

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Formal Complaint of Community Advocacy for Safety and Public Rights against Rocky Mountain Power	<u>DOCKET NO. 19-035-10</u>  <u>ERRATA ORDER DENYING</u> <u>APPLICATION FOR REVIEW AND</u> <u>REHEARING</u>
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ISSUED: July 3, 2019

On June 13, 2019, CASPR, LLC (“CASPR”) filed an Application for Review and Rehearing (“Petition”). The Public Service Commission (PSC) denies the Petition.

The Petition argues the PSC erred in characterizing the Complaint as raising “only land use questions and not issues of safety regulation and compliance.” (Petition at 1.) CASPR alleges Rocky Mountain Power (RMP) cannot comply with the National Electric Safety Code (NESC) in constructing the Upgraded Line<sup>1</sup> because its easements, or “rights of way,” are insufficient to allow compliant construction and existing structures are too near the proposed route.<sup>2</sup> CASPR further declares, without citing a source that the South Jordan Planning Commission (“Planning Commission”) declined to consider whether the Upgraded Line would meet applicable safety standards.

As an initial matter, CASPR’s assertion that the Planning Commission failed to consider applicable safety standards is patently false. In its written decision, the Planning Commission

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<sup>1</sup> We use the term “Upgraded Line” as used and defined in the PSC’s Order Dismissing Complaint, issued May 10, 2019.

<sup>2</sup> CASPR attaches an affidavit to its Petition, attesting CASPR has been unable to find an expert witness willing to testify in support of its allegations, but it represents at least one individual who expressly declines to testify has made statements to CASPR suggesting the constructed line might be problematic, “depend[ing] on agreements you have for your property and [RMP’s right of way].” Petition at Ex. A, ¶ 4.

made the following findings and conclusions, specifically asking “What are the applicable standards for 138 kV transmission lines?”

- (1) “General concerns about transmission lines or the operation and maintenance of power lines by other companies are not evidence that this proposal will not meet all the applicable standards.”
- (2) “RMP provided a letter from a licensed and registered professional engineer who stated that the proposal ‘will meet and/or exceed all industry and [RMP] standards and best practices for ensuring public safety. This includes adhering to the 2017 [NESC].”
- (3) “[N]o evidence was presented showing the proposal will not meet all applicable standards, including the NESC.”

(Findings and Conclusions of the Planning Commission at 3-4, attached as Exhibit A to RMP’s Answer and Motion to Dismiss.) CASPR may disagree with the Planning Commission’s decision or believe it failed to make a sufficient inquiry on the subject, but these are arguments properly raised on appeal of the Planning Commission’s decision, not collateral attack before the PSC.

The PSC recognizes the siting of overhead electric power lines is of significant interest to adjacent landowners. As we explained in our Order Dismissing Complaint (“Order”), issued May 10, 2019, the Legislature vested authority over these siting decisions with local land use authorities, not the PSC. (Order at 2.) This was not accidental. The Utah Code reflects the Legislature’s determination that such decisions are for local government officials, elected by and politically accountable to their communities.

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The PSC further recognizes it has authority to enforce safety standards with respect to RMP's operations.<sup>3</sup> However, we conclude that, absent specific and substantial evidence that the local land use authority's decision will result in violation of applicable safety regulations, the PSC may not lawfully interfere with the decisions of the local land use authority.

In so concluding, the PSC does not abdicate its authority to enforce applicable safety standards. If, as installed and constructed, the Upgraded Line fails to satisfy applicable NESC safety requirements, any person with standing may file a complaint with the PSC and pursue whatever remedy or remedies the PSC is authorized under law to grant.

For these reasons, the Petition is denied.

DATED at Salt Lake City, Utah, July 3, 2019.

/s/ Michael J. Hammer  
Presiding Officer

Approved and confirmed July 3, 2019 as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#309047

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<sup>3</sup> Utah Admin. Code R746-310-4 provides “[u]nless otherwise ordered by the [PSC], the requirements contained in the [NESC] ... constitute the minimum requirements relative to ... [among other things] the installation and maintenance of overhead and underground electrical supply and communication lines.”

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Notice of Opportunity for Judicial Review

Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on July 3, 2019, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Community Advocacy for Safety and Public Rights ([sojoneighbors@gmail.com](mailto:sojoneighbors@gmail.com))

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