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BEFORE THE UTAH FACILITY REVIEW BOARD

In the Matter of the Application of Rocky Mountain Power for Petition for Review	Docket No. 20-035-03
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INTERVENING PARTY V.O.L.T.’S OBJECTIONS TO PETITIONER ROCKY MOUNTAIN POWER’S (“RMP”) PROFFERED DIRECT TESTIMONY ON CONSTRUCTION AND EASEMENT COSTS

VALLEY-WIDE OPPOSITION TO LARGE TRANSMISSION LINES (“V.O.L.T.” or “Petitioner”) respectfully objects to the testimony RMP has offered, through Darin Myers and Benjamin Lefevre, exaggerating the construction costs of going underground, and minimizing the costs of going overhead through Midway. This incomplete testimony precludes V.O.L.T., today, from identifying all of the rebuttal witnesses the Board should hear from.

INTRODUCTION

V.O.L.T. timely filed its Petition to Intervene in this matter.¹ The primary issue is whether the approximate one mile of transmission line through the City of Midway should be overhead, or go underground. RMP has consistently claimed that going underground would be cost prohibitive. To support this claim, RMP asserts that underground construction costs are exponentially higher, and that easement costs associated with going overhead are virtually non-existent. The February

¹ The hearing on V.O.L.T.’s Petition to Intervene is set for March 31, 2020. If that Petition is denied, the objections stated herein have equal application to the City of Midway.

27, 2020 Scheduling Order in this matter required RMP to provide its direct testimony on March 20, 2020, and that all parties provide rebuttal testimony by April 14, 2020. V.O.L.T. acknowledges Section 63G-4-206(c) Utah Code Annot. provides that a hearing officer “may not exclude evidence solely because it is hearsay.” However, given the other circumstances of unreliability and incompleteness in the testimony of Messrs. Myers and Lefevre, the Board should take appropriate measures to preserve the integrity of the hearing by requiring more detail and support for the proffered testimony before Midway or V.O.L.T. should be expected to rebut it. Section 63G-4-206A(2) Utah Code Annot. Because RMP has offered testimony on construction and easement costs that is incomplete, and consists almost entirely of hearsay on cost issues, V.O.L.T. respectfully objects as follows, and requests that it be provided with more time in advance of the April 20 hearing to obtain admissible and complete evidence from RMP before being required to rebut it.

V.O.L.T. objects to RMP’s proffered direct evidence as follows:

Darin Myers

RMP relies on Darin Myers’ testimony for the proposition that the purported construction costs of putting the portion of the proposed transmission line underground through Midway will range between \$12,272,986 on the low end, and \$27,498,144 on the high end. Mr. Myers’ testimony lacks foundation, contains inadmissible hearsay, and is speculative. He identified none of the purported 3, let alone the 18 solicited bidders. V.O.L.T. is informed and believes that even today, the “bids” referenced in the testimony are only “initial” and “not final”. The purported final bids are supposed to be provided later this week. As a result, neither V.O.L.T. nor Midway are in a position to rebut something they don’t have. Mr. Myers’ indicated RMP is “still gathering cost information for a fourth option”, but then speculates that that number “will be more expensive, probably much more expensive” than the other options. Mr. Myers has no basis to offer his guesses as testimony here, but comfortably furthers RMP’s narrative that going underground is too expensive. He also provided no basis for his statement that termination structures would cost an additional \$1,085,000 for each option. Why? What makes up this cost? Why haven’t the

unidentified bidders incorporated that cost in their initial, and as-yet not final bids? There is no explanation for this. Nor, when Mr. Myers opines that the cost differential between going overhead and underground is more than \$10 million, does he provide any basis for the claimed overhead costs, including the costs of obtaining and expanding easements for the unsightly towers and lines RMP proposes to install.

For the above reasons, the Board should reject Mr. Myers' current testimony, require more detail, and allow V.O.L.T. more time to rebut the "final" opinions rather than the initial, vague, and unsupported ones.

Benjamin Lefevre

RMP relies on Mr. Lefevre, a non-lawyer, for the legal proposition that only an additional easement width of 1.5 to 2.0 feet is necessary to accommodate the new overhead transmission line, and that there are no severance damages whether the line is over or under the land. Mr. Lefevre's testimony ignores the fact that there is a high likelihood of no cost for easements if the line goes underground because affected landowners uniformly desire to avoid the negative economic and aesthetic impact an overhead transmission line would have. And, it is based almost entirely on hearsay. Attached to Mr. Lefevre's "testimony" is a report that, purportedly, is incorporated therein. Yet he concedes he was "minimally involved in the preparation of the report." Thus he admits to lacking foundation for his opinions. His conclusions also were based on interviews with unnamed "buyers of easements", among others. What easements? Where? Who?

Mr. Lefevre rightly opines that there is "no indication of severance damages to land outside of the expanded easement area" as to underground facilities, because those lines are invisible once buried and because they would lie largely in roadway easements. Yet Mr. Lefevre made only a vague reference to the "market" purportedly not recognizing "a decrease in land value of the larger parcel due to similar utility easements along the property perimeter." The bare notion that giant towers of high voltage lines running next to and through residential properties would have no impact on value is unsupported, and insupportable. He further opines, without evidence, that there is no difference in "functional utility" of parcels with overhead transmission lines. Again, these

conclusions are based upon a report prepared by others, in which Mr. Lefevre was “minimally” involved. Finally, he offered no explanation concerning what the “functional utility” of a Midway home is supposed to be, if not having its aesthetic as part of that function.

CONCLUSION

Money lies at the heart of these issues. RMP’s two witnesses whose testimony goes to costs rely almost entirely on the work, and bids, of third parties without providing sufficient detail to allow V.O.L.T. or Midway, for that matter, to rebut it. Messrs. Myers and Lefevre admit to these deficiencies, yet RMP seeks to capitalize on their broad generalizations. For these reasons, the Board should require more evidence of RMP on these cost issues prior to V.O.L.T. being required to rebut it.

Dated this 20th day of April, 2020.

SNELL AND WILMER L.L.P.

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