningful hearing for the board, and I don't know  
16 that until here we are on, you know, May 10th. I'm not  
17 going to be in a position to rebut that because this is  
18 the first time we're hearing that.

19 So if there's going to be an affirmative  
20 position taken like that, because of the complexity of  
21 kind of the utility process, that, that I think just  
22 needs to be put in prefiled testimony with any kind of  
23 questioning reserved for the hearing. I, I just don't  
24 know how to do it any other way in such a consolidated  
25 manner.

1 MR. LEVAR: Okay. I mean, it does seem that,  
2 at least in practice, that the Public Service Commission  
3 filing of written testimony in advance has streamlined  
4 both discovery and hearings. The question I think we  
5 have for the board, from what's been presented, is  
6 whether that become a mandatory part of this scheduling  
7 order or whether part -- we go with these dates and say  
8 parties will be able to file any legal briefing, any  
9 comments.

10 And if they're going to file any testimony in  
11 advance of hearing, those are the dates they file them  
12 by. Whether it's mandatory or allowed. So that's an  
13 issue for the board to discuss. But let me -- any  
14 comment -- any further comments? I think you both kind  
15 of said --

16 MR. BERG: I would think that if we were -- we  
17 were to do something where it's allowed but not  
18 mandatory, that would work for the county. We would  
19 absolutely make any effort to get Rocky Mountain Power  
20 all the information that we're looking at. We agree  
21 that we want this to be a streamlined process and as  
22 straightforward as possible.

23 It's not going to be a hide the ball and, oh,  
24 the day of the hearing we've got this expert witness  
25 that we're bringing forward. That's not what the

1 county's anticipating at all. But we would appreciate  
2 it if it's not mandatory, but something that was allowed  
3 to happen, we would make every effort to have that  
4 happen.

5 MR. LEVAR: Okay. Any further comments?

6 MR. MOSCON: The only thing, while I'm just  
7 thinking through the practicality of how such a rule  
8 would work, if I don't know whether or not they are  
9 going to, in my example, have someone show up on the day  
10 of the hearing and say, "I'm a utility engineer expert,  
11 and they don't need this." That makes me almost  
12 tomorrow and day one send out a bunch of contention  
13 interrog -- you know. I need to know that.

14 And I can't just go, well, they used their  
15 best efforts. I guess they couldn't get it in time, but  
16 now I don't know. And so that's why in our motion we  
17 tried to limit it to affirmative positions. So if  
18 you're just -- you don't have to tell me in advance  
19 every cross-examination question or what you're going to  
20 say in your legal briefing.

21 But if you're going to take an affirmative  
22 position as to any of the issues of, you know,  
23 reliability, safety, need, efficiency, the kind of the  
24 benchmarks that the board is deciding, I still think  
25 that that has to be mandatory if they're going to have a

1 witness that they want to present testimony to the board  
2 on that topic.

3           If they don't want to bring a witness, and  
4 they just want to make legal arguments, obviously they  
5 don't need a witness to say everything that they can put  
6 in their legal briefs. But I think that in this tight  
7 60 day time frame that we have and without an ability to  
8 depose people and do all this kind of contention  
9 interrogatory thing, I really think it has to be -- or I  
10 would suggest or move that it be a mandatory rule for  
11 any affirmative witnesses to file prefiled testimony so  
12 that the hearing can function on the 10th and 11th as  
13 the parties I think all envision.

14           MR. LEVAR: Sorry. So your motion would be  
15 that on these deadlines, any fact witness that a party  
16 intends to use at the hearing would have -- would have  
17 to have filed written testimony on these dates. I think  
18 you're making a motion to that effect.

19           MR. MOSCON: Correct. The party can still  
20 file a legal brief without it -- you know, without a, a  
21 witness, but if they want to put a witness on the stand  
22 on the date of the hearing, that they need to prefile  
23 that person's testimony in accordance with the deadline  
24 that we've laid out. That is the company's motion.

25           MR. LEVAR: Okay. Just -- any final comment?



1 I mean, I know we're doing a lot of back and forth, but  
2 I think before the board discusses this, is there  
3 anything else you'll want -- you'd want to add?

4 MR. REUTZEL: Can I -- Can I make a comment.

5 MR. LEVAR: We can go BlackRock and then,  
6 yeah, Wasatch.

7 MR. REUTZEL: I don't have -- generally I  
8 don't have an objection to that. I see one of the  
9 problems being the company has a lot of experts at its  
10 disposal and it's going to be disclosing this  
11 information, you know, in April. And there will be  
12 several weeks for us to respond. We don't know what  
13 we're going to need to respond with, and my experience  
14 in trying to get experts is, you can't get them to drop  
15 everything in two weeks and get something on file.

16 Now, that's certainly something, if we're  
17 allowed to intervene, we'll try to do. But I wonder if  
18 we could leave that date a little bit flexible in that  
19 you either file prefiled testimony or you file a motion  
20 with the board explaining why you need a few more days  
21 to get the prefiled testimony in place. But it is  
22 complex issues, and it's something that attorneys can't  
23 put together themselves. We're going to need some  
24 expert testimony, I expect.

25 MR. LEVAR: Okay. Any other thought,

1 additional thoughts from Wasatch?

2 MR. BERG: I would agree with that. I can  
3 understand Rocky Mountain's position why they need that  
4 information. Just like we need that information from  
5 them, they need that from us to be able to do this in 60  
6 days. Actually less than that since we're moving the  
7 date back almost 10 days, so about 50 days.

8 But again, until we've really seen what  
9 they're filing, it's hard to say, yeah, we can  
10 absolutely have it by that date. Even if we were to  
11 say -- well, if we were to do a prefiled -- if we could  
12 look at it and say, here's our legal brief. Can we have  
13 an extra week to get the prefiled in?

14 So maybe just by motion is the best way to be  
15 able to ask the board, hey, here's everything. We're  
16 anticipating this additional witness, but we can't get  
17 the information from him until this date. This is what  
18 we think we're going to do with him. Maybe like even a  
19 summary of this is, you know, quick, one paragraph  
20 summary.

21 But to get more of a written testimony -- and  
22 again, I'm thinking worst case scenario. Do I think  
23 that's going to happen? I really don't even know if in  
24 this case that's going to happen at all. But I'm just  
25 not wanting to get locked into a deadline that I don't

1 know if I can meet until I've gotten the information  
2 from them.

3 MR. LEVAR: And I'll just note, just looking  
4 at the schedule, we are talking about between -- well,  
5 we have -- Rocky Mountain Power's initial deadline is  
6 April 8th. The, the, the other party's deadline would  
7 be April 22nd. And between that and the final deadline  
8 of May 2nd, we're -- we have a week and a Monday. So  
9 there isn't a lot of wiggle room between that 2nd and  
10 3rd date. So I'm just noting. But maybe it's time for  
11 board -- for board discussion.

12 MR. WHITE: Can I maybe start with a -- share  
13 with a maybe a comment, maybe a suggestion. You know,  
14 I'm taking off my PSC commissioner hat right now and,  
15 and acting as a member of the board here. I mean, we're  
16 very comfortable with this type of process. It is  
17 through the hundred years of our history of PSC  
18 beneficent and in terms of moving and evaluating large  
19 amounts of the complex evidence.

20 But I guess my concern as a board member is,  
21 obviously this is probably not your world, and you're  
22 not -- probably not used to in typical legal settings  
23 dealing with what we term as prefiled written testimony,  
24 etc. I guess what I'm wondering is, does it make sense  
25 at all, you know, for even a potential brief recess to

1 maybe help walk them through that and help them  
2 understand how that might work?

3           Because I kind of get the sense there may be  
4 some kind of disconnect with what this would actually  
5 look like. In term -- I don't want to -- you know,  
6 maybe you understand this perfectly well. If that's the  
7 case and if that would be helpful to the parties to  
8 maybe discuss that, because I do agree that, you know,  
9 because we have such a tight statutory deadline, and  
10 we're not going to have a lot of time for a lot of  
11 motion practice or, etc., and we want to make sure it's  
12 as efficient as possible, I would prefer this.

13           But with that being said, obviously, I want to  
14 make sure that the typical non-PSC parties are  
15 comfortable with this. So I don't know if that makes  
16 sense to, you know, have that type of discussion off  
17 record for a few minutes or not. Maybe that's not an  
18 option, but...

19           MR. LEVAR: Do parties feel like that would be  
20 helpful, or do you feel like you kind of understand  
21 where --

22           MR. MOSCON: We're willing to discuss.

23           MR. BERG: We're willing to discuss with it as  
24 well, even for a few minutes.

25           MR. MOSCON: Should we just go off the record

1 for just a couple minutes?

2 MR. LEVAR: Let me just lay out the remaining  
3 issues before we do that that we have to --

4 MR. MOSCON: Sure.

5 MR. LEVAR: We still have an intervention  
6 petition. And maybe while you're discussing this, I  
7 just want to lay out our options for how this board  
8 deals with that intervention petition. I mean, one  
9 option is to take oral argument today and have a board  
10 deliberation today on the petition for intervene.

11 Another argument is, obviously, BlackRock has  
12 not had a chance to, to, to reply in writing to Rocky  
13 Mountain Power's opposition to your motion to intervene.  
14 So another option is to let that play out. But then  
15 this board comes back together again at some point  
16 farther along in the process, and obviously we're  
17 talking about a tight time frame.

18 So I think those are our two options to deal  
19 with that petition to intervene. I just wanted to  
20 mention that as the options if we're going to recess for  
21 a few minutes. And I think that's basically the  
22 remaining business we have to, to deal with. Anything  
23 else that we need to talk about before we recess for a  
24 few minutes? Are we thinking five or ten minutes?

25 MR. CLARK: Can I just -- if I could just

1 address the prefiled testimony question for a moment so  
2 that you'll have my thoughts as you work through this.  
3 First, personally, I think it will be very helpful  
4 particularly, given the tight time frames we're dealing  
5 with. Second, again, those time frames I think are  
6 uncomfortable for all of us. Certainly for this board,  
7 and, and, and I'm sensing you're feeling them too and  
8 are wanting some wiggle room if something happens that  
9 you don't anticipate, and I think that's understandable.

10 But it would be helpful, I think, to at least  
11 have some dates that are reasonably firm and dates with  
12 regard to which we would expect the parties to be  
13 thinking in, in advance, be planning in advance, be  
14 making reasonable judgments about what their opponent is  
15 likely to say or do, at least.

16 And then if there is some real surprise, that  
17 personally, I would -- I would consider a motion at that  
18 time to alter the schedule if we need to within the  
19 constraints that are set out in the statute. So those  
20 are my thoughts on the matter.

21 MR. LEVAR: Okay. Any other thoughts before  
22 we take a 10 minute recess? Do you have any -- okay.  
23 Why don't we recess for 10 minutes. Is that good?  
24 Okay. Come back at 9:55 by that clock.

25 (Recess from 9:44 a.m. to 9:55 a.m.)

1 MR. LEVAR: Okay. We're back -- we're back on  
2 the record. Let me just go to the parties then. Do you  
3 have any thing else to comment on before we --

4 MR. BERG: I think that we'll -- I think that  
5 we can agree that we'll have any affirmative testimony,  
6 any affirmative prefiled testimony with the time that  
7 our legal brief is due. I think we've agreed that if we  
8 need an extension to get some of that, we can agree and  
9 stipulate between the parties and file that with the  
10 board. So I think that that should work.

11 MR. LEVAR: Okay. Any need for further board  
12 discussion or discussion from other parties? Seems like  
13 we've got that. BlackRock, any other comments from you  
14 on that?

15 MR. REUTZEL: No.

16 MR. LEVAR: Okay. Then I think our remaining  
17 -- our remaining issue is dealing with this intervention  
18 petition. But I think we probably need a motion from  
19 the board for the drafting of a scheduling order. And  
20 let me just run through what we would have for a  
21 scheduling order. This -- we'd have a hearing date of  
22 May 10th at 9:00 a.m. in this room with the 11th  
23 reserved, if necessary, for the hearing.

24 A deliberation hearing scheduled to begin at  
25 1:00 p.m. on the 11th, with the understanding that if

1 the hearing is running late, we might have to start late  
2 on that. A public witness hearing, 5:00 p.m. on May  
3 2nd, location to be issued later, at some later point.  
4 But we would set the time -- the time for that.

5 And intervention deadline of April 4th. And  
6 initial deadline for comments, legal briefing and any  
7 affirmative testimony filed by Rocky Mountain Power by  
8 April 8th. The same for all other parties by April  
9 22nd. And then replies by Rocky Mountain Power on May  
10 2nd with a motion deadline of May 5th.

11 Oh, I forgot to ask about discovery turnaround  
12 time. Do we need a time frame in the scheduling order  
13 for how quickly discovery requests will be responded to?

14 MR. BERG: Well, I would think that even if we  
15 had discovery at the time -- well, and I guess from your  
16 standpoint it's going to be a little different because  
17 any discovery requests you have, you're going to need  
18 back as soon as possible.

19 MR. MOSCON: Yeah, I don't anticipate a lot of  
20 discovery. But as has been stated on the other side, if  
21 we were to get on the 22nd something surprise -- and  
22 I'll just let the board know that at the county level  
23 when this permit at issue was addressed, there was  
24 not -- for instance, the need was not -- that was not  
25 contested. Okay. The fact of need. It was really a



1 location thing.

2 So I don't anticipate that there's going to be  
3 a lot of discovery on that. But if the parties were to  
4 say all of a sudden, "Hey, we don't think you need  
5 this," then of course we're going to need to immediately  
6 kind of find out what's going on. It may be a lot of it  
7 addressed in the prefiled testimony.

8 I guess I'm inclined to say, a five day  
9 turnaround just to put it -- just to say -- just to have  
10 something there. But I, just candidly, I don't  
11 anticipate either our side or their side, and I could be  
12 surprised, that there is going to be a lot discovery in  
13 this.

14 MR. BERG: I don't anticipate a lot of  
15 discovery either. If we wanted to say, you know, five  
16 business days turnaround, I think that that could work.  
17 And then again, I think we'd be more than willing to  
18 make a phone call and say, "Hey, can I have seven  
19 business days on this instead?" I think that would be  
20 something that we could definitely work out.

21 MR. LEVAR: Okay. Well, I would entertain a  
22 motion for all those dates I listed with a five business  
23 day discovery turnaround time. If anyone at the board  
24 is inclined to so move.

25 MR. WHITE: So moved.

1 MR. CLARK: Second.

2 MR. LEVAR: Okay. Any opposed?

3 (Silence.)

4 MR. LEVAR: Okay. That's unanimous. So we'll  
5 direct a drafting of a scheduling order to that effect.  
6 And I think that leaves us with the final issue of the  
7 intervention petition from BlackRock. So why don't I go  
8 to Mr. Reutzel.

9 MR. REUTZEL: Reutzel.

10 MR. LEVAR: Reutzel. I think I laid out the,  
11 the two options I think this board has for, for, for how  
12 to procedurally deal with your motion. Why don't -- why  
13 don't we go to you. Just --

14 MR. REUTZEL: Well --

15 MR. LEVAR: -- speak to your thoughts on this.

16 MR. REUTZEL: I, I don't want to make the  
17 board reconvene to decide the issue. I would, however,  
18 like to provide a written response to Rocky Mountain's  
19 opposition to our petition to intervene. I don't know  
20 if we could hold -- I guess I don't understand whether  
21 or not we have to have another hearing just for you to  
22 issue a ruling on that petition to intervene. Is that  
23 what -- what you're telling me?

24 MR. LEVAR: I think we would, and I think  
25 that, you know, again three of the board members are

1 employees that work in this building every day. The  
2 other two could participate telephonically or certainly  
3 could come in person if they wanted to. But I, but I  
4 think that's the way -- we've got to have a board  
5 meeting to make a decision on the contested  
6 intervention.

7 And so you'd like -- you'd like an opportunity  
8 for a -- for a written response to, to the utility's  
9 objection.

10 MR. REUTZEL: I would. And I -- I --

11 MR. LEVAR: And do you have a sense for when  
12 you think you'd want to have that by?

13 MR. REUTZEL: I could have it in by Friday.

14 MR. LEVAR: This Friday?

15 MR. REUTZEL: Yeah.

16 MR. LEVAR: So that is the 1st.

17 MR. REUTZEL: Yeah, I believe so.

18 MR. LEVAR: No, wait. This --

19 MS. HOLBROOK: No.

20 MR. LEVAR: Today's the twenty -- oh, are you  
21 talking -- you mean two days from today?

22 MR. REUTZEL: Yeah, two days from now.

23 MR. LEVAR: Oh, the 25th.

24 MR. REUTZEL: Yeah.

25 MR. LEVAR: Well, let me go to the board then.

1 That would be the final response on that intervention  
2 motion. Should we reconvene as a board again with  
3 potential for telephonic participation sometime after  
4 the 25th, so, you know, next week, the 28th through the  
5 1st, to deal with this issue?

6 And would parties have an interest in, in, in  
7 any additional verbal presentations, or at that point  
8 are we just going to have -- we'll have the parties'  
9 positions in front of us, and if we're reconvening, it  
10 probably makes sense to have the option for verbal  
11 presentations or questions if necessary. Any objection  
12 to that?

13 MR. REUTZEL: No.

14 MR. MOSCON: That'd be our preference as well.  
15 Again, we may not need to, but having not seen it, we  
16 would like the option of addressing it. We're also --  
17 and I don't know if the board is considering this, the  
18 company is also comfortable if, for instance, if Wasatch  
19 County doesn't want to drive back down. I mean I'm  
20 comfortable if any of the parties want to participate  
21 telephonically.

22 The board -- it's up to the board. But just  
23 for the record, if that makes it easier for such a  
24 thing, the company doesn't insist, for instance, that  
25 they show up to make their argument if they want to say

1 something. We're fine if they want to do that by  
2 telephone if it helps.

3 MR. LEVAR: At this point, I don't know if  
4 Wasatch County hasn't weighed in on the intervention  
5 motion.

6 MR. BERG: We don't anticipate weighing in on  
7 the intervention motion. So we could participate by  
8 phone.

9 MR. LEVAR: Okay. So if you want to  
10 participate by phone, that would certainly be  
11 appropriate.

12 MR. BERG: Okay.

13 MR. WHITE: Just, just so I'm clear,  
14 Mr. Levar, are you suggesting a meeting the week of the  
15 28th? And I only ask that because I will actually be --

16 MR. LEVAR: Oh, I had not noticed. You'll be  
17 out of the office that week.

18 MR. WHITE: I mean, certainly if you have a,  
19 you know, a quorum, I mean, to deliberate on that, or  
20 you know publicly is fine. I just want to kind of note  
21 that I will -- I may or may not be able to get on a  
22 call. But I certainly will not be available to meet in  
23 person during that time. I don't want to --

24 MR. LEVAR: In terms with -- and in terms of  
25 dealing with this intervention motion, we really can't

1 push it out too much farther since discovery and filing  
2 of comments is going to be moving forward. And you  
3 don't know if you would even be available for a  
4 telephonic -- for a telephonic meeting during that week,  
5 right?

6 MR. WHITE: Yeah, I don't -- I will -- yeah, I  
7 would certainly endeavor to try to make it. But I'll be  
8 -- well, I'll just disclose, I'll be out of the country.

9 MR. LEVAR: Oh, okay.

10 MR. WHITE: So I'm not sure what the  
11 availability will be, but --

12 MR. LEVAR: Okay.

13 MR. WHITE: But I will -- I would certainly  
14 make an effort to do so.

15 MR. MOSCON: If it helps the parties, and I  
16 certainly will invite BlackRock to address this, if it  
17 helps the board, we have this other deadline. If the  
18 board wanted to defer ruling on this, see if anyone else  
19 moves to intervene, and then just schedule one time to  
20 address those sometime the week of April -- between  
21 April 4th and April 8th, then you may solve the problem  
22 of one board member being gone. And potentially, I  
23 don't think you will, but potentially avoid having to do  
24 this two times.

25 But I recognize in saying that, BlackRock may

1 feel like, well, if we're not going to be in, I don't  
2 want to be spending time doing this. I want to know  
3 sooner rather than later, so they probably ought to  
4 speak to that, but I'm saying we won't object if that's  
5 what's better for the board.

6 MR. LEVAR: And I'll note Ms. Holbrook had  
7 indicated unavailability the week of the 4th through the  
8 8th; is that correct?

9 MS. HOLBROOK: That's correct. I'll be in  
10 St. George for conference. I mean if we could schedule  
11 something, I, I might -- I would have to know fairly  
12 quickly so I can --

13 MR. LEVAR: The specific time --

14 MS. HOLBROOK: A specific time and date.

15 MR. LEVAR: -- to be on the -- to be on the  
16 telephone?

17 MS. HOLBROOK: Correct.

18 MR. LEVAR: Okay. And so since we have an  
19 intervention deadline of April 4th, we could schedule a  
20 meeting to address all intervention issues within a  
21 couple of days after that deadline. Does that -- is  
22 that soon enough? That's still, you know, before the  
23 initial comments and testimony filed by Rocky Mountain  
24 Power. So anybody would know if they have been granted  
25 intervention before that, and then the next deadline

1 comes a couple weeks later.

2 So we're looking at maybe Wednesday the 6th.  
3 Again, does that work for you, if you were participating  
4 telephonically from your conference.

5 MS. HOLBROOK: The 6th should work. The only  
6 challenge would be after 4:30 p.m. I would not be  
7 available after that.

8 MR. LEVAR: After 4:30?

9 MS. HOLBROOK: Uh-huh.

10 MR. LEVAR: I am just noticing something on  
11 our calendar. I don't have all the details on. I  
12 should have grabbed this. This is a 10:00 a.m. meeting  
13 here involving Questar. I'm not sure. I didn't bring  
14 my electronic calendar. Do you have a phone?

15 MR. WHITE: Yep. What date is this?

16 MR. LEVAR: Wednesday the 6th. Or maybe we  
17 should just look to the 5th. If we have intervention  
18 petitions by the 4th, is there any reason not to just do  
19 it the next day?

20 MR. CLARK: Well, I think Mr. Reutzel's got  
21 something on his mind that he wants to share with us.

22 MR. REUTZEL: We would like all the time we  
23 can get to prepare, especially in light of having to pri  
24 -- prefile our testimony. And I think if we're waiting  
25 until April to decide whether or not we need to retain



1 experts or who we're going to talk with, that makes it  
2 difficult for us. We would rather have a decision  
3 sooner than later on that.

4 MR. LEVAR: Okay. Well, that probably puts us  
5 back to the previous week then, and we would -- to  
6 accommodate that request, I think we could certainly  
7 have a quorum but might be missing one member if you're  
8 not able to participate by telephone.

9 MR. WHITE: I mean, it sounds like that's -- I  
10 mean, we'll -- it sounds like our, our only path  
11 forward. So do we have a time? Or I'm just  
12 wondering --

13 MR. LEVAR: Well, it seems like maybe we could  
14 look at Tuesday the 29th, March 29th then for a meeting  
15 to deliberate on the intervention motion.

16 MR. REUTZEL: Yeah, that's fine with us.

17 MR. WHITE: Would it be possible at all to --  
18 the 28th, is that an option at all?

19 MR. LEVAR: Certainly.

20 MR. WHITE: Because I think I would actually  
21 still be able to get on a call on that day if it was  
22 early enough in the day.

23 MR. LEVAR: Okay. So that's this coming  
24 Monday. 9:00 a.m., is that what you're proposing?

25 MR. WHITE: I'm seeing Mr. Moscon is not sure

1 he can do that.

2 MR. MOSCON: I'm, I'm sorry this is turning  
3 into such a scheduling issue for the board. So this is  
4 -- the parties would be addressing this, I take it, at  
5 that time?

6 MR. LEVAR: Well, yeah, we would have received  
7 BlackRock's written reply on the 5th, and I think party  
8 participation probably depends on if there's board  
9 questions for the -- for the parties as we're discussing  
10 the issue.

11 MR. MOSCON: So I will be traveling on the  
12 28th, and like I said, even if I did it telephonically,  
13 but I wonder if I could -- if the board -- if the board  
14 would -- I mean if nothing else, I could try to do a  
15 telephonic thing as well. I mean, I'm happy to do  
16 whatever. I don't know. But for part of the day, I  
17 will be in a -- in traveling.

18 But let's just schedule what the board can  
19 schedule. I think having Mr. White available is more  
20 important because I'm more fungible, and we can get  
21 another me to show up. You can't get another Mr. White.  
22 So I would -- I would -- my suggestion is schedule it  
23 when Mr. White can phone in. And if I can't, someone  
24 else will.

25 MR. WHITE: Is there a time of day,

1 Mr. Moscon, which is more convenient on the 28th?

2 MR. MOSCON: Let's see here. So I am just  
3 trying to think. Early. It would be still by phone,  
4 but earlier. Early, I would be doing it by telephone,  
5 but...

6 MR. WHITE: That's fine. Yeah, I can do it as  
7 early...

8 MR. MOSCON: But if I'm going to be doing it  
9 by phone, my client -- I mean, my poor client is sitting  
10 here. They may be sending someone else anyway. So do  
11 the time that works for you, because we'll probably just  
12 send someone else.

13 MR. LEVAR: Is there any reason to consider  
14 earlier than 9:00 a.m.?

15 MR. MOSCON: Just set the time that works for  
16 the board, and we'll figure out what to do from here.

17 MR. LEVAR: Okay. So we'll look at 9:00 a.m.  
18 this coming Monday then. We'll get a response from  
19 BlackRock by this Friday, and then we'll schedule a  
20 meeting, a hearing for 9:00 a.m. Monday morning.

21 MR. MOSCON: And can we just for -- if we're  
22 getting their response literally on Friday, and then  
23 we're -- it's 9:00 a.m. Monday hearing. Could we maybe  
24 get that by, say, noon on Friday just so that the  
25 company would have a few business hours to look at it

1 before we're expected to address it? Does that work?

2 MR. REUTZEL: We have no problem with that.

3 MR. MOSCON: Thank you.

4 MR. LEVAR: I think that completes our  
5 business for this hearing then. Any party have any  
6 other business that needs to come before us before we  
7 move forward and, and issue a scheduling order?

8 MR. BERG: Nothing from Wasatch County.

9 MR. LEVAR: Anything else from any board --

10 MR. MOSCON: No, nothing else.

11 MR. LEVAR: From BlackRock?

12 MR. REUTZEL: No.

13 MR. LEVAR: From any board members?

14 MR. WHITE: None here, thank you.

15 MR. LEVAR: Okay. We're adjourned. Thanks.

16 MR. MOSCON: Thank you.

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18 (The hearing concluded at 10:10 a.m.)

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C E R T I F I C A T E


STATE OF UTAH )  
COUNTY OF SALT LAKE )

THIS IS TO CERTIFY that the foregoing proceedings were taken before me, Teri Hansen Cronenwett, Certified Realtime Reporter, Registered Merit Reporter and Notary Public in and for the State of Utah.

That the proceedings were reported by me in Stenotype, and thereafter transcribed by computer under my supervision, and that a full, true, and correct transcription is set forth in the foregoing pages, numbered 3 through 52 inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 1st day of April, 2016.

  
Teri Hansen Cronenwett, CRR, RMR  
License No. 91-109812-7801

My commission expires:  
January 19, 2019

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