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BEFORE THE UTAH UTILITY FACILITY REVIEW BOARD

ROCKY MOUNTAIN POWER
Petitioner

vs.

MIDWAY CITY
Respondent

NOTICE OF FILING

Docket Number 20-035-03

Respondent Midway City, by and through counsel of record, hereby gives notice of filing the Exhibit A hereto, which is evidence supporting Respondent Midway City's Emergency Petition For Reconsideration/Rehearing And Stay Pending Appeal Of The May 7, 2020 Order.

DATED this 27th day of May 2020.

/s/ Corbin B. Gordon
Corbin B. Gordon
Counsel for Respondent
Midway City

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of May 2020, I filed a copy of the above-captioned document with the Clerk of the Court via the Court's electronic filing system, which delivered an electronic copy to the following:

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EXHIBIT A

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IN THE UTAH COURT OF APPEALS

| | |
|--|---|
| MIDWAY CITY Petitioner | PETITIONER MIDWAY CITY’S RULE 23(C) EMERGENCY MOTION FOR STAY PENDING APPEAL |
| vs. | |
| UTAH FACILITY REVIEW BOARD Respondent | Case No. _____ Agency Docket No. 20-035-035 |

Pursuant to Rules 8 and 23C of the Utah Rules of Appellate Procedure and Utah Code § 63G-4-405(1), Appellant/Petitioner Midway City, by and through the above counsel, submits this Emergency Motion for a Stay Pending Appeal.

ORDER FROM WHICH RELIEF IS SOUGHT

Midway City seeks relief from the May 7, 2020 final Order (the “Order”) issued by the Utah Facility Review Board (the “Board”) in Docket No. 20-035-035, a copy of which is attached hereto as Exhibit A. This is a final agency order from which Midway has a statutory right of appeal. Utah Code §§ 54-14-308, 63G-4-401(3); Utah App. Proc. R. 14(a).

STATEMENT OF THE RELIEF SOUGHT

Midway City respectfully asks this Court to *stay enforcement* of the Order pending resolution of Midway’s Rule 14 Petition for Review, filed concurrently herewith; otherwise, the appeal will become moot on May 27, 2020 by the terms of the Order. Under Rule 23C(d), this

Court should either (1) resolve this Motion—and grant a stay—before the response period expires due to emergency circumstances, or (2) shorten the time within which Appellee must respond to this Motion so that the Motion can be decided by May 27, 2020.

FACTUAL AND LEGAL GROUNDS ENTITLING MIDWAY CITY TO RELIEF

Rocky Mountain Power (“RMP”) proposes to erect a dual circuit 138kv overhead transmission line through a quiet, residential neighborhood of approximately 100 homes in Midway City.¹ (Order at 1.) The mile-long portion of the line within Midway City will hang on massive metal poles (up to 100 feet tall and 8 feet in diameter) in, quite literally, homeowners’ front yards.

The public outcry has been intense, as the Court can imagine, and a formal survey showed that *seventy percent* of Midway citizens favor *burying the line underground* and bonding to do so. (*Id.* at 2.) Because burying is not considered a standard practice, the Utility Facility Review Board Act (the “Act”) requires Midway to pay the “actual excess costs” of undergrounding the line, compared with running it overhead. Utah Code § 54-14-201(2). During the CUP application process, RMP (and HL&P) repeatedly represented to Midway that the estimated total cost to bury was approximately \$6 million, meaning Midway should have to pay around \$4 million as excess cost. (Direct Testimony of Michael Henke; HLP Feasibility 2018 Study provided as part of the CUP; Midway City Council Minutes from December 17, 2019 attached hereto as Exhibit B.) Relying on this information, the City Council approved RMP’s application for a conditional use permit (“CUP”) on December 19, 2019, imposing conditions directed at determining “actual excess costs” so RMP could conceal the line underground. (Order at 2.)

¹ The transmission line is a dual project with Heber Light & Power, which was not a party to the underlying case. One of the 138kv lines will be for RMP and the other for HL&P.

Of primary importance was RMP's obligation to submit to Midway City three competitive bids to bury the transmission line. (*Id.* at 3.) Accurate bids were critical so Midway could put the issue to the public and raise the appropriate amount of money.² Before it even provided the bids, however, RMP sought review of the CUP before the Board, and Midway was compelled to counter-petition in its answer. (*Id.* at 1.) The Board conducted a three-day trial on the merits between April 20-22, 2020. (*Id.* at 2.) Just before trial, RMP finally provided the three bids required by the CUP, which were of primary focus in the proceeding. (*Id.* at 4.)

When it received the bids, Midway City was shocked because the bids were anywhere from ***double to almost five times*** the \$6 million figure RMP gave the City Council only months earlier in its request for the CUP attached as Exhibit C. The bids ranged from \$12 million to a staggering \$28 million, depending on the length of line to be buried, for only a ***single mile*** of work—outrageous sums by any measure.³ (J. Nelson Decl. ¶ 242 - 262, Exhibit D hereto.)

During trial, the reasons the bids were bafflingly high became apparent.⁴ The undisputed evidence showed that the bids overstated the lengths (and cost) of cable to be buried by almost ***twenty percent***. RMP admitted that 1600 feet of the length was line that would be hung on the dead-end poles and would ***not*** need to be buried. (D. Meyers Tr. From April 21, 2020 Hearing, [Click here to access video](#), Timestamp 01:02:40-01:08:49 hereto.) To give a sense of the scope of this error, in the shortest option, the extra 1600 feet is ***twenty-four percent*** of the total project cost

² A private citizens group called V.O.L.T., which intervened in the proceedings before the Board, raised more than \$700,000.00 towards the burial costs. (Order at 2.)

³ The contractors were asked to bid three different lengths, each becoming progressively more expensive as more line was required to be buried. (Order at 3.) The least expensive option is the one where only the portion within the City limits is buried.

⁴ Due to the draconian deadlines in the Act, the parties were given only 60 days to prepare for trial, which precluded detailed discovery. Utah Code § 54-14-304(3).

and increased the bid by over \$3,000,000.⁵ (J. Nelson Tr. From April 21, 2020 Hearing, [Click here to access video](#), Timestamp 01:10:10-01:12:26; 01:35:55-01:36:11; 06:07:02-06:07:42 hereto.)

It was also discovered at trial that RMP's specifications to its approved bidders went far beyond anything required by industry standards, and could not be justified from a safety standpoint, which dramatically enlarged the bids. For example, RMP demanded **dual** trenches (one for each 138kv line), which is not required for safety purposes and **doubles** the trenching costs. (J. Nelson Tr. From April 21, 2020 Hearing, [Click here to access video](#), Timestamp 05:58:10-06:01:20; 06:03:25 hereto.) Similar, RMP required a spare, unenergized line to be fully installed underground "just in case".⁶ (J. Nelson Tr. From April 21, 2020 Hearing, [Click here to access video](#), Timestamp 05:56:27-05:57:37 hereto.) These luxury items increased cable costs by **one-third**. (J. Nelson Decl. ¶ 259 - 262, [Exhibit D](#) hereto.)

On May 7, 2020, the Board issued the Order. In it, the Board **ignored** the colossal blunders in the bids, accepting them wholesale as representing the "actual excess costs" Midway is required to pay, even though the bids were wrong. (Order at 7-8.) Indeed, the bid mistakes were not even mentioned in the Order. This is plain error, as there is no dispute of fact, and the inflated bids result in a far higher sum that Midway must raise and pay up front.

The Board also disregarded RMP's unwarranted specifications, reasoning that it did not want to wade into that issue. (*Id.* at 7.) The Board did so even though the Act specifically gives it jurisdiction to resolve "[a]ny disputes" regarding specifications and bids. Utah Code § 54-14-203. The Board held that as long as RMP testified it was just following internal standard policies, the

⁵ Midway's trial expert testified that after correcting for the egregious errors, the true bid costs are \$6.3 million, very close to RMP's original estimate. (J. Nelson Decl. ¶ 247, [Exhibit D](#).)

⁶ The spare cable could have instead been stored by RMP and, in the unlikely event of a massive failure, quickly pulled through the duct, as virtually every other power company does. (J. Nelson Tr. From April 21, 2020 Hearing, [Click here to access video](#), Timestamp 05:56:27-05:57:37 hereto.)

Board could not review the specifications. (Order at 7.) This is contrary to the plain language of the Act and constitutes an abdication of the Board’s duties and legal error.

The Board also acted arbitrarily, capriciously and illegally in other ways, which will be further shown on appeal. For example, the evidence was *undisputed* that RMP includes a “management surcharge” of approximately \$100,000.00 in the standard costs, but the Board declined to deduct that from the “actual excess cost” as required by the Act, thus forcing Midway to raise and pay another hefty sum that is unwarranted. (D. Meyers Tr. From April 21, 2020 Hearing, [Click here to access video](#), Timestamp 00:57:21-00:59:20 hereto.) The Board further misinterpreted the Act when it allowed RMP to establish by general estimates the value of expanded easements RMP must acquire for overhead construction, even though the Act requires the “*actual* cost” of easements and rights-of-way.⁷ (Order at 5-6.); Utah Code § 54-14-103(1) (emphasis added). Moreover, the CUP requires the same thing, i.e., *actual* easement costs. (CUP at 4, bullet 15, [Exhibit C](#).) This error likely resulted in more than a million dollars of unnecessary costs hoisted upon the backs of Midway citizens. (J. Webber Decl. ¶ 101, [Exhibit E](#) hereto.)

Finally, and perhaps most directly relevant to this Motion, the Order requires Midway to enter into a binding agreement to pay the actual excess costs (as erroneously determined by the Board) within 20 days, or **by May 27, 2020**. (Order at 9.) This stands as the Board’s ruling even though there is no dispute that the sum Midway must bind itself to pay—the actual excess cost—is grossly inflated and inaccurate.

The net result is that it has become literally impossible for Midway to comply with the Act and CUP and bury the line. Midway was prepared to raise and pay something close to the \$4

⁷ RMP’s estimates did not even include severance damages, which are clearly required by Utah law where, as here, an easement does not take the entirety of a parcel. *Utah Dep’t of Transp. v. Target Corp.*, 2020 UT 10, ¶ 33, 459 P.3d 1017; Utah Code § 78B-6-511(1)(b).

million excess cost estimate RMP provided Midway to induce it to issue the CUP a few months earlier. But due to the considerable errors described above, the minimum Midway must now pay to bury the line—as its citizens desire—is ***more than double that***.⁸ Even worse, Midway must pay more than \$9 million by May 27, 2020, ***less than a week from now***, or its right to underground the line is waived. (Order at 9.); Utah Code §§ 54-14-203(1), 204. The difference between four and nine million is insurmountable for a small municipality like Midway, especially after a public trial has revealed that the bids on which the sums are based are offensively amiss.

The Board justified ignoring the errors due to the CUP’s “true up” provision, which theoretically allows RMP to refund overpayments after the project is completed. (Order at 3, 6.) This idea ignores the reality that Midway must raise and commit to pay the funds ***now***, and that as a municipality, Midway’s ability to raise funds is limited. The City cannot risk its financial viability by entering into a binding agreement to pay a flawed amount it cannot afford, hoping that millions of those dollars will be refunded sometime in the future. Midway’s duties to its taxpayers prevent any such foolish gambit. Moreover, this notion is fundamentally unjust and contrary to the both the purpose and language of the Act. It is also not harmless error, as the Board will not doubt attempt to convince this Court. *E.g., Thatcher v. Lang*, 2020 UT App 38, ¶ 37 n.7, --- P.3d ---- (an error that is “prejudicial” to party is not harmless); Utah R. Civ. P. 61 (errors are harmless where they do “not affect the substantial rights of the parties.”).

The Board’s rationale begs several questions of this Court. If the Board does not have power to question and analyze a utility’s specifications for accuracy and fairness, then why was it given power to resolve “[a]ny disputes” regarding those self-same specifications? Further, how

⁸ The drastic increase in cost is critical. For example, on the shortest length option, the Board established that the costs to go above ground are \$2,591,344. (Order at 10.) If the true bid costs are \$6.3 million, after subtracting the private \$700,000.00 donation from VOLT and the standard costs, Midway City would only need to pay \$2,708,656 in actual excess costs. Instead, it is being forced to pay more than \$9 million based on clearly erroneous conclusions.

can the Board claim to be a board of review—and not a rubber stamp of sorts—if its position is that regardless of how a utility created its specifications, and regardless of how untethered from industry standards those specifications are, they cannot be questioned so long as a utility claims to have followed its “standard procedures” in creating the specs. Similarly, how can the Board be a legitimate arm of the *Public Service* Commission and accept—without question—bids proffered by a utility, where everyone admits those bids are wildly incorrect and do not reflect the actual costs? How can the Board credibly force a city to raise millions in tax dollars within three weeks’ time to pay for fictional bids on a hope that it will all be sorted out at some point in the future? The Board’s focus on process instead of accuracy in this case is deeply troubling, wrong under applicable statutes and should be fully reviewed and corrected on appeal.

While our legislature has seen fit to delegate quasi-judicial functions to administrative agencies like the Board, the law also guarantees parties affected by administrative decisions a basic right to fair judicial review as part of our system of checks and balances. Utah Code §§ 54-14-308, 63G-4-401(3); Utah App. Proc. R. 14(a). This right of review is even more vital in a case like this where the applicable statute—written with the aid of the utility lobby—crams the entire legal process into a mere 60 days. Utah Code § 54-14-304(3). If this right is to have meaning at all here, the Order should be *stayed* pending review *before May 27th*. Absent a stay, Midway will have involuntarily waived its rights by the terms of the Order, and the appeal will become moot. Therefore, failing to issue a stay makes the Board’s decision entirely *unreviewable*, denying Midway City (and its citizens) the fundamental right of appeal.

STATEMENT OF FACTS JUSTIFYING EMERGENCY ACTION

Emergency action is justified here because the appeal will become moot as of May 27, 2020. (Order at 9.); Utah Code § 54-14-306(1). Midway has acted with all diligence. The Order

was issued on May 7, 2020. After a deliberation, statutory notice and a public hearing held on May 19th, the Midway City council directed counsel to seek a stay of the Board's Order. The very next day, Midway filed a Petition with the Board to reconsider and stay the Order two weeks before the 30-day deadline. (Petition, Exhibit F hereto.) Midway informed the Board that an immediate decision was necessary, and that Midway intended to seek appellate review. (*Id.* at 3.) The Petition has not been decided as of the time of this writing.

Unfortunately, the timelines in the Order leave Midway no choice. Even with shortened briefing schedules under Rule 23C, Midway is compelled to invoke the jurisdiction of this Court two weeks early in order to seek an immediate stay.⁹

A recent decision by this Court—also involving a decision of the Board in favor of RMP—vividly illustrates why emergency action is justified. In that case, Wasatch County appealed a June 2016 decision of the Board holding that the County had improperly denied RMP's application for a CUP for the construction of a transmission line and ordering the County to issue the CUP ***within 60 days***. *Wasatch Cnty. v. Utility Facility Rev. Bd.*, 2018 UT App 191, ¶ 7, 437 P.3d 406. The County sought a stay pending appeal from the Board, which was summarily denied. *In re Rocky Mtn. Power's Pet. for Rev. to the Utah Facility Rev. Bd.*, 2016 WL 4126154 (July 29, 2016) (attached as Exhibit G). The County appealed, and in January 2018, this Court ***reversed*** the opinion of this Board, holding that the County enjoyed discretion to deny the CUP where negative impacts of the line could not be mitigated. 2018 UT App 1, ¶ 13. This Court set aside the Board's order and directed the Board to conduct further proceedings consistent with the opinion. *Id.*

In the meantime, however, the County was forced to issue a CUP within 60 days to RMP under the Board's order, which had not been stayed. The Board then petitioned this Court for

⁹ Midway is not required to file its Petition for Review until June 6, 2020. As this Court knows, filing a notice or petition for appeal does not stay or prevent the Board's order from becoming effective. Utah Code § 54-14-307(1).

rehearing. And in October 2018, this Court withdrew its opinion, holding that the dispute had become moot in the interceding eighteen months:

[A]bundant case law supports the proposition that once construction (of, for instance, buildings or power lines) has commenced, ***an appellant must avail itself of all avenues of preserving the pre-construction status quo or risk the construction rendering the appeal moot.*** Here, Rocky Mountain sought a conditional use permit so that it could construct the new transmission lines and towers. The Board issued the permit, and Wasatch County did not even seek, much less obtain, a stay from this court. As a result, the construction is complete and the presence of the completed power lines, coupled with Wasatch County's failure to seek a stay, has rendered this proceeding for judicial review moot.

Wasatch Cnty. v. Utility Facility Rev. Bd., 2018 UT App 191, ¶ 19, 437 P.3d 406 (emphasis added).

The same fate awaits Midway City unless the Order is stayed. As in the *Wasatch County* case, the Board is again requiring a non-utility party to act based on reversible error and within a timeframe that precludes meaningful appellate review. In fact, the need here is even greater, as the “binding agreement” deadline is but a week away. Unless this Court intervenes, another Board decision favoring a utility will remain uncorrected and unreviewable, because RMP will claim the condition to bury in the CUP has been waived and will proceed with the above-ground line before this Court can review it. Just like in the *Wasatch County* case, even if this Court finds for Midway on appeal, it will be moot because the transmission line will already be installed.

Although the City would normally await the Board's decision on its Petition for Reconsideration and Stay, waiting is neither practicable nor possible. Utah R. App. Proc. 17 (a decision by the agency is not necessary where waiting “is not practicable.”). This case presents an extraordinary circumstance that cries out for immediate intervention by this Court to preserve the status quo and Midway's appellate rights. Utah Code § 63G-4-405(1) (a decision from the agency is not required where “extraordinary circumstances require immediate judicial intervention.”). Otherwise, Midway City will be forced to either sign a contract it cannot afford (which it will not

do) or waive its right to bury the line based on accurate numbers. Either result is a terrible miscarriage of justice.

CONCLUSION

For the foregoing reasons, this Court should, pursuant to Rule 23C(d) and no later than May 27, 2020, grant a stay of the Board's Order pending resolution of Midway City's Petition for Review.

DATED this 21st day of May 2020.

/s/ Corbin B. Gordon
Corbin B. Gordon
Attorney for Petitioner Midway City

CERTIFICATE OF SERVICE

I hereby certify that on 21st day of May 2020, I served via electronic mail and first-class mail, postage prepaid, a true correct copy of the foregoing document to:

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/s/ Joshua Jewkes

EXHIBIT A

- BEFORE THE UTAH FACILITY REVIEW BOARD -

| | |
|-------------------------------------|-----------------------------|
| ROCKY MOUNTAIN POWER, Petitioner | <u>DOCKET NO. 20-035-03</u> |
| vs. | <u>ORDER</u> |
| MIDWAY CITY, Respondent | |

ISSUED: May 7, 2020

I. Procedural History

On January 15, 2020, Rocky Mountain Power (RMP) filed a Petition for Review (“Petition”) with the Utility Facility Review Board (“Board”) pursuant to Chapter 14 of Title 54 of the Utah Code (the “Act”).¹ The Petition concerns RMP’s efforts to construct a new double-circuit 46kV and 138kV transmission line (the “Project”), located in Midway City (the “City”), Heber City, and parts of unincorporated Wasatch County. The Petition is concerned with the approximately one-mile segment of the Project to be located in the City (“Midway Segment”).

The City filed a Response to the Petition and Counter-Petition for Review (“Counter-Petition”) on February 21, 2020.

On February 25, 2020, the Board held an initial hearing to set a schedule for the Petition’s adjudication. At the initial hearing, the Board designated the docket a formal adjudicative proceeding and set a schedule, including dates for submission of written testimony and a hearing on the merits beginning April 20, 2020.²

¹ See Utah Code Ann. §§ 54-14-101, *et seq.*

² Scheduling Order and Notice of Hearing, issued February 27, 2020.

On March 13, 2020, Valley-Wide Opposition to Large Transmission Lines (VOLT) filed a Petition to Intervene. On March 16, 2020, RMP filed a Response to the Counter-Petition. On March 31, 2020, the Board conducted a telephonic hearing to consider the Petition to Intervene, during which it granted intervention as memorialized in the Board's April 9, 2020 Order Granting Petition to Intervene.

On April 17, 2020, RMP filed a Hearing Brief and Request for Summary Disposition. The City filed a Trial Memorandum the same date.

On April 20, 2020, the Board commenced a hearing on the merits, which continued through April 21 and 22, 2020. VOLT filed a Hearing Brief on the second day of hearing, April 21, 2020.

II. Findings of Fact and Conclusions of Law

Based on the testimony and other evidence presented at hearing and in consideration of parties' arguments made there and in their written submissions, the Board makes the following findings of fact and conclusions of law.

1. On or about December 17, 2019, the City issued a conditional use permit ("CUP") to RMP to construct and operate the Project, a copy of which is attached as Exhibit A to the Petition.³

2. Citing an independent poll showing approximately 70 percent of respondents favored burying the Midway Segment, the CUP expressed the City's intention to require underground

³ Petition at 2; Counter-Petition at 5.

installation and acknowledged the City “is required by law to pay the difference between the cost of overhead lines and the cost of underground lines.”⁴

3. In the CUP, the City rejected an estimate of excess costs to bury the Midway Segment that RMP had provided and requested RMP obtain bids to determine Actual Excess Costs pursuant to Utah Code Ann. § 54-14-203.⁵ The CUP directed RMP to obtain bids that included alternative scenarios for differing configurations and use of gas insulated lines.

4. The CUP directed RMP to submit bids to the City no later than February 15, 2020 and provided the “remedy for lateness ... is to adjust any other deadlines by an amount equal to the lateness of [the bids].”⁶

5. The CUP contained a “True-Up Provision,” providing “[o]nce construction is finished on the underground line, the actual costs will be trued-up and either [RMP] shall refund the over-payment to the City, or the City shall pay the difference to [RMP].”⁷

6. As the CUP directed, RMP prepared a request for proposals (RFP), consistent with its standard specifications for underground transmission lines, to solicit bids for burying the Midway Segment, asking contractors to provide bids for each of the alternative scenarios the City had requested.

⁴ CUP at 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 4.

7. RMP invited 18 contractors to bid on the RFP and ultimately received bids from three of them (collectively, the “Submitted Bids”).⁸ Each of the three submitting contractors offered three separate bids to complete the Midway Segment corresponding to alternative scenarios the City requested in the CUP.

8. The City disputes the accuracy of RMP’s proposed Actual Excess Costs based on the Submitted Bids, arguing RMP’s bid specifications included unnecessary items and that RMP fails to account for the significant cost of obtaining easements associated with overhead construction.⁹ The City also disputes RMP’s contention the Project must be completed by the end of 2020.¹⁰

9. The Board finds credible and compelling the testimony RMP offered from multiple witnesses detailing the significant risk to service reliability that exists for customers in the Heber Valley and Park City areas and the manner in which the Project will alleviate such risks.¹¹ The Board also notes this evidence is largely uncontroverted.¹²

⁸ *See, e.g.*, Written Direct Test. of D. Myers at 3:22-4:8.

⁹ *See, e.g.*, City’s Trial Memorandum at 3.

¹⁰ *Id.* at 5.

¹¹ *See generally* Written Direct Test. of J. Barker; Written Direct Test. of C. Michaelis.

¹² *See e.g.*, Written Direct Test. of J. Nelson at 5:100-101 (City’s expert witness testifying that in his “expert opinion and to a reasonable degree of scientific certainty, the transmission line proposed by RMP is necessary”); *see also* Counter-Petition at 16 (City declaring in pleading its position that “Midway recognizes that this project is important for the future needs of the valley”).

The Project is Necessary

10. Accordingly, the Board finds the Project, including its Midway Segment, is needed for RMP to provide safe, reliable, adequate, and efficient service to its customers. The Board addresses *infra* at ¶ 21 the date it finds construction must commence to avoid significant risk of impairment to safe, reliable, and adequate utility service.

Statutory Standard Costs Must Include Necessary Right-of-Way Costs

11. The Act repeatedly emphasizes that costs associated with acquiring “any necessary right-of-way” is a necessary component of both Standard Costs and Actual Excess Costs.¹³

12. The Board concludes the City erroneously interprets the Act in maintaining “the only way to determine, beyond a mere estimate, what the ‘actual cost’ of the easements are is to either negotiate them with the property owner or condemn them; there is no other way allowed by the statute.”¹⁴ Rather, the Board concludes the easement component of Actual Excess Costs may rely on appraisals or other appropriate expert opinions. Requiring exactitude, as the City argues,

¹³ Utah Code Ann. §§ 54-14-103(1) (defining “actual excess cost” as difference between standard cost and “the actual cost ... including any necessary right-of-way”); 54-14-103(4) (defining “estimated excess cost” as difference between standard cost and costs to construct the facility in accordance with local government’s instructions, including any “necessary right-of-way”); 54-14-103(9) (defining “standard cost” as the estimated cost of a facility, “including any necessary right-of-way,” if constructed in accordance with utility’s normal practices).

¹⁴ City’s Trial Memorandum at 12.

is impossible in practice and has unthinkable ramifications for affected landowners.¹⁵ It would also largely defeat the purpose of the Act: ensuring disputes between local governments and utilities do not unnecessarily delay completion of projects that may be essential to safe and reliable utility service.¹⁶

13. With respect to the Actual Excess Costs the City must pay in advance of underground construction, the Board notes the CUP's True-Up Provision should rectify any divergence between the easement costs RMP ultimately incurs and the costs the City pays in advance.

14. With respect to Standard Costs, *i.e.* the estimated costs of overhead construction, the City provided credible evidence as to the costs associated with obtaining rights of way for overhead construction based on decreased land values. However, contrary to the City's testimony, the Board finds and concludes that such costs apply only to properties on which RMP acquires an easement, not to neighboring properties that remain unencumbered. Based on the testimony and exhibits of witnesses from the City and RMP, the Board finds and concludes overhead construction will require easements that cumulatively diminish the affected properties' value by

¹⁵ The City's position would require the utility to negotiate, presumably in earnest, with landowners or, worse still, to institute and litigate condemnation proceedings to a point where a court determines easements' values, even though the utility has no intention of finalizing the transactions unless the local government elects the course that requires the easements. From the perspective of the affected landowner, this would be unconscionable. For the utility and other affected stakeholders, the waste of resources and delay attendant to such a requirement seems boundless.

¹⁶ The Act institutes conservative timelines to ensure the Board timely resolves disputes. For example, the Board must issue a written decision "expeditiously, and in any event, not later than 75 days following the initial hearing." Utah Code Ann. § 54-14-305. The City's interpretation, which would require extensive negotiation or litigation with potentially hundreds of affected landowners, defeats the very purpose of the Act.

\$691,344.00. The Board finds this estimated decrease provides the best available evidence of the right-of-way costs RMP would incur were it to proceed with overhead construction. Therefore, the Board concludes RMP shall, for purposes of calculating the Actual Excess Costs the City must pay to proceed with underground construction, revise its estimate of Standard Costs to reflect right-of-way costs totaling \$691,344.00.

RMP Relied on Its Standard Specifications and Policies in Soliciting Bids

15. The Board acknowledges the Act contemplates the Board may be required to resolve disputes regarding “specifications” for competitive bids.¹⁷ Additionally, the Board recognizes that reasonable minds may disagree as to the necessary design elements of an RFP that a utility issues to ascertain Actual Excess Costs under the Act. However, the Board concludes that where a utility issues an RFP consistent with the utility’s standard specifications and policies pertaining to like projects, it is not for this Board to scrutinize or revise those standards. The party charged with paying excess costs may understandably prefer specifications that minimize costs, but nothing in the Act requires a utility to compromise the standards it ordinarily applies.

16. Based on RMP’s credible testimony, the Board finds RMP designed the RFP according to and consistent with RMP’s standard specifications for underground transmission lines.¹⁸

17. Therefore, the Board finds and concludes the Actual Excess Cost of the Midway Segment is the difference between the lowest of the Submitted Bids (for the option/scenario the City elects

¹⁷ Utah Code Ann. § 54-14-203 (“Any disputes regarding specifications, lowest acceptable bid, or administration and oversight expense shall be resolved by the board on an expedited basis.”).

¹⁸ Written Rebuttal Test. of D. Myers at 2:7-3:16.

to pursue) that is acceptable to RMP and RMP's estimated Standard Costs after revising them to include the right-of-way costs as the Board directs in ¶ 14.¹⁹

The City Has Not Waived Its Right to Condition the Project Consistent with the Act, but Construction Must Commence within 195 Days to Avoid Significant Risk to Safe and Reliable Service

18. As we found *supra* at ¶ 10, the Project is necessary to ensure RMP is able to provide safe, reliable, efficient, and adequate service to customers in the area of Heber Valley and Park City.

19. Although the likelihood of the risk of an outage during any particular time is difficult to quantify, we find the evidence shows the risk the Project seeks to mitigate has existed for some time and that the longer the Project is delayed, the greater the likelihood customers will suffer impairment of service.

20. However, the Board concludes, in exercising its right to seek review from the Board as to disputed costs and other contested issues, the City has not waived its rights to require underground construction provided it pays the Actual Excess Costs consistent with the Act and with the terms of the CUP.

21. Endeavoring to balance the risks associated with further delay with the City's rights under the Act and the CUP, we find and conclude construction of the Project, including the

¹⁹ Section 54-14-203 provides "actual excess cost ... shall be the difference between the lowest bid acceptable to the public utility plus the public utility's contract administration and oversight expense and the standard cost of the facility."

Midway Segment, should commence by **Wednesday, November 18, 2020** in order to avoid a significant risk of impairment to safe, reliable, and adequate service.²⁰

22. During its deliberation at hearing, the Board discussed certain conditions and associated deadlines that the CUP appears to impose on the City²¹ (“Conditions”) after RMP provides bids. The Board clarifies that it does not, in this order, interpret or purport to enforce the CUP. Specifically, the Board recognizes the CUP appears to allow the City 15 days to fulfill the City’s Obligations after receipt of bids while the Act contemplates a local government will have 20 days, from the date of the Board’s written order, to enter an agreement to pay Actual Excess Costs. *See* Utah Code Ann. § 54-14-306. At hearing, the Board concluded the time for the City to fulfill the Conditions, apparently triggered by delivery of the bids, should not begin to run until the Board issues a decision resolving the parties’ dispute as to Actual Excess Costs. To conclude otherwise would have denied the City its right to seek review from the Board. The Board made no conclusion as to whether the deadlines associated with the CUP may affect statutory deadlines for the City to act.²²

²⁰ During its deliberations at hearing, the Board determined construction should commence no later than 180 days after the 15-day period the CUP contemplates for the City to fulfill certain conditions enumerated therein. Therefore, this written order establishes the construction commencement date 195 days after the order issues.

²¹ The Conditions to which the Board refers are those the CUP enumerates on its fourth page, beginning “a) sufficient funding to pay for the project either through private donations or a vote by the HLP board”

²² In the event the City fails to meet the deadlines in the CUP or the Act, the Board is unaware of any provision of the Act that would require RMP to seek Board approval before beginning construction on overhead lines.

III. Order

Based on and in accordance with the foregoing findings and conclusions, the Board orders as follows:

1. RMP shall, for purposes of calculating the Actual Excess Costs the City must pay to proceed with underground construction, revise its estimate of Standard Costs to reflect right-of-way costs totaling \$691,344.00.
2. Aside from the revision of Standard Costs in the preceding paragraph, the Actual Excess Costs that RMP has previously provided reflect the costs the City must pay to avoid waiving its right to require underground installation of the Midway Segment pursuant to Utah Code Ann. § 54-14-204.
3. Construction of the Project, including the Midway Segment, should commence by **Wednesday, November 18, 2020** in order to avoid a significant risk of impairment to safe, reliable, and adequate service.
4. The City has not waived its right to require RMP to install the Midway Segment underground, provided it timely agrees to pay and pays the associated Actual Excess Costs.

DOCKET NO. 20-035-03

- 11 -

DATED at Salt Lake City, Utah, May 7, 2020.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Board Member

/s/ Troy Fitzgerald, Board Member

/s/ Jordan A. White, Board Member

/s/ Glenn Wright, Board Member

Attest:

/s/ Gary L. Widerburg

Board Secretary

DW#313544

Notice of Opportunity for Review

Pursuant to Utah Code Ann. § 63G-4-302, a party may seek agency reconsideration of this order by filing a request for reconsideration with the Board within 20 days after the issuance of the order. If the Board does not grant the request for reconsideration within 20 days after it is filed, the request is deemed denied. Pursuant to Utah Code Ann. § 54-14-308, judicial review of the Board's final agency action may be obtained by filing a Petition for Review with the Utah Court of Appeals. 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 May 7, 2020, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Heidi K. Gordon (hgordon@fabianvancott.com)

Fabian VanCott

Bret Reich (bret.reich@pacificorp.com)

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Representing the Utah Association of Counties

Administrative Assistant

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Counsel for Respondent Midway City

BEFORE THE UTAH UTILITY FACILITY REVIEW BOARD

ROCKY MOUNTAIN POWER
Petitioner

vs.

MIDWAY CITY
Respondent

**DIRECT TESTIMONY OF MICHAEL
HENKE**

Docket Number 20-035-03

1 **Q: Please state your name, business address and present position.**

2 A: My name is Michael Henke. I am the Planner for Midway City. My office is located in
3 the City offices at 75 N 100 W Midway, UT 84049.

4

5 **Q: What are your duties as City Planner.**

6 A: Among other things, I handle the permits and staff reports. I also attend the City
7 meetings, including meetings of the City Council and Planning Commission. For each
8 meeting, I prepare a staff report for the council or commission members, as the case may be.
9 Those reports are contain substantive information about each matter to be heard.

10

11 **Q: Where are those records found?**

12 A: As required by state law, I post all of the staff reports online on the City's website.
13 Those files are true and correct copies of the meeting minutes and recordings, including those
14 relevant to the conditional use permit sought by Rocky Mountain Power for the transmission
15 line. I am happy to answer questions regarding the staff reports.

16



REPORT OF ACTION of the Midway City Council

Item: Rocky Mountain Power / Conditional Use Permit for Transmission Line (City Planner – Approximately 2 hours) – Discuss and possibly approve a conditional use permit for Rocky Mountain Power to improve a transmission line along 970 South, Stringtown Road and Wards Lane.

Action: Approved with Conditions

Date of Action: 17 December 2019

Motion: Council Member Simonsen moved that Midway City hereby approves, with the following conditions, the CUP for proposed construction of new transmission lines to carry power coming through Midway from roughly the direction of Heber City and ending at the substation near the Cemetery off 500 S. Furthermore,

We accept the staff report.

We accept the following findings:

- The proposal is an administrative review.
- The proposed use is a conditional use, and the city may impose reasonable conditions to mitigate identified negative impacts.
- The proposal will create a second point of power access that will benefit residents of the entire valley.
- The proposal will allow more power to enter the valley that will benefit the entire valley and meet present and future community needs.
- The proposal benefits neighboring areas and the entire power grid by providing more connectivity and redundancy to support better function of the system as a whole.
- It is known that strong EMF signals (electromagnetic fields) are emitted by all energized conductors, including underground and overhead power lines. These fields can induce a current in other disconnected nearby conductors and therefore can have negative effects on some electronic devices. Of particular concern to the city are devices that are used for personal health purposes, such as cochlear implants. Whereas the city is aware of residents within the service area that rely on such devices it is of concern to the city to mitigate any potential negative impacts related to these devices. It has come to the attention of the city that there is a technology (GIL) that could help mitigate this impact, and the city desires this to be considered as well as any other applicable technologies of which we may be unaware.
- The Midway City General Plan contains many statements that establish objectives related to the preservation of open space, our rural atmosphere, and the beauty of our entry corridors. Our general plan also encourages our local economy to embrace and support our assets as a "resort" city. By definition and extension, careful management of these

assets is a key factor in securing our city's financial future and our sales tax base. We find that overhead power lines raise concerns related to these items that require us to carefully consider how to mitigate visual impacts related to this proposal.

Whereas the city has conducted an independent randomized poll that has found approximately 70% of respondents are in favor of burying these power lines within the city limits, the preferred method of construction is underground. Midway City intends that the lines will be buried with the following conditions:

- *Recognizing that the city is required by law to pay the difference between the cost of overhead lines and the cost of underground lines (in State Code referred to as "excess costs"), and also recognizing that the City Council has a fiduciary duty to manage financial interests of the citizens appropriately, and with reference to Utah State Code 54-14-203, we do not accept the estimated costs provided by the applicant as sufficient information upon which to base funding decisions. Furthermore, we require the applicant to provide 3 actual competitive construction bids, prepared by qualified, bonded, and insured 3rd party entities, in accordance with standard city policy, to establish the actual cost of this construction. These bids must be submitted to Midway City no later than Feb 15, 2020. Failure to deliver these bids on time will cause the city to be unable to fulfill its fiduciary duty to the citizens of Midway by no fault of its own. To be clear: If these bids are not submitted by the applicant, it does not cause the construction to revert to overhead. It is the obligation of the applicant to provide this information in a timely manner and therefore the reasonable remedy for lateness of this information is to adjust any other deadlines by an amount equal to the lateness of this information.*
- *The bids provided by the applicant will include the base cost of burying the line from Center Street to the end of Wards lane, using current standard materials and practices. The costs of the dip poles at each end must be itemized. In addition, the bids must include the following itemized additional options:*
 - *Continuing underground from Wards Lane to the substation (Additional end of line cost) and*
 - *upgrading components (IE "rack", etc) inside the substation to accommodate raising the underground line (Substation Option 1)*
 - *placing dip poles immediately outside the substation to raise the line outside the substation (Substation Option 2)*
 - *Going underground immediately west of the Fish Hatchery, at least 350' or greater from Center Street/ HWY 113 (Additional Entry Cost)*
 - *An itemized option to use GIL (Gas Insulated Lines) as the transmission line conductor that will be buried. (Alternative Conductor Option)*

Using the cost information the bids will provide, Midway City will then choose the options that meet our needs in terms of cost and function.

- *Whereas private citizens (represented by the organization known as VOLT) have recognized an underground transmission line project that must be paid by citizens presents a significant financial burden on the citizens of Midway, and have stated they want to help mitigate this burden, and whereas the City Council is significantly concerned about the citizen impact of the full cost of underground construction, the city hereby requires that in order to proceed with underground construction a minimum of 1.5 Million US dollars in "donation" funds must be presented to the city in the form of contractual authorization to use these funds for the purpose of the burial of transmission lines, from an escrow bank account serviced by a qualified escrow service. If VOLT is able to raise more than \$1.5M and the underground project costs exceed \$1.5M, the City*

is delighted to accept more help from VOLT. If the final cost of the construction is less than \$1.5M, any excess donations will be retained by the donating entity (IE "VOLT"). It is up to VOLT to return the amount to the rightful owners. We officially express our deep gratitude to the VOLT organization for their hard work and dedication in the service of our town in potentially making actual private funds available.

- *Midway City must secure sufficient funds to cover the cost of construction. If financing is needed then the board of HLP must approve the issuance of bonds sufficient to cover the remaining final cost of construction, as determined by the bids, and after adjusting for the "base" cost of overhead and any other adjustments. Midway City will also work with the HLP board to determine the best mechanism for the bonds to be repaid (IE per-meter charge, per Kwh charge, etc), considering also that the bond issuer may have requirements. Furthermore Midway City Council may, at its discretion, enter into a contract with HL&P that establishes that these funds are to be used by the City to pay for the underground construction costs related to the new construction in Midway, including costs related to any small portions that extend slightly but contiguously out of city limits as part of completing this project.*
- *The appropriate Wasatch County Land Use Authority must approve a change in the plan for construction of the portion of the line that is within County jurisdiction and under the existing county CUP that will allow the dip poles (as needed for transition from overhead to underground) near HWY 113 to be moved to a location that is acceptable to the City Council. As guidance for this process, at this time the Council envisions a location near the Fish Hatchery, but we are open to discussion of the best alternatives that will achieve our goals of mitigating visual impacts near to our entry corridor.*
- *Prior to construction, the applicant will submit "visual mitigation" landscaping plans and simulations, that show a reasonable use of vegetation following national standards to mitigate the visual impact of any large diameter (> 24" at ground level) dip poles that are used. The intent is to obscure the base of the poles as much as possible with vegetation, while following accepted industry overhead line construction standards and accommodating safety and access requirements.*
- *The Midway City attorney will conduct a thorough review of this motion and the related requirements, with the intent of ensuring the city is acting in good faith and following all applicable laws regarding use of City funds and the issuance of a CUP.*
- *As applicable to underground construction, the route followed will be the Alternate Route "B", allowing for possible future full width construction of 970 S should that ever come to pass.*
- *Whereas many private citizens have expressed in written form submitted by VOLT that they would donate the value of their easements to reduce the cost burden borne by the City, these amounts will be subtracted from the underground cost the City will pay.*
- *All distribution lines along the route shall also be buried at the cost of HL&P.*
- *HL&P shall install at its own cost conduit sufficient to allow communication lines to also be placed underground.*
- *The applicant will obtain all necessary property rights and easements prior to the commencement of construction.*
- *The applicant shall contact all property owners whose properties are directly affected by changes to the line(s) prior to beginning construction.*
- *In the event a final determination is made by a court with jurisdiction that any existing property rights are not sufficient for the project, the applicant will acquire legally sufficient property rights for the project, which may include negotiated agreements with the property owners or the use of eminent domain. As a part of this process and in*

accordance with Utah law, the applicant will pay compensation for the properties either as negotiated with the property owner or determined by the court.

- *Once construction is finished on the underground line, the actual costs will be trued-up and either the applicant shall refund the over-payment to the City, or the City shall pay the difference to the applicant.*
- *The City will pay the difference between the standard cost (which includes engineering cost, the cost to install the line, all easement costs, all severance damages that RMP would have been required to pay had the line gone above ground) and the actual cost of the buried line.*

With regard to an underground project, we add the following additional findings:

- Midway City conducted an independent randomized poll and it was reported that 70.1% of respondents expressed willingness to bear the cost burden of burying the line.
- The City is relying on representations made by property owners along the line route that they will donate the amounts paid for easements and severance damages to the City in order to reduce the cost of burying the lines.
- The City is relying on representations made by the "VOLT" group that they can raise a substantial amount of money to help pay for an underground project.

If the applicant has met all of the city's request's given in this motion in a timely manner, but the city has not been able to secure ALL of the following 3 items:

a) sufficient funding to pay for the project either through private donations or a vote by the HLP board to approve a sufficient issuance of bonds to make up the difference, and reasonable assurance that related bond funds will be obtainable and usable by the City for this purpose

AND

b) the required minimum in "donation" fund dollars

AND

c) a vote by the Wasatch County Council to approve a location for the dip poles that would otherwise be alongside HWY 113 that is acceptable to the Midway City Council

... by March 1, 2020, then the applicant may proceed with overhead construction with the following conditions:

- The route followed will be the "Alternate Route B", allowing for possible future full width construction of 970 S should that ever come to pass.
- *All distribution lines along the route shall also be buried at the cost of HL&P.*
- *HL&P shall install at its own cost conduit sufficient to allow communication lines to also be placed underground.*
- The applicant will obtain all necessary property rights and easements prior to the commencement of construction.
- The applicant shall contact all property owners whose properties are directly affected by changes to the line(s) prior to beginning construction.
- In the event a final determination is made by a court with jurisdiction that any existing property rights are not sufficient for the project, the applicant will acquire legally

sufficient property rights for the project, which may include negotiated agreements with the property owners or the use of eminent domain. As a part of this process and in accordance with Utah law, the applicant will pay compensation for the properties either as negotiated with the property owner or determined by the court.

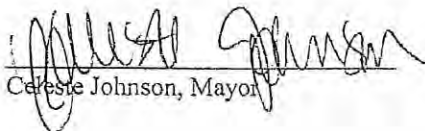
- The applicant will use the taller poles, with fewer poles and longer spans.
- The applicant will use the minimum possible diameter of poles in all locations. The applicant will use wood tangent poles wherever possible, and the applicant will work with property owners and the city in considering guyed structures versus large diameter structures as a possible construction method at "corners". The Midway City Council will ultimately decide which option is best, while complying with all applicable laws and construction standards.
- Where metal poles are used, the applicant will use the self weathering rust colored steel poles.
- Prior to construction, the applicant will submit "visual mitigation" simulations, that show a reasonable use of vegetation following national standards to mitigate the visual impact of any large diameter (> 24" at ground level) poles that are used. The intent is to obscure the base of the poles as much as possible with vegetation, while following accepted industry overhead line construction standards and accommodating safety and access requirements.
- While following national construction standards, in order to mitigate the possible negative affects of EMF on personal health electronic devices that may be used by nearby residents (such as unwanted noises caused in cochlear implants for example) the applicant will make a reasonable attempt at minimizing EMF emissions near overhead lines as measured on the ground underneath the line by using the most current available technologies for such purpose.
- The transmission lines used shall be non-specular or low-reflective so as to reduce visual impact.
- In general the applicant shall mitigate the visual impacts of the construction to the maximum extent possible while following all relevant safety and construction standards.

Second: Council Member Van Wagoner seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

| | |
|----------------------------|-----|
| Council Member Drury | Aye |
| Council Member Orme | Aye |
| Council Member Probst | Aye |
| Council Member Simonsen | Aye |
| Council Member Van Wagoner | Aye |


Celeste Johnson, Mayor

Wasatch County
Planning Commission
Report of Action
11 July 2019

ITEM #1 – Heber Light & Power and Rocky Mountain Power request a conditional use permit to rebuild and extend a transmission line and construct a new substation. The transmission line extension portion of this permit application begins on the existing transmission line on Old Highway 40, approximately 2 miles south of the Jordanelle Dam, and extends south 1.6 miles connecting onto the existing transmission line on Highway 40 approximately 0.8 miles south of the Highway 40/32 Interchange. The transmission line extension begins again at approximately 950 North and Highway 40 and runs 1.6 miles west and south, following the planned bypass road corridor, to the intersection of approximately 1200 West and Highway 113. The rebuilt transmission line portion of this permit application follows the existing transmission line on 1200 West. It continues south for approximately 0.25 miles. A new line would then go west along the fence line for approximately 700 feet. The line would then run from a proposed new substation located at 1465 West 650 South on the south side of 650 South. From that point a rebuilt line would run west approximately 2.1 miles ending at Highway 113, then again from the County portion of Wards Lane and 600 West and run 0.5 miles north ending at the Midway Substation located west of the cemetery in Midway City. The structures and poles will range in height from 75-90' with dead end poles ranging in height from 90-110'. *CONTINUED FROM THE JUNE 4th, 2019 MEETING TO THE JULY 11th, 2019 MEETING.*

Commissioner Smith was present as Chair.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- Doug Smith presented the report with proposed findings and conditions.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Tracy Taylor stated that she believes the application is substantially different the substation and power lines. Explained that the comments were closed and that the previous notice did not have a specific location. Stated that the contract between RMP and HLP was concerning.
- Richard Doxey with Nymphas Murdock LLC. Thanked the commission for continuing the item. Was pleased with some of the things proposed. Was concerned about being specific on landscaping and height of trees at full growth should be 30-40 ft. ~~Showed previous substation plan.~~ Wanted to move the station to the north. Also concerned about the substation pole heights. Was concerned the size foot print was 8-10 acres in size. Stated that he believes the footprint is much larger. Wants the area to stay residential/agricultural. His ultimate question was what are the mitigating conditions the power company will commit to. Just wants the law followed and the greenery is better than the wall.
- Laren Gurtch. Presented list of questions in December meeting, still not addressed. Concerned about noise from substation, on poles. These questions must be addressed by this commission. Is opening this meeting for public hearing sufficient since it wasn't noticed as open? Was concerned about the length and number of poles,

wetland areas and why isn't this following an established road? Fundamental question he wants answered is why the easements question hasn't been answered. Wants a condition added that the applicant does not have any eminent domain rights. Wants limits put on that protect owners from additional eminent domain rights.

- Herb Burnett lives on 650 South explained that he thinks that the power lines would create noise and have some impact on the community on those lines. Believes there are real impacts both noise and financially. Just wants the commission to know that there are concerns and just doesn't want facts doesn't want things hidden.
- Tracy Taylor spoke again stating that she feels this process is all wrong and that it wasn't noticed properly so people are not here to comment.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Harold Wilson and Benjamin Clegg presented for Rocky mountain power. Mr. Clegg explained that they are planning on one wood and one smaller metal pole at the 113 crossing. Nicole XXX the transmission engineer for Rocky Mountain Power explained that they could try to make the crossing poles equidistant as possible from the roadway. Cited the current plan and had an exhibit that showed the current plans. Showed they were 100 feet or so away. She stated they could commit to 75' from the fence line at that crossing on the north and south.
- Went through a presentation that clarified the substation issues and requirements. Explained what zone they were in and that they were a conditional use. Stated that they are under the coverage numbers and they are at 14.5% and the requirement is 20%. Explained the acreage coverage for each part of the property.
- Commissioner Jewkes asked what the plans for the house are on the property. Applicant stated they haven't yet decided. May split off the house property later. Remainder would still comply with coverage requirements.
- Applicant stated they are complying with the intent of the landscaping code though they don't believe it applies to them. They created a landscape plan which they prevented. Looked at the berm and landscaping option as well as a concrete wall option. Clarified it is in one or the other.
- Went over state statute on conditional uses. Stated they met all county conditional use requirements as well as state requirements. Stated they met county code. Stated that they believe they have mitigated all the issues on the site as far as required.
- Commissioner Jewkes asked about the heights of the equipment in the substation. Wanted them to clarify their position that the power poles that are dead ends are poles and not structures or buildings.
- Commissioner Hendricks asked about the siting on the substation and that the bypass and Heber City are on the East. Harold explained that they will try to go the East as much as they can.
- With questions from commissioner Jewkes addressed how they searched for a site for the substation. Harold explained how they were really pursuing other properties but couldn't find a location until this owner was willing to sell. Didn't think it was fair to characterize the effort that way.
- Applicant stated they didn't believe there were any health requirements.
- Commissioner Zuercher asked if the non-spectral wire was being used near the Labrum dealership Applicant stated that it was.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Hendricks wanted to clarify some of the findings and conditions. What does condition 4 mean and how can they be specific on materials and setbacks. Clarified that he will be asking about that in the applicant presentation. Asked about finding number 4 and applicant will need to find that. Finding 8 about fencing. Clarified the berm will still have a safety/security fence. Asked about the centering on the lot.
- Commissioner Jewkes asked about the coverage and height requirements and if the staff was comfortable with those. Doug Smith clarified that we believe they do meet some, but the applicant will need to explain how they meet that.

- Chairman Smith asked Jon Woodard about the State Facilities Review Board and how that works. Jon explained how that board works and that any result we get through here would be better than going that route.
- Commissioner Jewkes has some questions. Asked about the letter sent to the County Attorney and if that was responded to. Jon was not sure what Scott did about this. Commissioner Jewkes wanted to know about Tracy Taylor's other concerns. Jon stated that the application could change as it has without a new application, also stated that a specific address is not required for noticing. Adam Long General Council for Heber Light and Power stated that HL&P are not in the business of owning easements or property, they're in the business of delivering power. The arrangement benefits HL&P and RMP.
- Commissioner Hendricks stated that the contract issues aren't in our purview. Commissioner Jewkes agreed with that.
- Commissioner Jewkes had questions about how high the poles were in the substation. Applicant stated that they would be 65'.
- Commissioner Hendricks outlined how the process has worked well so far and people have had many opportunities to comment.
- Commissioner Jewkes explained that we just need to reasonable mitigate the issues.
- The commission discussed possible conditions and how they could clarify and make them better.

MOTION - Lines portion (1a)

Commissioner Jewkes made a motion to approve the Conditional Use Report with all the findings and conditions with the following exceptions:

The fewest number of poles be used with heights at the higher end of the range.

The crossing at 113 use wood poles unless a metal one is required with 75' setbacks from the fenceline along the road

Commissioner Zuercher seconded the motion.

VOTE (5 TO 0)

| | | | |
|------------------|-----|-----|---------|
| Michael Smith | AYE | NAY | ABSTAIN |
| Charles Zuercher | AYE | NAY | ABSTAIN |
| Kimberly Cook | AYE | NAY | ABSTAIN |

| | | | |
|----------------|-----|-----|---------|
| Mark Hendricks | AYE | NAY | ABSTAIN |
| Joshua Jewkes | AYE | NAY | ABSTAIN |

MOTION - Substation Portion

Commissioner Jewkes made a motion to approve the substation with the findings and conditions in the report with the following exceptions:

Trees at planting must be 6' and 35' at maturity unless it interferes with operation and safety of the station.

Efforts should be made to move the station to the north and locate it properly. The setback to the South should be at least 100'.

Commissioner Hendricks seconded the motion.

VOTE (5 TO 0)

| | | | |
|------------------|-----|-----|---------|
| Michael Smith | AYE | NAY | ABSTAIN |
| Charles Zuercher | AYE | NAY | ABSTAIN |
| Kimberly Cook | AYE | NAY | ABSTAIN |

| | | | |
|----------------|-----|-----|---------|
| Mark Hendricks | AYE | NAY | ABSTAIN |
| Joshua Jewkes | AYE | NAY | ABSTAIN |

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

Additional Report of Action for item previously continued after a public hearing or other discussion: 06/04/2019

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted: Planning Commission determination is generally consistent with the Staff analysis and determination.

1. 16.07.03 of the Wasatch County code lists electric substations as a conditional use.
2. The land use authority shall approve Conditional uses if reasonable conditions to mitigate negative effects can be imposed.
3. The planning Commission is the land use authority for conditional uses.
4. The applicant has demonstrated to the commission that the proposal complies with Section 16.23.07 of the current Wasatch County Code related to Conditional Uses and the impacts have been substantially mitigated by the specific conditions listed.
5. The proposal complies with Wasatch Code Chapter 16.07 (RA-5).
6. The proposal complies with Wasatch Code 16.07.09 requiring the height of structures to not exceed 35' above natural grade, noting that the conditional use of power poles over 49 feet in 16.07.03 is a specific provision of code for power poles heights that governs over the general limitation on the height of dwellings and structures, and which interpretation is in accordance with how the county has approved power poles throughout the county.
7. The proposal complies with Wasatch Code 16.07.12 requiring buildings and structures to not cover more than 20% of the area of the lot or parcel of land.
8. The landscape plan presented, if approved by the commission, provides a mixture of evergreen and deciduous trees that, along with the minimum 5' berm, will provide the necessary screening to mitigate the detrimental effects of the ground mounted equipment.
9. There are no known zoning violations on the property at this time.

CONDITIONS

Power Lines:

1. The planning commission should consider which of the following is more appropriate:
 - a. The applicant should keep the heights of the power poles as low as possible. This may require a higher number of poles in order to keep the power lines at minimum required heights.
- OR**
- b. The applicant should install the fewest number of poles possible. This may require heights at the high end of the requested range in more places, but would result in an overall lower number of poles. The applicant would still not go higher than necessary to meet safety and code requirements.
2. The applicant demonstrates that the proposal can satisfy the necessary findings outlined in 16.23.07 and with mitigating conditions be an acceptable use.
3. Distribution lines through the more noticeable parts of the system must be buried. A clear commitment by the applicant for specific areas and lengths should be determined.
4. Demonstration and clear understanding of the Highway 113 crossing at Southfield road with particular attention to setbacks from the highway for poles and consideration of wood poles and not large metal terminus poles.
5. All poles through straight portions should be wood with corner poles being rusted steel.
6. The maximum height limit for power poles is 110' on corner and end poles and 90' on all other poles.
7. The lines used should be non-spectral or low-reflective lines so as to reduce visual impact.
8. All Horizontal bars including distribution lines, where used, shall be rusted and not galvanized.
9. In all areas where two lines exist, Rocky Mountain Power and Heber Light & Power shall co-locate lines.

Substation:

1. The landscape plan must specify the mixture of deciduous and evergreen trees with species and sizes placed strategically to buffer the more impactful areas of the sub-station.
2. The landscape plan approved should have, at a minimum, 110 trees and sizes as per code section 16.21.10 which requires trees to be 2" caliper and 6' in height at time of planting.
3. The berming shall be a minimum of 5' in height as shown on the plans or as determined by the planning commission.
4. Any expansion of the use would require submittal of another conditional use application.
5. Any lighting installed on the substation property will need to be dark sky compliant with full cut-off.
6. Coverage of the site shall be in compliance with 16.07.12 including expansions.
7. Consideration of having the substation setbacks equal distances from the south, east and west property lines.

8. All Landscaping must be maintained in perpetuity.
9. Landscaping must be installed at the time of the construction of the substation.



Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

**MINUTES OF THE
MIDWAY CITY COUNCIL
(Regular Meeting)**

**Tuesday, 17 December 2019, 6:00 p.m.
Midway Community Center, City Council Chambers
160 West Main Street, Midway, Utah**

Note: Notices/agendas were posted at 7-Eleven, Ridley's Express, the United States Post Office, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Director, Public Works Assistant Crew Chief, and The Wasatch Wave. The public notice/agenda was published on the Utah State Public Notice Website and the City's website. A copy of the public notice/agenda is contained in the supplemental file.

1. Call to Order; Pledge of Allegiance; Prayer and/or Inspirational Message

Mayor Johnson called the meeting to order at 6:00 p.m.

Members Present:

Celeste Johnson, Mayor
Jeff Drury, Council Member (Participated Electronically)
Lisa Orme, Council Member
Bob Probst, Council Member
JC Simonsen, Council Member
Ken Van Wagoner, Council Member (Participated Electronically)

Staff Present:

Corbin Gordon, Attorney
Michael Henke, Planning Director
Wes Johnson, Engineer
Brad Wilson, Recorder/Financial Officer

Note: A copy of the meeting roll is contained in the supplemental file.

Mayor Johnson led the Council and meeting attendees in the pledge of allegiance. She offered condolences to Council Member Probst whose father had passed away. She noted that Gene Probst had served on the Midway City Council and was a Midway mayor for three terms.

2. Consent Calendar

- a. Agenda for the 17 December 2019 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 3 December 2019 City Council Regular Meeting
- d. Minutes of the 3 December 2019 City Council Closed Meeting
- e. One-year extension of final approval for the LaBarge Subdivision located at 922 North Pine Canyon Road

- f. Release the construction bond, minus 10% and any amount for landscaping, and begin the one-year warranty period for the Indian Summer Subdivision located at 200 North and 400 East

Note: Copies of items 2a, 2b, 2c, 2e, and 2f are contained in the supplemental file.

Motion: Council Member Probst moved to approve the consent calendar as presented.

Second: Council Member Simonsen seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

| | |
|----------------------------|-----|
| Council Member Drury | Aye |
| Council Member Orme | Aye |
| Council Member Probst | Aye |
| Council Member Simonsen | Aye |
| Council Member Van Wagoner | Aye |

3. Public Comment – Comments were taken for items not on the agenda.

Mayor Johnson asked if there were any comments from the public for items not on the agenda. No comments were offered.

4. Department Reports

HVRR / North Pole Express

Mayor Johnson reported that the North Pole Express, operated by the Heber Valley Railroad, was sold out.

Swiss Days / Regulations

Council Member Drury reported that the City would review proposed regulations, that effected Swiss Days, with the Midway Boosters.

Ice Rink / Chiller

Council Member Drury reported that the chiller for the City's ice rink had been repaired and the facility was now open.

5. Rocky Mountain Power / Conditional Use Permit for Transmission Line (City Planner –

Approximately 2 hours) – Discuss and possibly approve a conditional use permit for Rocky Mountain Power to improve a transmission line along 970 South, Stringtown Road and Wards Lane.

Mayor Johnson explained that the item had not been noticed for public comment. She said that the City Council would ask questions and discuss the proposal.

Michael Henke gave a presentation regarding the conditional use permit (CUP) and reviewed the following items:

- Proposed route of the transmission line
- Methodology of the recent survey regarding burying the line
- Survey results

Mr. Henke also made the following comments:

- He met with Wasatch County regarding the CUP that it granted for the transmission line and options to alter it.
- The County wanted to see the results of the survey and get direction from the Council before it made a decision.

Note: A copy of Mr. Henke's presentation is contained in the supplemental file.

Brad Wilson read the script and questions that were part of the survey. Mayor Johnson indicated that the response options were alternated with each call.

Corbin Gordon explained that the Mayor had Gary Sackett, with Jones Waldo and who had experience before the State's facilities review board, respond in writing to several questions. Mr. Gordon read the following sections of the response:

Can the Board impose costs for "delay" that are solely caused by Midway City's exercising its right to appear before it?

No. There are no provisions in the Act that give the Board any such authority to award "damages" to RMP (and there is no case that addresses this point). "Excess costs," as used in the Act, involve only facility costs that would be incurred by the utility in connection with a project. The Act does not give the Board any authority to assess "delay costs."

Is there a way to go to the Board and ask for additional time to raise the money to bury...?

The Act does not provide the Board with any authority to vary or expand the timetable of the process. Further, a petition solely to seek a delay appears not to be an issue that is covered by the Act. That is, in order to get the Board to exercise its jurisdiction, the City would have to first file a petition under one of the provisions of § 54-14-303(1)(b). It might be possible to describe a request for delay as a dispute that falls under subsection 303(1)(b)(ii), although that would be a stretch.

How much input do we have with the Board vs. RMP?

The respondent will have a full opportunity to prepare a response to an RMP request, including the presentation of witnesses and exhibits—in the same way as any administrative adjudicative proceeding.

Even though the law requires a hearing within 120 days, it appears the Board can move faster. What is the shortest time frame you have seen from referral to the Board and the Board's holding a hearing?

The Act provides 50 days to schedule an initial hearing and a hearing on the merits within 60 days after the initial hearing—110 days total. In the Wasatch County case referenced below, the scheduling hearing was held 15 days after the RMP filing, and the hearing began 33 days after the filing.

...in the Tooele case. The Board scheduled the initial hearing 15 days after RMP filed; it could have taken 50 days. The hearing was held 21 days after the scheduling conference; it could have taken up to 60 days. The Board decision ordering the issuance of a CUP was 40 days after the hearing was closed; it could have been as long as 75 days. Thus, a maximum of about six months was compressed to about 4½ months.

Do you know of any case where RMP was compelled to pay to bury a transmission line?

There are no Board decisions that required RMP to bury a high-voltage transmission line.

Council Member Simonsen made the following comments:

- Quoted a section of the Utah State Code which allowed a local government to request competitive bids if it issued a CUP for a transmission line.
- The City needed to know the actual cost to bury the line and competitive bids was the best way to do that.

Council Member Simonsen asked if any council members wanted to wait until January to decide on the CUP. No council members wanted to wait.

Council Member Simonsen read a motion that he had prepared regarding the CUP.

Note: A copy of the proposed motion is contained in the supplemental file.

The Council and staff discussed the following items and changes to the motion:

- The City should not be between the landowners and the CUP applicants when they negotiated easements.
- The cost of the easements, for those willing to participate, should be deducted from the burying costs.
- Severance costs were included in the standard cost for the project. The easement cost,

that property owners were willing to donate, should be subtracted from the standard cost.

- Private money as it was raised should not be donated directly to the City.
- The value of the easements could not be determined at that time. The value submitted by the applicants was in dispute.
- The line should not be buried if the cost would be over a certain amount. An agreement to pay for burying the line would not be signed with Heber Light & Power Company (HL&P) if the Council felt the cost was too high.
- A minimal acceptable distance of 350 feet from Hwy 113 should be established for the dip poles. It would be more difficult if the dip poles were in the fish hatchery which was state property.
- The Wasatch County Planning Commission was the County's land use authority for transmission line CUPs.
- HL&P customers not the applicants would pay the cost for burying the distribution lines.
- The City Council should approve the final costs for the project when they were determined.
- VOLT or other private organizations should raise the money for the entire project if HL&P did not approve loaning the City the needed funds.
- The City should not compel anyone to donate the money they received for an easement.

Motion: Council Member Simonsen moved that Midway City hereby approves, with the following conditions, the CUP for proposed construction of new transmission lines to carry power coming through Midway from roughly the direction of Heber City and ending at the substation near the Cemetery off 500 S. Furthermore,

We accept the staff report.

We accept the following findings:

- The proposal is an administrative review.
- The proposed use is a conditional use, and the city may impose reasonable conditions to mitigate identified negative impacts.
- The proposal will create a second point of power access that will benefit residents of the entire valley.
- The proposal will allow more power to enter the valley that will benefit the entire valley and meet present and future community needs.
- The proposal benefits neighboring areas and the entire power grid by providing more connectivity and redundancy to support better function of the system as a whole.
- It is known that strong EMF signals (electromagnetic fields) are emitted by all energized conductors, including underground and overhead power lines. These fields can induce a current in other disconnected nearby conductors and therefore can have negative effects on some electronic devices. Of particular concern to the city are devices that are used for personal health purposes, such as cochlear implants. Whereas the city is aware of residents within the service area that rely on such devices it is of concern to the city to mitigate any potential negative impacts related to these devices. It has come to the attention of the city that there is a technology (GIL) that could help mitigate this impact, and the city desires this to be considered as well as any other applicable technologies of which we may be unaware.
- The Midway City General Plan contains many statements that establish objectives related to the preservation of open space, our rural atmosphere, and the beauty of our

entry corridors. Our general plan also encourages our local economy to embrace and support our assets as a "resort" city. By definition and extension, careful management of these assets is a key factor in securing our city's financial future and our sales tax base. We find that overhead power lines raise concerns related to these items that require us to carefully consider how to mitigate visual impacts related to this proposal.

Whereas the city has conducted an independent randomized poll that has found approximately 70% of respondents are in favor of burying these power lines within the city limits, the preferred method of construction is underground. Midway City intends that the lines will be buried with the following conditions:

- *Recognizing that the city is required by law to pay the difference between the cost of overhead lines and the cost of underground lines (in State Code referred to as "excess costs"), and also recognizing that the City Council has a fiduciary duty to manage financial interests of the citizens appropriately, and with reference to Utah State Code 54-14-203, we do not accept the estimated costs provided by the applicant as sufficient information upon which to base funding decisions. Furthermore, we require the applicant to provide 3 actual competitive construction bids, prepared by qualified, bonded, and insured 3rd party entities, in accordance with standard city policy, to establish the actual cost of this construction. These bids must be submitted to Midway City no later than Feb 15, 2020. Failure to deliver these bids on time will cause the city to be unable to fulfill its fiduciary duty to the citizens of Midway by no fault of its own. To be clear: If these bids are not submitted by the applicant, it does not cause the construction to revert to overhead. It is the obligation of the applicant to provide this information in a timely manner and therefore the reasonable remedy for lateness of this information is to adjust any other deadlines by an amount equal to the lateness of this information.*
- *The bids provided by the applicant will include the **base cost** of burying the line from Center Street to the end of Wards lane, using current standard materials and practices. The **costs of the dip poles at each end** must be itemized. In addition, the bids must include the following itemized additional options:*
 - *Continuing underground from Wards Lane to the substation (**Additional end of line cost**) and*
 - *upgrading components (IE "rack", etc) inside the substation to accommodate raising the underground line (**Substation Option 1**)*
 - *placing dip poles immediately outside the substation to raise the line outside the substation (**Substation Option 2**)*
 - *Going underground immediately west of the Fish Hatchery, at least 350' or greater from Center Street/ HWY 113 (**Additional Entry Cost**)*
 - *An itemized option to use GIL (Gas Insulated Lines) as the transmission line conductor that will be buried. (**Alternative Conductor Option**)**Using the cost information the bids will provide, Midway City will then choose the options that meet our needs in terms of cost and function.*
- *Whereas private citizens (represented by the organization known as VOLT) have recognized an underground transmission line project that must be paid by citizens presents a significant financial burden on the citizens of Midway, and have stated they want to help mitigate this burden, and whereas the City Council is significantly concerned about the citizen impact of the full cost of underground construction, the city hereby requires that in order to proceed with underground construction a minimum of 1.5 Million US dollars in "donation" funds must be presented to the city in the form of contractual authorization to use these funds for the purpose of the burial of transmission lines, from an escrow bank account serviced by a qualified escrow service. If VOLT is able to raise more than \$1.5M and the underground project costs exceed \$1.5M, the City*

is delighted to accept more help from VOLT. If the final cost of the construction is less than \$1.5M, any excess donations will be retained by the donating entity (IE "VOLT"). It is up to VOLT to return the amount to the rightful owners. We officially express our deep gratitude to the VOLT organization for their hard work and dedication in the service of our town in potentially making actual private funds available.

- Midway City must secure sufficient funds to cover the cost of construction. If financing is needed then the board of HLP must approve the issuance of bonds sufficient to cover the remaining final cost of construction, as determined by the bids, and after adjusting for the "base" cost of overhead and any other adjustments. Midway City will also work with the HLP board to determine the best mechanism for the bonds to be repaid (IE per-meter charge, per Kwh charge, etc), considering also that the bond issuer may have requirements. Furthermore Midway City Council may, at its discretion, enter into a contract with HL&P that establishes that these funds are to be used by the City to pay for the underground construction costs related to the new construction in Midway, including costs related to any small portions that extend slightly but contiguously out of city limits as part of completing this project.
- The appropriate Wasatch County Land Use Authority must approve a change in the plan for construction of the portion of the line that is within County jurisdiction and under the existing county CUP that will allow the dip poles (as needed for transition from overhead to underground) near HWY 113 to be moved to a location that is acceptable to the City Council. As guidance for this process, at this time the Council envisions a location near the Fish Hatchery, but we are open to discussion of the best alternatives that will achieve our goals of mitigating visual impacts near to our entry corridor.
- Prior to construction, the applicant will submit "visual mitigation" landscaping plans and simulations, that show a reasonable use of vegetation following national standards to mitigate the visual impact of any large diameter (> 24" at ground level) dip poles that are used. The intent is to obscure the base of the poles as much as possible with vegetation, while following accepted industry overhead line construction standards and accommodating safety and access requirements.
- The Midway City attorney will conduct a thorough review of this motion and the related requirements, with the intent of ensuring the city is acting in good faith and following all applicable laws regarding use of City funds and the issuance of a CUP.
- As applicable to underground construction, the route followed will be the Alternate Route "B", allowing for possible future full width construction of 970 S should that ever come to pass.
- Whereas many private citizens have expressed in written form submitted by VOLT that they would donate the value of their easements to reduce the cost burden borne by the City, these amounts will be subtracted from the underground cost the City will pay.
- All distribution lines along the route shall also be buried at the cost of HL&P.
- HL&P shall install at its own cost conduit sufficient to allow communication lines to also be placed underground.
- The applicant will obtain all necessary property rights and easements prior to the commencement of construction.
- The applicant shall contact all property owners whose properties are directly affected by changes to the line(s) prior to beginning construction.
- In the event a final determination is made by a court with jurisdiction that any existing property rights are not sufficient for the project, the applicant will acquire legally sufficient property rights for the project, which may include negotiated agreements with the property owners or the use of eminent domain. As a part of this process and in accordance with Utah law, the applicant will pay compensation for the properties either as negotiated with the property owner or determined by the court.

- *Once construction is finished on the underground line, the actual costs will be trued-up and either the applicant shall refund the over-payment to the City, or the City shall pay the difference to the applicant.*
- *The City will pay the difference between the standard cost (which includes engineering cost, the cost to install the line, all easement costs, all severance damages that RMP would have been required to pay had the line gone above ground) and the actual cost of the buried line.*

With regard to an underground project, we add the following additional findings:

- Midway City conducted an independent randomized poll and it was reported that 70.1% of respondents expressed willingness to bear the cost burden of burying the line.
- The City is relying on representations made by property owners along the line route that they will donate the amounts paid for easements and severance damages to the City in order to reduce the cost of burying the lines.
- The City is relying on representations made by the "VOLT" group that they can raise a substantial amount of money to help pay for an underground project.

If the **applicant has met all of the city's request's** given in this motion in a timely manner, but the city has not been able to secure ALL of the following 3 items:

a) sufficient funding to pay for the project either through private donations or a vote by the HLP board to approve a sufficient issuance of bonds to make up the difference, and reasonable assurance that related bond funds will be obtainable and usable by the City for this purpose

AND

b) the required minimum in "donation" fund dollars

AND

c) a vote by the Wasatch County Council to approve a location for the dip poles that would otherwise be alongside HWY 113 that is acceptable to the Midway City Council

... by March 1, 2020, then the applicant may proceed with overhead construction with the following conditions:

- The route followed will be the "Alternate Route B", allowing for possible future full width construction of 970 S should that ever come to pass.
- *All distribution lines along the route shall also be buried at the cost of HL&P.*
- *HL&P shall install at its own cost conduit sufficient to allow communication lines to also be placed underground.*
- The applicant will obtain all necessary property rights and easements prior to the commencement of construction.
- The applicant shall contact all property owners whose properties are directly affected by changes to the line(s) prior to beginning construction.
- In the event a final determination is made by a court with jurisdiction that any existing property rights are not sufficient for the project, the applicant will acquire legally sufficient property rights for the project, which may include negotiated agreements with the property owners or the use of eminent domain. As a part of this process and in

accordance with Utah law, the applicant will pay compensation for the properties either as negotiated with the property owner or determined by the court.

- The applicant will use the taller poles, with fewer poles and longer spans.
- The applicant will use the minimum possible diameter of poles in all locations. The applicant will use wood tangent poles wherever possible, and the applicant will work with property owners and the city in considering guyed structures versus large diameter structures as a possible construction method at "corners". The Midway City Council will ultimately decide which option is best, while complying with all applicable laws and construction standards.
- Where metal poles are used, the applicant will use the self weathering rust colored steel poles.
- Prior to construction, the applicant will submit "visual mitigation" simulations, that show a reasonable use of vegetation following national standards to mitigate the visual impact of any large diameter (> 24" at ground level) poles that are used. The intent is to obscure the base of the poles as much as possible with vegetation, while following accepted industry overhead line construction standards and accommodating safety and access requirements.
- While following national construction standards, in order to mitigate the possible negative affects of EMF on personal health electronic devices that may be used by nearby residents (such as unwanted noises caused in cochlear implants for example) the applicant will make a reasonable attempt at minimizing EMF emissions near overhead lines as measured on the ground underneath the line by using the most current available technologies for such purpose.
- The transmission lines used shall be non-specular or low-reflective so as to reduce visual impact.
- In general the applicant shall mitigate the visual impacts of the construction to the maximum extent possible while following all relevant safety and construction standards.

Second: Council Member Van Wagoner seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

| | |
|----------------------------|-----|
| Council Member Drury | Aye |
| Council Member Orme | Aye |
| Council Member Probst | Aye |
| Council Member Simonsen | Aye |
| Council Member Van Wagoner | Aye |

- 6. Ordinance 2019-13 / Off-Street Parking and Loading** (City Planner – Approximately 30 minutes) – Discuss and possibly adopt Ordinance 2019-13 amending Section 16.13.39(A)(11) (Off-Street Parking and Loading) of the Midway City Municipal Code. Recommended for approval by the Midway City Planning Commission. **Public Hearing**

Michael Henke gave a presentation regarding the proposal and reviewed the following items:

- History of the parking issue
- Recent changes to parking requirements in the Municipal Code
- Parking for outside dining

- Examples of outside dining codes from other municipalities
- Parking analysis for three current restaurants

Mr. Henke also made the following comments:

- The Council asked him to consider parking requirements for outside dining.
- The current municipal code allowed for off-site parking but only at a parking area controlled by the City.
- A business would only have to comply with new parking regulations when the use changed.

Note: A copy of Mr. Henke's presentation is contained in the supplemental file.

The Council, staff and meeting attendees discussed the following items:

- Some restaurants like Café Galleria had more outdoor than indoor seating.
- There was no requirement for more parking because of outdoor seating.
- Parking space requirements were recently increased. There should be a balance to avoid discouraging new restaurants.
- Outside seating was seasonal.
- Should qualifying off-site parking be expanded beyond lots controlled by the City?

Public Hearing

Mayor Johnson opened the hearing and asked if there were any comments from the public.

Kevin Payne

Mr. Payne made the following comments:

- Was speaking as a resident and not as a member of the Planning Commission.
- The required amount of parking was recently increased by 66%.
- Unintended consequences should be avoided.
- Each restaurant was unique.
- A lot of the parking problem was drivers wanting to park as close as possible to restaurants.
- There could be a parking structure across Main Street from the Midway Mercantile and there would still be a parking problem.
- Increased parking requirements would prevent other restaurants.
- There was a transition area with commercial and older homes.
- A threshold could be set to consider additional parking for a restaurant.
- Main Street should be reviewed to determine where to put parking.

Steve Dougherty

Mr. Dougherty made the following comments:

- Had represented a lot of restaurants that had outdoor dining.
- The City should respect residential properties but enable businesses. This was not done by tweaking the Municipal Code but by finding the real problem.
- People needed to be educated regarding parking to help solve any problem.
- A parking ombudsman could help businesses find parking.
- Main Street should not be a UDOT road.
- Any solutions would be multifaceted.
- There should not be barriers in the Municipal Code.
- Potential business owners avoided cities based on their codes.
- Businesses could enter into reciprocating parking agreements.
- Having commercial parking as a CUP allowed flexibility.

Mayor Johnson closed the hearing when no further public comment was offered.

The Council, staff and meeting attendees discussed the following items:

- There was no incentive for businesses to obtain additional parking because the City's parking requirements were low and not enforced. Private landowners were trying to enforce the requirements.
- The current code allowed cross-parking agreements.
- More parking, which was visible from Main Street, diminished the look and feel of Midway.
- Part of the solution was directing drivers to the right locations.
- The parking code for Westminster, CA should be applied to the three restaurants used as examples by Mr. Henke.
- A packet could be given to potential business owners with requirements and resources for parking.
- Had any potential businesses gone away because of the recent change to the parking requirements?
- The City should not be heavy handed.

Motion: Council Member Simonsen moved to continue the item, until the next meeting, so that Mr. Henke could present more examples of how to address parking before it became a significant problem without being too restrictive.

Second: Council Member Probst seconded the motion.

Discussion: Council Member Probst thought that Mr. Payne and Mr. Dougherty had some good ideas and more time was needed to consider the issue.

Vote: The motion was approved with the Council voting as follows:

| | |
|----------------------------|-----|
| Council Member Drury | Aye |
| Council Member Orme | Aye |
| Council Member Probst | Aye |
| Council Member Simonsen | Aye |
| Council Member Van Wagoner | Aye |

- 7. Resolution 2019-30 / Renting and Scheduling City Facilities** (City Mayor - Approximately 60 minutes) – Discuss Resolution 2019-30 amending the Midway City Policies and Procedures regarding the renting and scheduling of city facilities.

Mayor Johnson indicated that the resolution was not ready for consideration.

- 8. Phone System / Contract** (City Recorder – Approximately 20 minutes) – Discuss and possibly approve a contract to replace or repair the phone system for the Midway City Office Building.

Council Member Drury recused himself from consideration of the item because he made the introduction between one of the bidders and the City.

Note: Council Member Drury temporarily discontinued participating at 8:45 p.m.

Brad Wilson gave a presentation on the phone system bids. He recommended that upgrading the City's infrastructure for the internet no longer be a consideration. He found no reason to not recommend Jive, which was the low bidder, and indicated that the bid included all the features requested by staff.

Council Member Simonsen expressed concern with the cost for the City's current internet access. Mr. Wilson said that he would again discuss the cost with the provider to determine why it was so high. Council Member Simonsen recommended researching other internet providers.

Council Member Orme and Council Member Simonsen noted that many phone systems were now internet based.

Motion: Council Member Simonsen moved to approve a contract for the Jive system with the following findings:

- Jive was the low bidder.
- Its bid was reviewed and recommended by the City Recorder.
- The bid met all the City's needs.
- There would be no long-term contract
- The current phone lines could be discontinued which would save money.

Second: Council Member Orme seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

| | |
|-------------------------|---------|
| Council Member Drury | Recused |
| Council Member Orme | Aye |
| Council Member Probst | Aye |
| Council Member Simonsen | Aye |

Motion: Without objection, Mayor Johnson recessed the meeting at 8:45 p.m. She reconvened the meeting at 8:56 p.m.

Note: Council Member Drury continued participating at 8:56 p.m.

9. Parking / Main Street (Mayor Johnson – Approximately 30 minutes) – Discuss parking along Midway Main Street.

Wes Johnson reported that he and Mayor Johnson would meet with UDOT in January to discuss several parking items.

Corbin Gordon reported that he would have the owner of the parcel at 70 East Main Street, which would be used for public parking, sign an agreement at the beginning of the year.

10. Gene Probst Family

Council Member Van Wagoner acknowledged Gene Probst, Council Member Probst and their family for their public service. Council Member Probst responded that it had been a highlight to serve on the Council and would be happy to continue helping the City.

11. Closed Meeting to Discuss the Character, Professional Competence, or Physical or Mental Health of an Individual

Motion: Council Member Van Wagoner moved to go into a closed meeting.

Second: Council Member Simonsen seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

| | |
|----------------------------|-----|
| Council Member Drury | Aye |
| Council Member Orme | Aye |
| Council Member Probst | Aye |
| Council Member Simonsen | Aye |
| Council Member Van Wagoner | Aye |

Note: Closed meeting minutes are sealed and strictly confidential. Access to such minutes must be obtained through a court of law.

Motion: Council Member Simonsen moved to go out of the closed meeting.

Second: Council Member Probst seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

| | |
|----------------------------|-----|
| Council Member Drury | Aye |
| Council Member Orme | Aye |
| Council Member Probst | Aye |
| Council Member Simonsen | Aye |
| Council Member Van Wagoner | Aye |

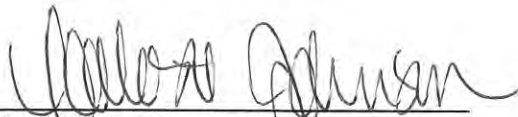
12. Christmas and New Year's Eves / Holiday

Council Member Van Wagoner explained that city employees had usually been given at least half a day off with pay on Christmas and New Year's eves. Mayor Johnson responded that she would take care of the issue.

13. Adjournment

Motion: Council Member Van Wagoner moved to adjourn the meeting. Council Member Probst seconded the motion. The motion passed unanimously.

The meeting was adjourned at 9:18 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder

Heber Light & Power



Underground Transmission Cost/Feasibility Study

Prepared by
NEI Electric Power Engineering, Inc.
Arvada, Colorado 80001

April 24, 2018

| Rev | Date | Eng | Appvd. | Description |
|-----|------------|--------------|----------------|--|
| 0 | 03/20/2018 | Carson Bates | Clifton Oertli | Preliminary Issue |
| 1 | 04/09/2018 | Carson Bates | Clifton Oertli | Added sample segment & various minor updates |
| 2 | 04/24/2018 | Carson Bates | Clifton Oertli | Final Issue |

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Executive Summary

Cost of underground transmission is approximately four to five times the cost of overhead transmission. However, there are other considerations besides cost for underground versus overhead transmission. This report focuses on cost but provides a short description of other considerations. Estimated costs have been provided by various entities and have been compiled to determine the cost per segment based on the segment map provided by Heber Light & Power (see Appendix A for segment map). The purpose of this study is to provide an estimated cost within 30% of the actual value. This study is meant to be a cost feasibility analysis. It is not intended to be a ready for construction design estimate. The table below summarizes the underground transmission project costs and comparable overhead transmission project.

Table 1 Underground versus Overhead Cost Estimates

| Seg. | Length (mile) | OH 138kV & 46kV Shared Structure (\$M) | UG 138kV & 46kV Separate Trench (\$M) | UG/OH |
|------------------|---------------|--|---------------------------------------|-------|
| 1 | 1.8 | \$2.00 | \$8.79 | 4.4 |
| 2 | 2.7 | \$3.00 | \$12.67 | 4.2 |
| 3 | 1.4 | \$1.53 | \$6.69 | 4.4 |
| 4 | 2.5 | \$2.75 | \$11.81 | 4.3 |
| 5 | 1.2 | \$1.32 | \$6.06 | 4.6 |
| 6 | 0.6 | \$0.64 | \$3.50 | 5.5 |
| 7 | 0.9 | \$0.96 | \$4.59 | 4.8 |
| 8 | 1.3 | \$1.40 | \$6.38 | 4.6 |
| 9 | 1.2 | \$1.31 | \$5.40 | 4.1 |
| Hwy 40 to Midway | 7.1 | \$7.77 | \$32.16 | 4.1 |

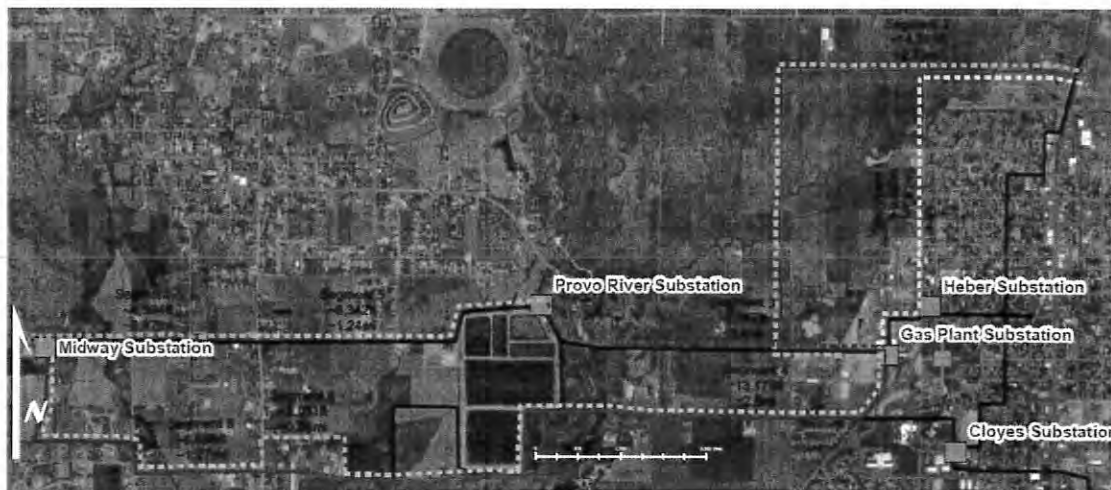


Figure 1 Partial Segment Map (refer to Appendix A for entire map)

Underground Transmission Cost/Feasibility Study

1) Introduction

NEI Electric Power Engineering (NEI) has been contracted by Heber Light & Power (Heber) to provide, "the cost requirements of undergrounding roughly 8 miles of dual circuit 138 KV 46 KV transmission. The study will need to address the cost of this underground transmission project to within +/- 30%. Heber Light & Power has identified various segments of the transmission line and the respondent should identify each segments cost and feasibility. There are two separate utilities, Heber and Rocky Mountain Power (RMP), that are a part of this project, so the costs should be separated by segment and by 138KV (RMP) cost and 46KV (Heber) cost. For employee safety, system reliability, and operational flexibility, each circuit cannot share the same vault. Both utility's underground specifications are included in this bid packet"¹.

Undergrounding transmission lines may provide benefits compared to overhead transmission. Aesthetics is likely the most common reason, but other benefits include less frequent, short duration electrical faults due to trees or pests, and increased safety for overhead line contact. Shock from underground cable is less common since the conductor is shielded with a grounded wire. Beyond this, technological advances have increased reliability, reduced cost, and eased installation difficulties. Some cities are considering underground cables for power delivery for these reasons and more.

There are disadvantages for moving towards underground transmission including increase in cost and/or complexity. While not complete and generic, some disadvantages include: installation method changes, less frequent/longer duration outages due to faults, no automatic reclosing, modified relay protection, right-of-way changes, land use changes, less familiarity with underground cables, different operational requirements for monitoring electrical system, different maintenance schedules, and different spare parts. Underground transmission should be evaluated in a broad context rather than only considering cost or aesthetics.

A simple pros and cons of underground transmission when compared to overhead transmission summarizes the preceding paragraph:

Table 2 Pros and Cons of Underground versus Overhead Transmission

| Pros | Cons |
|---|---|
| Not generally observable (better aesthetics) | Higher Cost |
| Less frequent transient faults (trees birds) | More difficult and expensive to find and repair a fault; typically, longer outages |
| Different land use (no overhead lines over roads) | Restricts other construction within right of way, i.e. no building foundations over cables and restricted agricultural use. |
| Less maintenance | More expensive testing and diagnostics |

¹ RFP Cost-feasibility study transmission.pdf provided by Heber Light & Power

2) Proposed Design

Heber provided the proposed underground segments during the proposal stage of the project, which is included in Appendix A. The underground design consists of 9 segments that connect several substations within Heber's electrical infrastructure. The lengths and routing were detailed in the provided map and descriptions. NEI reviewed the provided segment map and added detail to consider the required cable riser structures and directional boring locations. Several assumptions were required. Some assumptions are inherent to the design while others can be defined explicitly. The explicit numerical assumptions are shown in Table 3 Numerical Design Assumptions.

Table 3 Numerical Design Assumptions

| Voltage (kV) | Min. Ampacity (A) | Power (MVA) | 1-Circuit, Size (kcmil), Cu | 1-Circuit, Size (kcmil), Al | 2-Circuit, Size (kcmil), Cu | 2-Circuit, Size (kcmil), Al |
|---|--------------------------|--|------------------------------------|------------------------------------|------------------------------------|------------------------------------|
| 46 | 873 | 70 | 1000 | 1500 | N/A | N/A |
| 138 | 898 | 215 | 1250 | 2000 | 750 | 1000 |
| Max Section Length (ft) | 2100 | Based on max cable per reel (2100ft), shield voltage (120V) | | | | |
| <u>Directional Boring</u> | | | | | | |
| Roadway Bore (ft) | 75 | crossings of major roadways, boring length for this type is typically 30 to 40 feet wider than the road right of way. | | | | |
| Waterway Bore (ft) | 150 | crossings of all major rivers and wastewater ditches. Boring length for this type can have a large range of variation. This depends on surrounding topography and environmental rights-of-way (potential 300' to 500' bore). | | | | |
| Constructability Bore (ft) | 50 | could possibly be avoided with slight routing changes | | | | |
| Assumes: Driveways can be trenched through, rather than bored. Waterways include all rivers and wastewater streams that are verifiable via Bing maps (ACAD map source). | | | | | | |

In addition to the routing design, Heber and Rocky Mountain Power provided the underground duct bank designs for their respective circuits, which are included in Appendix A. These designs were both similar to each other and to typical transmission duct bank details. It is assumed that these duct banks will be installed parallel to each other and separated by enough distance to allow for separate trenches—about five feet. This limits the mutual heating, allowing for higher ampacity for the same conductor size.

The required minimum ampacity is listed above and was specified separately by Heber and Rocky Mountain Power. Heber provided a draft load forecast, an excerpt of which is included in Appendix A. NEI was instructed to use the larger load forecast for consideration. This is approximately 70MW with a 55% load factor. Rocky Mountain Power specified the ampacity requirement to be similar to ACSR 795 Drake during the kickoff

meeting. The ampacity for Drake is approximately 900A based on typical transmission line assumptions (Conductor temperature of 75°C, ambient temperature 25°C, emissivity 0.5, wind 2 ft./sec., in sun.). A load factor was not provided but is assumed to be similar to that provided by Heber: 55%.

The soil thermal resistivity is a critical parameter for specifying the conductor size of an underground cable. This is measured according to IEEE Std. 442 but was not provided for this study since it is a feasibility study rather than a detailed design. Therefore, the conductor sizes were determined based on IEEE Std 835, the standard for cable ampacity. The installation details are similar to those provided by Heber and RMP. Typical engineering assumptions are made including: a conductor temperature of 90°C, ambient soil temperature of 25°C, resistivity of 90°C*cm/W, and load factor of 75%. Since the cable rating will likely be 105°C and the load factor is projected to be about 55%, this provides a reasonable estimate even considering the unknown soil resistivity. In addition to these assumptions, it is assumed the cables will be cross bonded. This provides many benefits as listed in IEEE Std. 575, but the primary consideration for this study is the ampacity benefit—allowing for a smaller, lower cost cable. The calculations for the shield voltage are provided in Appendix B. The maximum cable section length is determined to be 2100 feet based on the shield voltage and the maximum length of cable for a standard reel. A splice is required at each of these sections. This then requires a cable vault and shield voltage limiter at each of these sections. The final design should optimize the major and minor section lengths to minimize shield voltage, but this preliminary design divides the total segment length by the maximum cable section length and rounds up to the nearest integer.

A cable riser is required at the end of each segment. If the segment terminates in a substation, a small riser is required to support the termination. If the segment terminates outside of a substation, a transmission line dead-end structure is required. This larger structure can vary significantly based on the soil properties and line design, so a typical structure is used based on engineering judgment. The assumed cable riser at both ends of a segment results in a higher cost if multiple segments remain underground. A riser is not required if the cable can remain underground rather a splice and vault are required in its place. This can be accounted for in cost considerations by subtracting the cost of the riser from each segment that is to remain underground and adding one additional splice, SVL, and vault.

3) Cost Parameters

Estimated costs were solicited from multiple sources.

This cost estimate focuses on installation of the underground transmission. Some costs were not included in this estimate such as:

- Substation or line integration equipment, e.g. circuit breaker, disconnect switch
- Right-of-way purchase/lease
- Operation and maintenance

Most costs are based on a per unit length cost, e.g. "\$/ft". Some costs are based on where the cable terminations—either inside or outside of a substation. Others are based on a per unit time, e.g. "\$/month". Reasonable assumptions and markups were included to determine a final cost per segment as requested. It is important to understand that changes in the segment length, location, or design details can result in disproportionate

cost impacts due to the various cost metrics, so any changes must be reevaluated. The specific cost assumptions are detailed in Appendix C.

The following tables, Table 4 46kV Underground Cable Cost Estimates and Table 5 138kV Underground Cable Cost Estimates, provide the cost estimates for a few key portions of the underground cable project. The full details are provided in Appendix C.

Table 4 46kV Underground Cable Cost Estimates

| Seg. | Design | Cable & Ductbank | Terminations, Splices & Vaults | Cable Risers | Installation | Total ¹ |
|------|-----------|------------------|--------------------------------|--------------|--------------|--------------------|
| 1 | \$73,935 | \$2,232,465 | \$207,010 | \$126,813 | \$276,010 | \$4,188,078 |
| 2 | \$110,811 | \$3,345,908 | \$275,990 | \$126,813 | \$363,955 | \$6,063,538 |
| 3 | \$56,726 | \$1,712,828 | \$172,520 | \$63,275 | \$228,835 | \$3,209,130 |
| 4 | \$101,471 | \$3,063,885 | \$275,990 | \$126,813 | \$363,890 | \$5,647,296 |
| 5 | \$48,833 | \$1,474,515 | \$172,520 | \$126,813 | \$181,710 | \$2,881,072 |
| 6 | \$23,493 | \$709,358 | \$103,540 | \$190,350 | \$97,255 | \$1,615,889 |
| 7 | \$35,374 | \$1,068,105 | \$138,030 | \$126,813 | \$142,970 | \$2,172,661 |
| 8 | \$51,559 | \$1,556,820 | \$172,520 | \$126,813 | \$201,480 | \$3,030,940 |
| 9 | \$48,356 | \$1,460,100 | \$138,030 | \$0 | \$157,400 | \$2,589,534 |

Note 1: Includes contractor markup of 25% and 15% contingency

Table 5 138kV Underground Cable Cost Estimates

| Seg. | Design | Cable & Ductbank | Terminations, Splices & Vaults | Cable Risers | Installation | Total ¹ |
|------|-----------|------------------|--------------------------------|--------------|--------------|--------------------|
| 1 | \$91,219 | \$2,412,503 | \$233,200 | \$179,200 | \$288,010 | \$4,596,964 |
| 2 | \$136,715 | \$3,615,739 | \$303,200 | \$179,200 | \$373,955 | \$6,610,006 |
| 3 | \$69,987 | \$1,850,959 | \$198,200 | \$67,700 | \$240,835 | \$3,483,469 |
| 4 | \$125,191 | \$3,310,973 | \$303,200 | \$179,200 | \$375,390 | \$6,160,716 |
| 5 | \$60,249 | \$1,593,428 | \$198,200 | \$179,200 | \$183,210 | \$3,179,515 |
| 6 | \$28,985 | \$766,564 | \$128,200 | \$290,700 | \$99,755 | \$1,887,734 |
| 7 | \$43,643 | \$1,154,243 | \$163,200 | \$179,200 | \$145,970 | \$2,421,795 |
| 8 | \$63,612 | \$1,682,370 | \$198,200 | \$179,200 | \$207,480 | \$3,346,126 |
| 9 | \$59,660 | \$1,577,850 | \$163,200 | \$0 | \$161,900 | \$2,814,450 |

Note 1: Includes contractor markup of 25% and 15% contingency

Figure 2 Segment 1 Cost Proportions provides the cost proportions for segment 1-138kV, which is similar for the other segments.

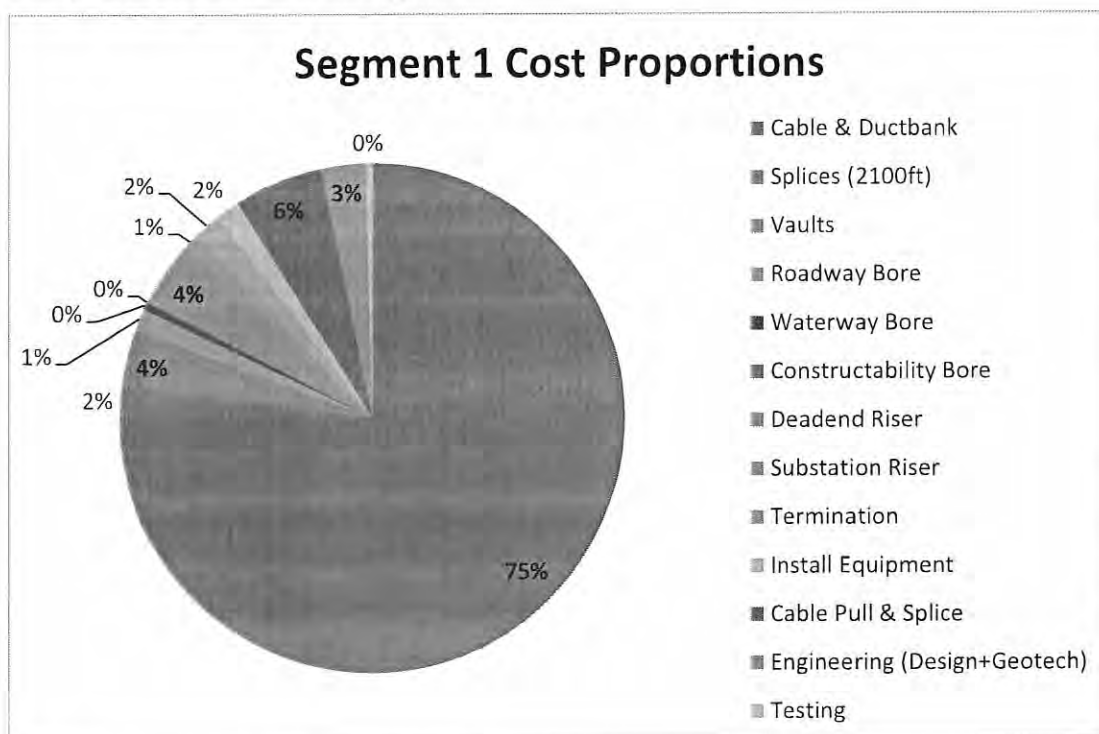


Figure 2 Segment 1 Cost Proportions

A sample cost for undergrounding the transmission from Highway 40 to Midway for both 46kV and 138kV is provided for ease of reference. This considers segments 2, 4, 6, and 8 as one installation. By combining these segments, five dead-end risers are not required and there is corresponding cost savings.

| <i>Hwy 40 to Midway</i> | Design | Cable & Ductbank | Terms, Splices & Vaults | Cable Risers | Installation | Total ¹ |
|-------------------------|-----------|------------------|-------------------------|--------------|--------------|--------------------|
| 46kV | \$287,333 | \$8,675,970 | \$655,380 | \$190,088 | \$954,580 | \$15,451,808 |
| 138kV | \$354,502 | \$9,375,645 | \$688,200 | \$246,900 | \$984,580 | \$16,706,807 |
| Both | \$641,835 | \$18,051,615 | \$1,343,580 | \$436,988 | \$1,939,160 | \$32,158,615 |

4) Equivalent Overhead Cost Comparison

The overhead equivalent cost comparison with the underground segments has been made based on the cost data supplied by Heber Light & Power for two recent one-mile-long segments. This indicates an approximate cost of \$1.1M per mile. For this study, a value of \$1.1M per mile is used for the double circuit 138kV and 46kV overhead construction, including material such as steel structures. It is worth noting that this value is above typical values for a single circuit line, likely due to the short length and the double circuit structure. A typical number for single circuit 138kV is \$0.4M per mile and 46kV is \$0.28M per mile, so using \$1.1M per mile is conservative. The overhead would likely be a lower cost

considering that steel poles were used for the previous overhead construction. However, the goal of this report is to provide a comparison for nearly equivalent functionality, i.e. similar load capability and similar segment routing. The cables cannot be installed as a double circuit without impacting ampacity, so the underground cost is the sum of both 138kV and 46kV circuits. While it is not possible to directly compare a final design due to varying requirements between overhead and underground, Table 6 Overhead versus Underground Costs is provided for comparison.

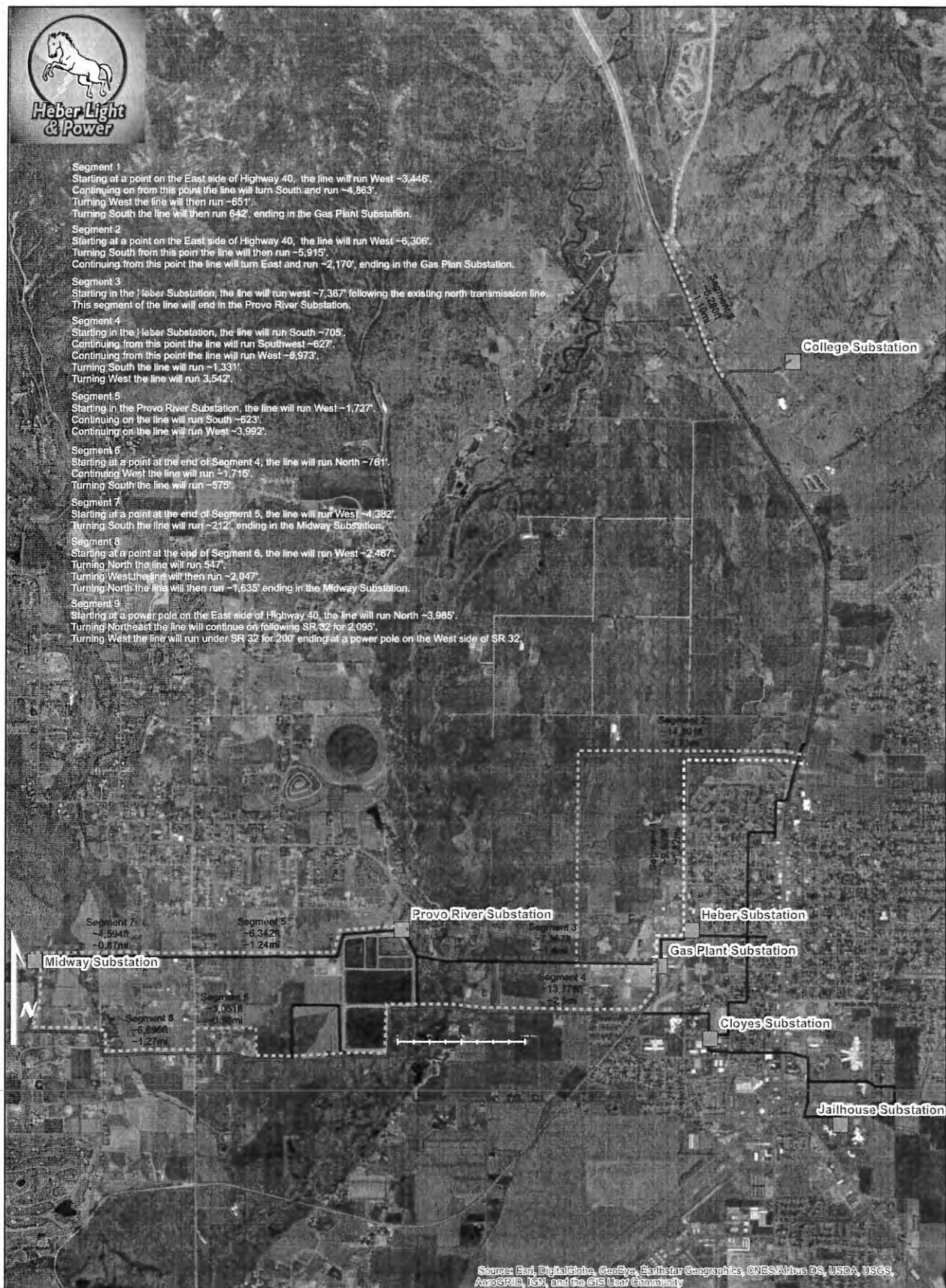
Table 6 Overhead versus Underground Costs

| Seg. | Length (mile) | OH 138kV & 46kV Shared Structure (\$M) | UG 138kV & 46kV Separate Trench (\$M) | UG/OH |
|-------------------------|--------------------------|---|--|--------------|
| 1 | 1.8 | \$2.00 | \$8.79 | 4.4 |
| 2 | 2.7 | \$3.00 | \$12.67 | 4.2 |
| 3 | 1.4 | \$1.53 | \$6.69 | 4.4 |
| 4 | 2.5 | \$2.75 | \$11.81 | 4.3 |
| 5 | 1.2 | \$1.32 | \$6.06 | 4.6 |
| 6 | 0.6 | \$0.64 | \$3.50 | 5.5 |
| 7 | 0.9 | \$0.96 | \$4.59 | 4.8 |
| 8 | 1.3 | \$1.40 | \$6.38 | 4.6 |
| 9 | 1.2 | \$1.31 | \$5.40 | 4.1 |
| <i>Hwy 40 to Midway</i> | 7.1 | \$7.77 | \$32.16 | 4.1 |

Appendix A Data Provided by Heber and RMP

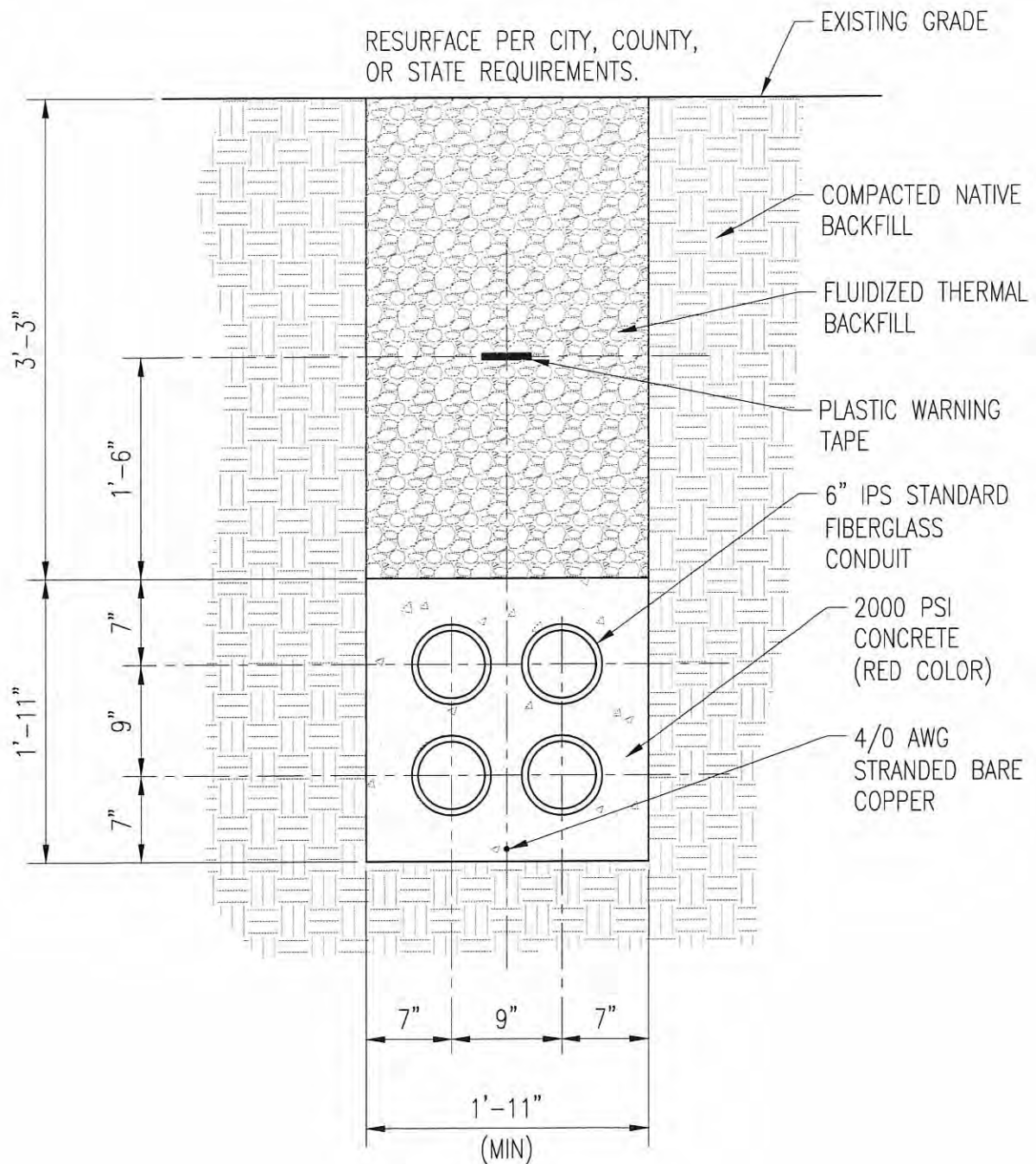


- Segment 1**
Starting at a point on the East side of Highway 40, the line will run West ~3,445'.
Continuing on from this point the line will turn South and run ~4,863'.
Turning West the line will then run ~851'.
Turning South the line will then run 642', ending in the Gas Plant Substation.
- Segment 2**
Starting at a point on the East side of Highway 40, the line will run West ~6,306'.
Turning South from this point the line will then run ~5,915'.
Continuing from this point the line will turn East and run ~2,170', ending in the Gas Plant Substation.
- Segment 3**
Starting in the Heber Substation, the line will run west ~7,367' following the existing north transmission line.
This segment of the line will end in the Provo River Substation.
- Segment 4**
Starting in the Heber Substation, the line will run South ~705'.
Continuing from this point the line will run Southwest ~627'.
Continuing from this point the line will run West ~8,973'.
Turning South the line will run ~1,331'.
Turning West the line will run 3,542'.
- Segment 5**
Starting in the Provo River Substation, the line will run West ~1,727'.
Continuing on the line will run South ~623'.
Continuing on the line will run West ~3,992'.
- Segment 6**
Starting at a point at the end of Segment 4, the line will run North ~761'.
Continuing West the line will run ~1,715'.
Turning South the line will run ~575'.
- Segment 7**
Starting at a point at the end of Segment 5, the line will run West ~4,382'.
Turning South the line will run ~212', ending in the Midway Substation.
- Segment 8**
Starting at a point at the end of Segment 6, the line will run West ~2,487'.
Turning North the line will run 547'.
Turning West the line will then run ~2,047'.
Turning North the line will then run ~1,635' ending in the Midway Substation.
- Segment 9**
Starting at a power pole on the East side of Highway 40, the line will run North ~3,985'.
Turning Northeast the line will continue on following SR 32 for 2,095'.
Turning West the line will run under SR 32 for 200' ending at a power pole on the West side of SR 32.



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

- Existing Transmission Proposed Overhead Route
- Segment 1 Segment 6
Segment 2 Segment 7
Segment 3 Segment 8
Segment 4 Segment 9
Segment 5



Intermountain Consumer Professional Engineers, Inc.
CONSULTING ENGINEERS
1145 E. SOUTH UNION AVE.
MIDVALE, UTAH 84047
BUS. (801) 255-1111 FAX 956-0988

| | | | |
|-----------|-------------|----|----------|
| A | PRELIMINARY | RF | 02/07/18 |
| No. | DESCRIPTION | BY | DATE |
| REVISIONS | | | |

Title:

HEBER LIGHT AND POWER

TRANSMISSION CIRCUIT 6" CONDUIT LAYOUT

CONFIDENTIAL

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| Chk. | | Date | App. | LB | Date 02/07/18 | E03 | A |
| Proj. | | | Scale | NTS | | | |

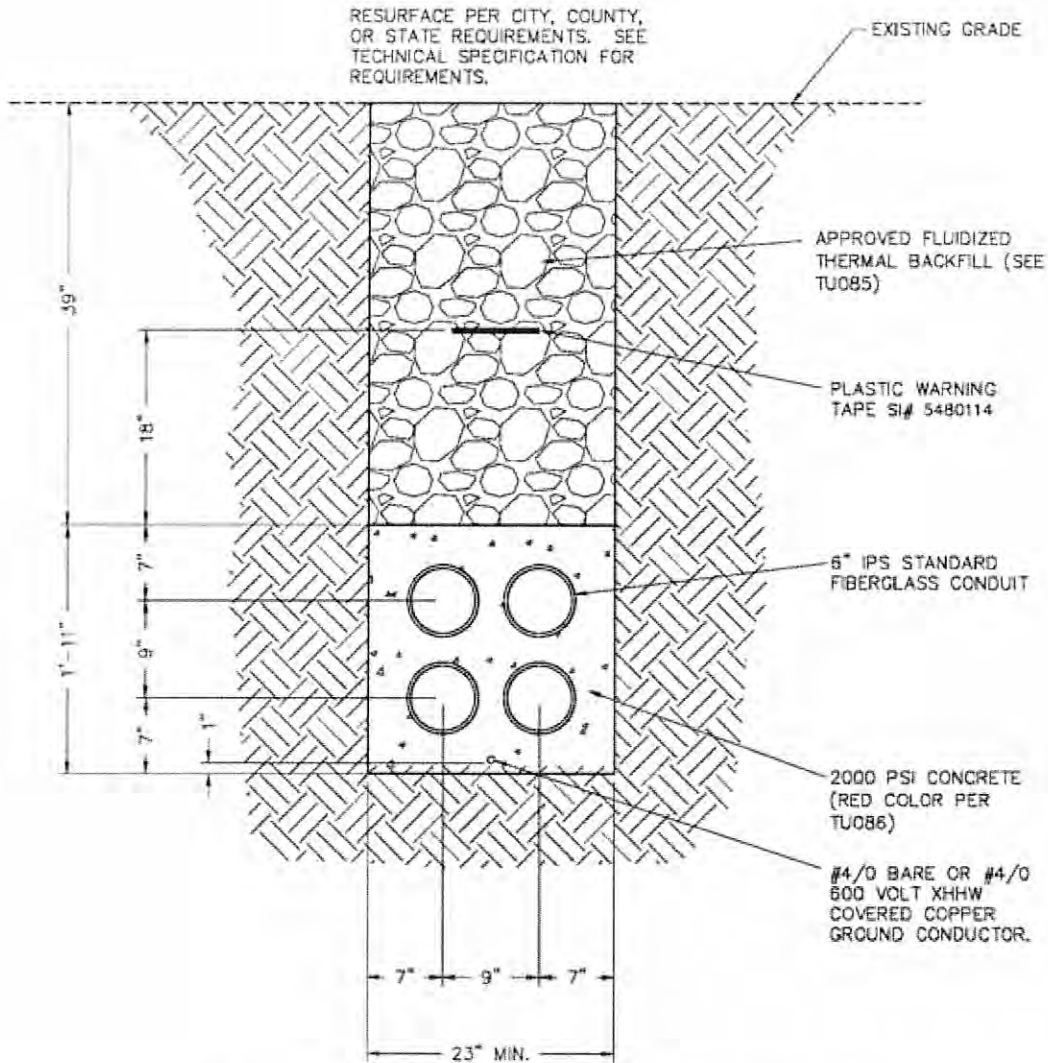


Figure 1—Typical Single-Circuit Conduit Layout

The trench shall be kept free of water until the backfilling has been completed. Dewatering methods shall comply with federal, state, county, and city ordinances and regulations concerning the discharge from dewatering system and site drainage.

Excavated material not used shall be disposed of in accordance with all federal, state, county, and city ordinances and regulations. Since these may be different for each entity it is up to the local construction personnel to determine how to dispose of this material. Temporary placement and removal of excavated material shall not restrict access to public or private property.

Conduits shall be buried to depths as shown in Table 2 and as shown in Figure 1 and Figure 2. Reduced burial depths are not allowed unless prior written approval has been received from the company. All reduced burial depth installations shall be built in accordance with Item 2 of the *Burial Depth* section of this standard.

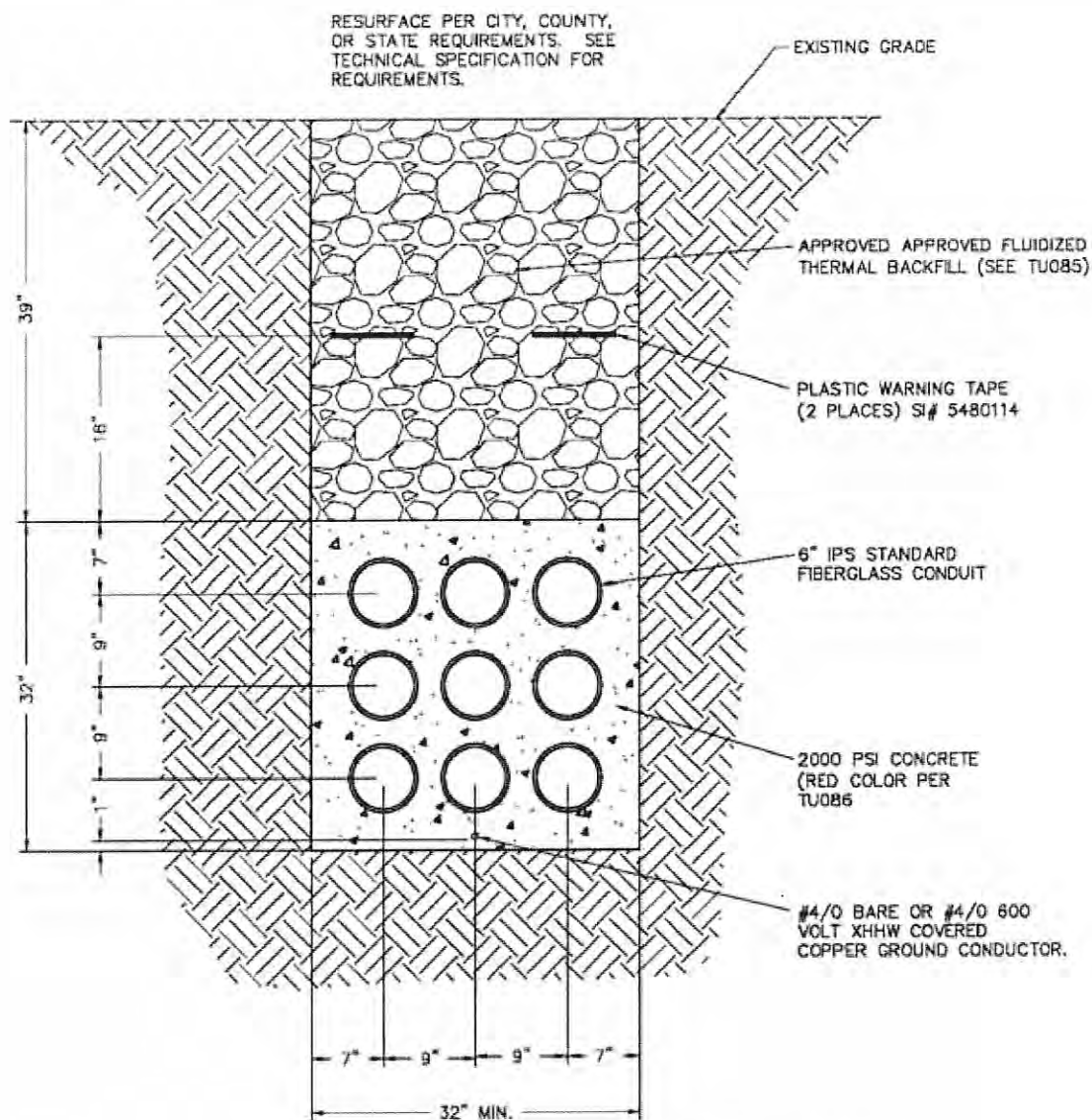
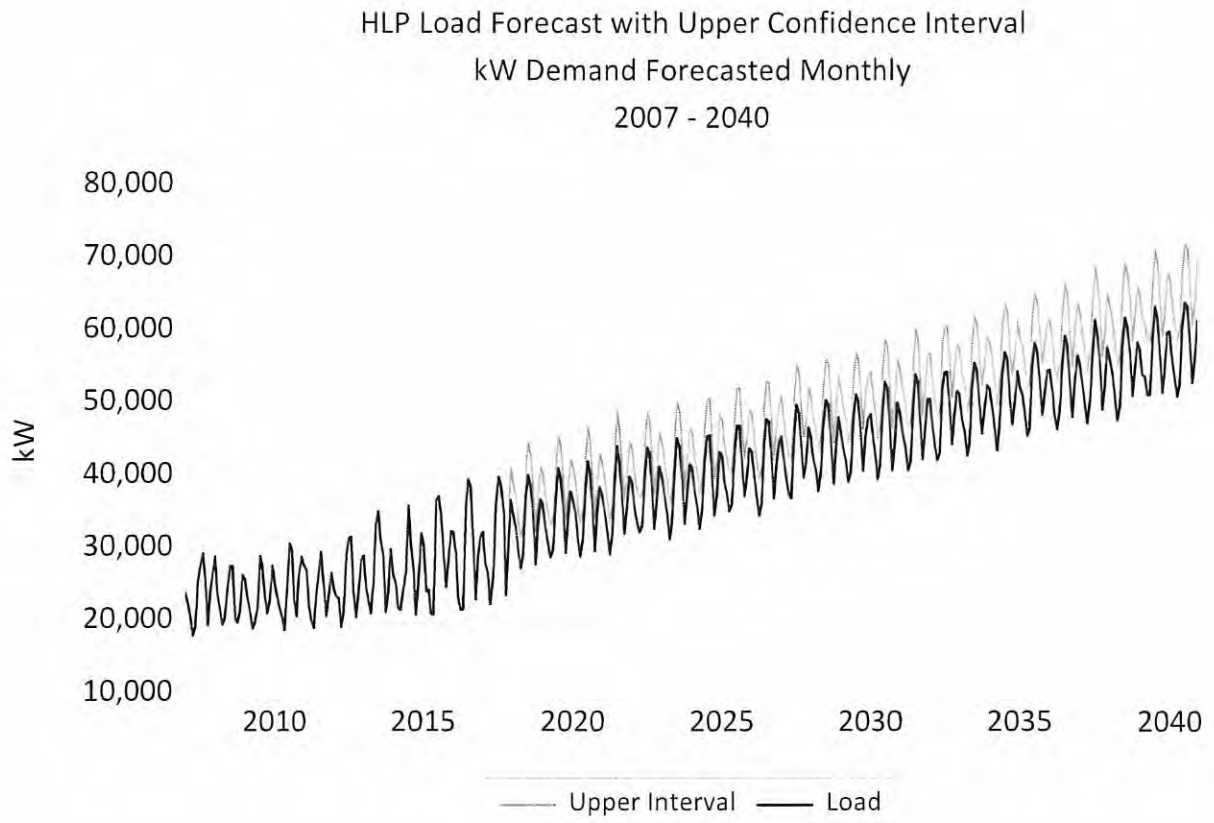


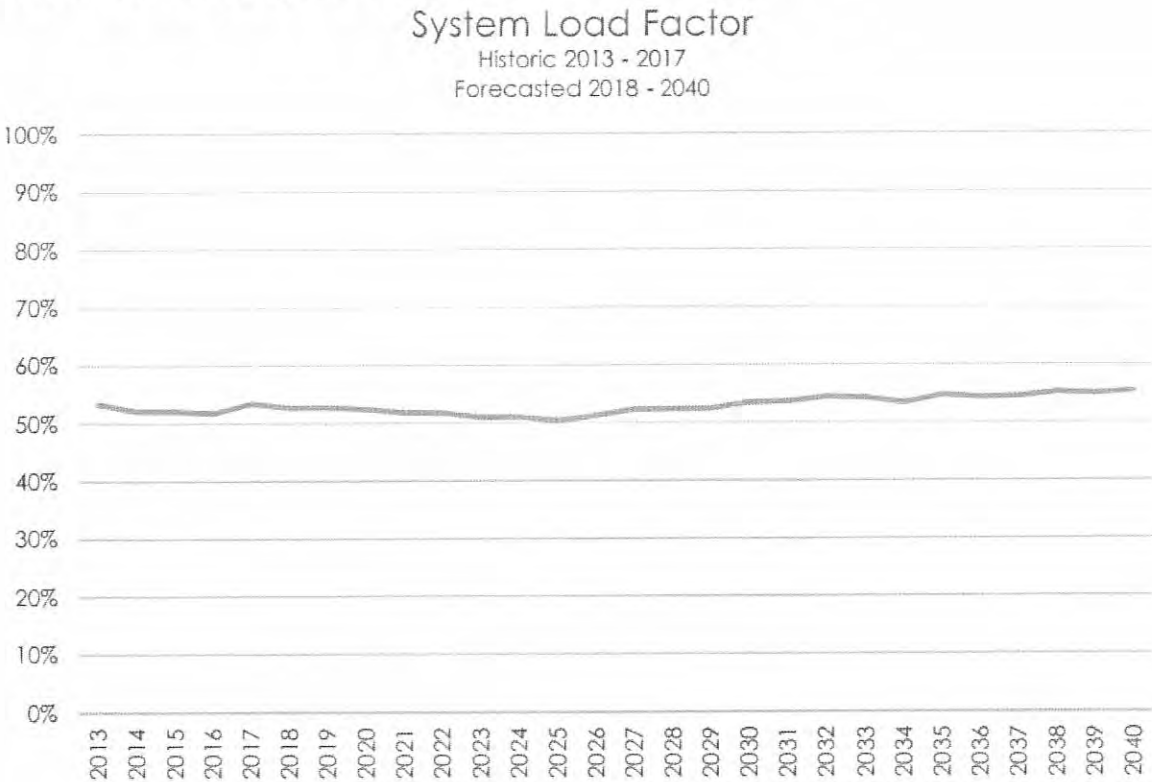
Figure 2—Typical Double-Circuit Conduit Layout

In no case will the company allow a trench less than 23" wide for single-circuit and 32" for double-circuit lines. See typical duct bank dimensions and conduit arrangements in Figure 1 and Figure 2.

Load Forecast from HLP 3/29/2018



Load Factor from Heber Light and Power 3/13/2018



Appendix B Calculations and Boring Locations



Project:
Document:
 3/15/18 - Preliminary Calcs

Heber City 46kV & RMP 138kV Cable
Cable Shield Voltage Calculation
 Carson Bates

Circuit Loading Calculation

| | |
|---------------------|---------|
| System Rating | 180 MW |
| Power Factor | 0.9 |
| System Voltage | 138 kV |
| Voltage | 0.95 pu |
| Current per Circuit | 881 A |
| Max Cable Loading | 100% |

Conductor Short Circuit Withstand

| | |
|------------------------------------|--------------------|
| Standard | ICEA P-32-382-2007 |
| Conductor Material | Cu |
| T1 Operating Temp | 70 °C |
| T2 Max Short Circuit Temp | 250 °C |
| Max Short Circuit Time | 10 cycles |
| | 0.167 sec |
| Short Circuit Time (with Bkr Fail) | 24 cycles |
| | 0.4 sec |
| Lamda | 228 °C |
| K | 0.00257 |

for Aluminum

Shield Short Circuit Withstand

| | |
|--------------------------|---------------|
| Standard | ICEA P-45-482 |
| Conductor Material | CU |
| T1 Operating Temp | 60 °C |
| T2 Max Allowable Temp | 350 °C |
| T0 Arbitrary Temperature | 20 °C |
| Split Factor | 1.0 |
| Max Short Circuit Time | 10 cycles |
| | 0.1667 sec |
| SG | 8.93 |
| SH | 0.092 |
| Po | 1.72 μΩ-cm |
| Lamda | 234 °C |
| K | 0.030 |
| M | 0.095 |

Allowable jacket temp (per mfg)

Typical value

Conservative Value

Table 2 for Copper

Table 2 for Copper

Table 2 for Copper

Table 2 for Copper

Eq (2) and Table2

Eq (5)

Shield Voltage

| | |
|----------------------|--------------|
| Cable Spacing C-C, S | 12 in |
| Shield Diameter, d_s | 3.127 in |
| Shield Resistivity | 30 Ω-cmil/ft |

| | | |
|-------------------------------------|-------|-----------------------|
| Shield thickness, t | 0.005 | in |
| Shield resistance, Rs | 480 | $\mu\Omega/\text{ft}$ |
| Cond-Shield Mutual Reactance, Xm | 46.85 | $\mu\Omega/\text{ft}$ |
| Y | 44.28 | |
| Shield Voltage - Flat, Edge Cables | 0.036 | V/ft |
| Shield Voltage - Flat, Center Cable | 0.048 | V/ft |
| Max Permissible Shield Voltage | 120 | V |
| Max Section Length | 4971 | ft |
| Access Location Length | 1657 | ft |
| Access Location Voltage | 80 | V |

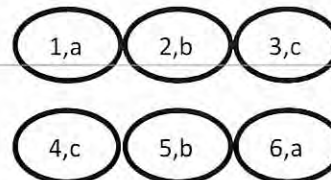
From IEEE 575 D.2.3

| | | |
|--------------------------------|-------|------|
| Ea | 0.050 | V/ft |
| Eb | 0.041 | V/ft |
| Max Permissible Shield Voltage | 120 | V |
| Max Section Length | 2411 | ft |

Charging Current

| | | |
|------------------------------------|-----------|------------------------------------|
| Insulation Diameter (under screen) | 3.025 | in |
| Conductor Diameter (over screen) | 1.325 | in |
| Dielectric Constant | 2.6 | EPR=2.5~3.5,2.9 XLPE=2.3~6.0,2.4 |
| Calculated Capacitance (1 cond) | 53 | pF |
| Cable Capacitance | 53 | pF |
| Section Length | 4,971 | ft |
| Cable Capacitance | 0.27 | μF |
| Capacitive Reactance | -1.00E+04 | Ω |
| Charging current: | 8.0 | A |
| Section Charging Voltage | 19 | V |
| Total Length | 12,000 | ft |
| Cable Capacitance | 0.64 | μF |
| Capacitive Reactance | -4.14E+03 | Ω |
| Charging current: | 19.2 | A |
| Reactive Power: | 4.60 | MVAR |

| | | |
|--------------|--------|----|
| Conduit Size | 6 | in |
| Conduit O.D. | 6.625 | in |
| Conduit E-E | 3 | in |
| Conduit C-C | 9.625 | in |
| Conduit C-C | 0.2445 | m |



Parallel Circuit

| | | |
|--|--------|---|
| r _{sm} , mean shield diameter | 0.0397 | m |
| S ₁₂ | 0.2445 | m |
| S ₁₃ | 0.4890 | m |
| S ₁₄ | 0.2445 | m |
| S ₁₅ | 0.3457 | m |
| S ₁₆ | 0.5467 | m |

1a,2b,3c,4a,5b,6a

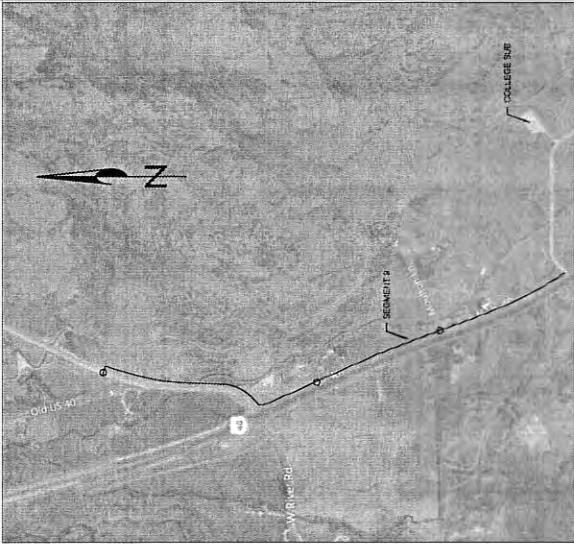
| | |
|--------|---|
| 0.0397 | m |
| 0.2445 | m |
| 0.4890 | m |
| 0.2445 | m |
| 0.3457 | m |
| 0.5467 | m |

| | | | | |
|--------------------------------|-------------------------|----------------|-------------------------|-----------------------|
| S_23 | 0.2445 | m | 0.2445 | m |
| S_24 | 0.3457 | m | 0.3457 | m |
| S_25 | 0.2445 | m | 0.2445 | m |
| S_26 | 0.3457 | m | 0.3457 | m |
| S_34 | 0.5467 | m | 0.5467 | m |
| S_35 | 0.3457 | m | 0.3457 | m |
| S_36 | 0.2445 | m | 0.2445 | m |
| S_45 | 0.2445 | m | 0.2445 | m |
| S_46 | 0.4890 | m | 0.4890 | m |
| S_56 | 0.2445 | m | 0.2445 | m |
| k | 7.540E-05 | | 7.540E-05 | |
| Xaa | 3.49E-04 | 0.0003494 | 2.89E-04 | 0.000288775383374467j |
| Xab | 1.86E-04 | 0.0001862 | 1.86E-04 | 0.000186287210032381j |
| Xac | 9.95E-05 | 0.0000994 | 1.60E-04 | 0.000160156176948737j |
| Xbb | 3.49E-04 | 0.0003494 | 3.49E-04 | 0.00034944976323981j |
| Xbc | 1.86E-04 | 0.0001862 | 1.86E-04 | 0.000186287210032381j |
| Xcc | 3.49E-04 | 0.0003494 | 2.89E-04 | 0.000288775383374467j |
| Ia | -440.389221349829+762.7 | | -440.389221349829+762.7 | |
| Ib | 880.778442699658 | | 880.778442699658 | |
| Ic | -440.389221349829-762.7 | | -440.389221349829-762.7 | |
| Ea0 | -0.1906696919 | 0.19361 | -0.098107708 | 0.1037 V/m |
| Eb0 | 0.1437100595 | 0.14371 | 0.1437100595 | 0.1437 V/m |
| Ec0 | 0.1906696919 | 0.19361 | 0.098107708 | 0.1037 V/m |
| Max Permissible Shield Voltage | 120 | V | 120 | V |
| Max Section Length | 2033 | ft | 2740 | ft |

Transient Shield Voltage

| | | |
|-------------------------------|----------------|------------------|
| I fault - 3 Phase | 4000 | A |
| Section Length | 2100 | ft |
| Ia | -2000+3464.10 | |
| Ib | 4000 | |
| Ic | -2000-3464.10 | |
| Ea0 | 0.47469111018 | 0.677 V/m |
| Eb0 | 0.54812608049 | 0.548 V/m |
| Ec0 | -0.47469111018 | 0.677 V/m |
| Transient Shield Voltage | 434 | V |
| Ratio S/d | 4.122 | |
| Est. Voltage Gradient | 180 | V/km/kA |
| Est. Transient Shield Voltage | 462 | V |

PRELIMINARY
NOT FOR CONSTRUCTION
FOR REVIEW & APPROVAL ONLY



○ = BORE LOCATION

HEBER UNDERGROUND BORING PROPOSAL

HEBER LIGHT AND POWER

WASHINGTON COUNTY, UTAH

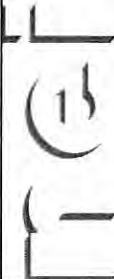
RGF
electric power engineering
incorporated
1800 N. 1000 W.
SUITE 100
HEBER, UT 84301
www.rgf.com

DATE: 11/15/11
DRAWN BY: JTS
CHECKED BY: JTS

C0-01

| | | | | |
|-----|----------|-----|-----|-------------------|
| NO. | DATE | BY | REV | DESCRIPTION |
| 1 | 11/15/11 | JTS | 1 | ISSUED FOR REVIEW |

Appendix C Cost Details

| | | | | | | | | |
|---|----------|---------------------------------|-------------|--|-----------------------------|-----------------------------|-----------------------------|--|
|  electric power engineering | Project: | Heber Underground Cost Estimate | | | | | | |
| | By: | Carson Bates | | | | | | |
| | Date: | 9-Apr-18 | | | | | | |
| | | | | | | | | |
| Voltage (kV) | | | | | | | | |
| | 46 | Min. Ampacity (A) | Power (MVA) | 1-Circuit, Size (kcmil), Cu | 1-Circuit, Size (kcmil), Al | 2-Circuit, Size (kcmil), Cu | 2-Circuit, Size (kcmil), Al | |
| | 138 | | 70 | 1000 | 1500 | N/A | N/A | |
| | | | 215 | 1250 | 2000 | 750 | 1000 | |
| Max Section Length (ft) | | | 2100 | Based on max cable per reel (2100ft), shield voltage (120V) | | | | |
| Directional Boring | | | | | | | | |
| Roadway Bore (ft) | | | 75 | crossings of major roadways, boring length for this type is typically 30 to 40 feet wider than the road right of way. | | | | |
| Waterway Bore (ft) | | | | crossings of all major rivers and wastewater ditches. Boring length for this type can have a large range of variation. This depends on surrounding topography and environmental rights-of-way (potential 300' to 500' bore). | | | | |
| Constructability Bore (ft) | | | 50 | could possibly be avoided with slight routing changes | | | | |
| Assumes: Driveways can be trenched through, rather than bored. Waterways include all rivers and wastewater streams that are | | | | | | | | |

| Item | Unit Cost | Unit | Notes | |
|------------------------------------|-----------|-----------------|--|--|
| 138kV Bore | \$100 | \$/ft | 18" bore = \$80~\$125/ft per local REA | |
| 138kV Cable | \$40 | \$/ft/phase | Per IEC | |
| 138kV Dead End Riser | \$100,350 | \$/riser | Steel=29,250 lb@\$2.20/lb+Concrete=6'x28'@\$1200/yd | |
| 138kV Ductbank | \$44 | \$/ft | Per IEC | |
| 138kV Splice | \$4,000 | \$/splice/phase | Per TE Connectivity | |
| 138kV Substation Riser | \$8,850 | \$/riser | Steel=2,200 lb@\$1.75/lb+Concrete=2.5'x10'@\$1200/yd | |
| 138kV SVL | \$2,400 | \$/SVL (3φ) | Per TE Connectivity | |
| 138kV Termination | \$5,800 | \$/term/phase | Per TE Connectivity | |
| 46kV Bore | \$80 | \$/ft | 18" bore = \$80~\$125/ft per local REA | |
| 46kV Cable | \$40 | \$/ft/phase | Assumed equivalent to 138kV | |
| 46kV Dead End Riser | \$50,175 | \$/riser | 50% of 138kV | |
| 46kV Ductbank | \$38 | \$/ft | Per IEC | |
| 46kV Splice | \$3,830 | \$/splice/phase | Per TE Connectivity | |
| 46kV Substation Riser | \$6,638 | \$/riser | 75% of 138kV | |
| 46kV SVL | \$2,800 | \$/SVL (3φ) | Per TE Connectivity | |
| 46kV Termination | \$1,460 | \$/term/phase | Per TE Connectivity | |
| Cable Vault | \$23,000 | \$/vault | Per IEC | |
| Cable Pulling | \$10,500 | \$/pull/phase | Per IEC | |
| Cable Splicing | \$1,500 | \$/splice/phase | Per IEC | |
| Install Equipment | \$50,000 | \$/month | excavator, puller, reel trailer, telehandler per IEC | |
| Dead End Setting and Dress | \$45,000 | \$/riser | Setting \$30k+Dress Out \$15k | |
| Substation Riser Setting and Dress | \$25,000 | \$/riser | Setting \$10k+Dress Out \$15k | |
| Testing Cable | \$3,000 | \$/section | Estimated | |

| Segment | Length (ft) | Splices (2100ft) | | Vaults | | Roadway | | Waterway | | Constructability | | Deadend | | Substation | |
|------------------|-------------|---------------------|----|--------|----|---------|---|----------|---|------------------|---|---------|---|------------|---|
| | | | | | | Bore | | Bore | | Bore | | Riser | | Riser | |
| 1 | 9,602 | 5 | 5 | 5 | 6 | 1 | 1 | 0 | 0 | 1 | 1 | 1 | 1 | 1 | 1 |
| 2 | 14,391 | 7 | 7 | 7 | 4 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| 3 | 7,367 | 4 | 4 | 4 | 2 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 4 | 13,178 | 7 | 7 | 7 | 1 | 3 | 3 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| 5 | 6,342 | 4 | 4 | 4 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 |
| 6 | 3,051 | 2 | 2 | 2 | 1 | 0 | 0 | 1 | 1 | 2 | 2 | 0 | 0 | 0 | 0 |
| 7 | 4,594 | 3 | 3 | 3 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 |
| 8 | 6,696 | 4 | 4 | 4 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 |
| 9 | 6,280 | 3 | 3 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Hwy 40 to Midway | 37,316 | 18 | 18 | 18 | 10 | 4 | 4 | 3 | 3 | 1 | 1 | 3 | 3 | 1 | 3 |

| Segment | Cable & Ductbank | Splices (2100ft) | Vaults | Roadway Bore | Waterway Bore | Constructability Bore | Deadend Riser | Substation Riser | Termination | Install Equipment | Cable Pull & Splice |
|-----------|---------------------|---------------------|-----------|-----------------|------------------|--------------------------|------------------|---------------------|-------------|----------------------|------------------------|
| 1 | \$2,412,503 | \$60,000 | \$115,000 | \$45,000 | \$15,000 | \$0 | \$145,350 | \$33,850 | \$58,200 | \$48,010 | \$180,000 |
| 2 | \$3,615,739 | \$84,000 | \$161,000 | \$30,000 | \$15,000 | \$5,000 | \$145,350 | \$33,850 | \$58,200 | \$71,955 | \$252,000 |
| 3 | \$1,850,959 | \$48,000 | \$92,000 | \$15,000 | \$45,000 | \$0 | \$0 | \$67,700 | \$58,200 | \$36,835 | \$144,000 |
| 4 | \$3,310,973 | \$84,000 | \$161,000 | \$7,500 | \$45,000 | \$5,000 | \$145,350 | \$33,850 | \$58,200 | \$65,890 | \$252,000 |
| 5 | \$1,593,428 | \$48,000 | \$92,000 | \$7,500 | \$0 | \$0 | \$145,350 | \$33,850 | \$58,200 | \$31,710 | \$144,000 |
| 6 | \$766,564 | \$24,000 | \$46,000 | \$7,500 | \$0 | \$5,000 | \$290,700 | \$0 | \$58,200 | \$15,255 | \$72,000 |
| 7 | \$1,154,243 | \$36,000 | \$69,000 | \$15,000 | \$0 | \$0 | \$145,350 | \$33,850 | \$58,200 | \$22,970 | \$108,000 |
| 8 | \$1,682,370 | \$48,000 | \$92,000 | \$30,000 | \$0 | \$0 | \$145,350 | \$33,850 | \$58,200 | \$33,480 | \$144,000 |
| 9 | \$1,577,850 | \$36,000 | \$69,000 | \$22,500 | \$0 | \$0 | \$0 | \$0 | \$58,200 | \$31,400 | \$108,000 |
| Hwy 40 to | \$9,375,645 | \$216,000 | \$414,000 | \$75,000 | \$60,000 | \$15,000 | \$145,350 | \$101,550 | \$58,200 | \$186,580 | \$648,000 |

| <u>Total (+25% Contractor)</u> | <u>Engineering (Design+Geotech)</u> | <u>Testing</u> | <u>Total (+15% Contingency)</u> | <u>Spare (splice, SVL, term, 2100ft cable)</u> |
|--------------------------------|-------------------------------------|----------------|---------------------------------|--|
| \$3,891,141 | \$91,219 | \$15,000 | \$4,596,964 | \$96,200 |
| \$5,590,117 | \$136,715 | \$21,000 | \$6,610,006 | \$96,200 |
| \$2,947,117 | \$69,987 | \$12,000 | \$3,483,469 | \$96,200 |
| \$5,210,953 | \$125,191 | \$21,000 | \$6,160,716 | \$96,200 |
| \$2,692,547 | \$60,249 | \$12,000 | \$3,179,515 | \$96,200 |
| \$1,606,523 | \$28,985 | \$6,000 | \$1,887,734 | \$96,200 |
| \$2,053,266 | \$43,643 | \$9,000 | \$2,421,795 | \$96,200 |
| \$2,834,063 | \$63,612 | \$12,000 | \$3,346,126 | \$96,200 |
| \$2,378,688 | \$59,660 | \$9,000 | \$2,814,450 | \$96,200 |
| \$14,119,156 | \$354,502 | \$54,000 | \$16,706,807 | \$96,200 |

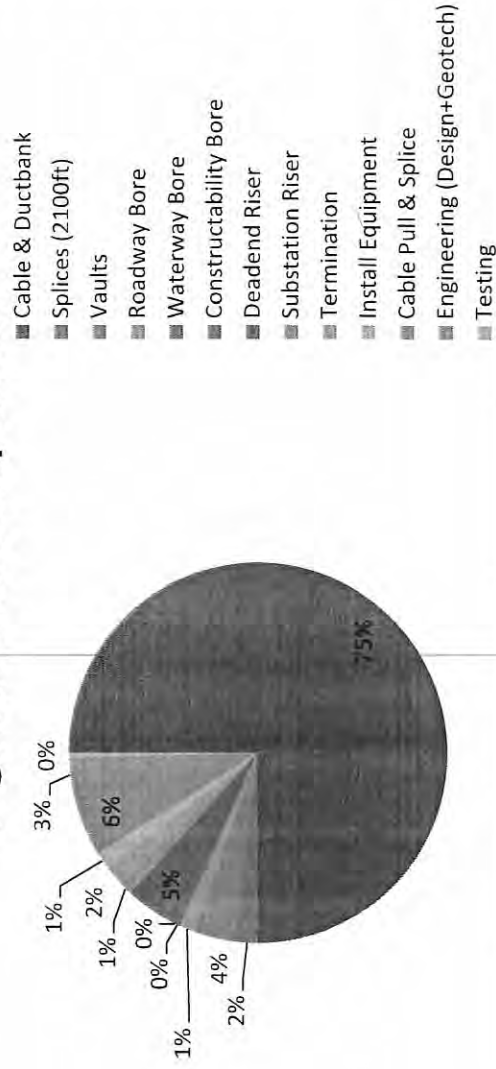
| Segment | Cable & Ductbank | Splices (2100ft) | Vaults | Roadway Bore | Waterway Bore | Constructability Bore | Deadend Riser | Substation Riser | Termination | Install Equipment | Cable Pull & Splice |
|-----------|---------------------|---------------------|-----------|-----------------|------------------|--------------------------|------------------|---------------------|-------------|----------------------|------------------------|
| 1 | \$2,232,465 | \$57,450 | \$115,000 | \$36,000 | \$12,000 | \$0 | \$95,175 | \$31,638 | \$34,560 | \$48,010 | \$180,000 |
| 2 | \$3,345,908 | \$80,430 | \$161,000 | \$24,000 | \$12,000 | \$4,000 | \$95,175 | \$31,638 | \$34,560 | \$71,955 | \$252,000 |
| 3 | \$1,712,828 | \$45,960 | \$92,000 | \$12,000 | \$36,000 | \$0 | \$0 | \$63,275 | \$34,560 | \$36,835 | \$144,000 |
| 4 | \$3,063,885 | \$80,430 | \$161,000 | \$6,000 | \$36,000 | \$4,000 | \$95,175 | \$31,638 | \$34,560 | \$65,890 | \$252,000 |
| 5 | \$1,474,515 | \$45,960 | \$92,000 | \$6,000 | \$0 | \$0 | \$95,175 | \$31,638 | \$34,560 | \$31,710 | \$144,000 |
| 6 | \$709,358 | \$22,980 | \$46,000 | \$6,000 | \$0 | \$4,000 | \$190,350 | \$0 | \$34,560 | \$15,255 | \$72,000 |
| 7 | \$1,068,105 | \$34,470 | \$69,000 | \$12,000 | \$0 | \$0 | \$95,175 | \$31,638 | \$34,560 | \$22,970 | \$108,000 |
| 8 | \$1,556,820 | \$45,960 | \$92,000 | \$24,000 | \$0 | \$0 | \$95,175 | \$31,638 | \$34,560 | \$33,480 | \$144,000 |
| 9 | \$1,460,100 | \$34,470 | \$69,000 | \$18,000 | \$0 | \$0 | \$0 | \$0 | \$34,560 | \$31,400 | \$108,000 |
| Hwy 40 to | \$8,675,970 | \$206,820 | \$414,000 | \$60,000 | \$48,000 | \$12,000 | \$95,175 | \$94,913 | \$34,560 | \$186,580 | \$648,000 |

| <u>Total (+25% Contractor)</u> | <u>Engineering (Design+Geotech)</u> | <u>Testing</u> | <u>Total (+15% Contingency)</u> | <u>Spare (splice, SVL term, 2100ft cable)</u> |
|--------------------------------|-------------------------------------|----------------|---------------------------------|---|
| \$3,552,872 | \$73,935 | \$15,000 | \$4,188,078 | \$92,090 |
| \$5,140,831 | \$110,811 | \$21,000 | \$6,063,538 | \$92,090 |
| \$2,721,822 | \$56,726 | \$12,000 | \$3,209,130 | \$92,090 |
| \$4,788,222 | \$101,471 | \$21,000 | \$5,647,296 | \$92,090 |
| \$2,444,447 | \$48,833 | \$12,000 | \$2,881,072 | \$92,090 |
| \$1,375,628 | \$23,493 | \$6,000 | \$1,615,889 | \$92,090 |
| \$1,844,897 | \$35,374 | \$9,000 | \$2,172,661 | \$92,090 |
| \$2,572,041 | \$51,559 | \$12,000 | \$3,030,940 | \$92,090 |
| \$2,194,413 | \$48,356 | \$9,000 | \$2,589,534 | \$92,090 |
| \$13,095,022 | \$287,333 | \$54,000 | \$15,451,808 | \$92,090 |

| Seg. | Length (mile) | OH 138kV & 46kV Shared Structure (\$M) | UG 138kV & 46kV Separate Trench (\$M) | UG/OH |
|------------------------|------------------|---|--|-------|
| 1 | 1.8 | \$2.00 | \$8.79 | 4.4 |
| 2 | 2.7 | \$3.00 | \$12.67 | 4.2 |
| 3 | 1.4 | \$1.53 | \$6.69 | 4.4 |
| 4 | 2.5 | \$2.75 | \$11.81 | 4.3 |
| 5 | 1.2 | \$1.32 | \$6.06 | 4.6 |
| 6 | 0.6 | \$0.64 | \$3.50 | 5.5 |
| 7 | 0.9 | \$0.96 | \$4.59 | 4.8 |
| 8 | 1.3 | \$1.40 | \$6.38 | 4.6 |
| 9 | 1.2 | \$1.31 | \$5.40 | 4.1 |
| Hwy 40 to Midway | 7.1 | \$7.77 | \$32.16 | 4.1 |

| For 138kV | | | | | | | | | |
|-------------------|-----------|------------------|--------------------------------|--------------|--------------|--------------------|--|--|--|
| Seg. | Design | Cable & Ductbank | Terminations, Splices & Vaults | Cable Risers | Installation | Total ¹ | | | |
| 1 | \$91,219 | \$2,412,503 | \$233,200 | \$179,200 | \$288,010 | \$4,596,964 | | | |
| 2 | \$136,715 | \$3,615,739 | \$303,200 | \$179,200 | \$373,955 | \$6,610,006 | | | |
| 3 | \$69,987 | \$1,850,959 | \$198,200 | \$67,700 | \$240,835 | \$3,483,469 | | | |
| 4 | \$125,191 | \$3,310,973 | \$303,200 | \$179,200 | \$375,390 | \$6,160,716 | | | |
| 5 | \$60,249 | \$1,593,428 | \$198,200 | \$179,200 | \$183,210 | \$3,179,515 | | | |
| 6 | \$28,985 | \$766,564 | \$128,200 | \$290,700 | \$99,755 | \$1,887,734 | | | |
| 7 | \$43,643 | \$1,154,243 | \$163,200 | \$179,200 | \$145,970 | \$2,421,795 | | | |
| 8 | \$63,612 | \$1,682,370 | \$198,200 | \$179,200 | \$207,480 | \$3,346,126 | | | |
| 9 | \$59,660 | \$1,577,850 | \$163,200 | \$0 | \$161,900 | \$2,814,450 | | | |
| Hwy 40 to Mid way | \$354,502 | \$9,375,645 | \$688,200 | \$246,900 | \$984,580 | \$16,706,807 | | | |
| Both | \$641,835 | \$18,051,615 | \$1,343,580 | \$436,988 | \$1,939,160 | \$32,158,615 | | | |

Segment 1 Cost Proportions



| For 46kV | | Cable & Ductbank | Terminations, Splices & Vaults | Cable Risers | Installation | Total ¹ |
|-------------------------------|-----------|---------------------|-----------------------------------|--------------|--------------|--------------------|
| Seg. | Design | | | | | |
| 1 | \$73,935 | \$2,232,465 | \$207,010 | \$126,813 | \$276,010 | \$4,188,078 |
| 2 | \$110,811 | \$3,345,908 | \$275,990 | \$126,813 | \$363,955 | \$6,063,538 |
| 3 | \$56,726 | \$1,712,828 | \$172,520 | \$63,275 | \$228,835 | \$3,209,130 |
| 4 | \$101,471 | \$3,063,885 | \$275,990 | \$126,813 | \$363,890 | \$5,647,296 |
| 5 | \$48,833 | \$1,474,515 | \$172,520 | \$126,813 | \$181,710 | \$2,881,072 |
| 6 | \$23,493 | \$709,358 | \$103,540 | \$190,350 | \$97,255 | \$1,615,889 |
| 7 | \$35,374 | \$1,068,105 | \$138,030 | \$126,813 | \$142,970 | \$2,172,661 |
| 8 | \$51,559 | \$1,556,820 | \$172,520 | \$126,813 | \$201,480 | \$3,030,940 |
| 9 | \$48,356 | \$1,460,100 | \$138,030 | \$0 | \$157,400 | \$2,589,534 |
| Hwy 40 to Mid way | | | | | | |
| | \$287,333 | \$8,675,970 | \$655,380 | \$190,088 | \$954,580 | \$15,451,808 |

EXHIBIT C



REPORT OF ACTION of the Midway City Council

Item: Rocky Mountain Power / Conditional Use Permit for Transmission Line (City Planner – Approximately 2 hours) – Discuss and possibly approve a conditional use permit for Rocky Mountain Power to improve a transmission line along 970 South, Stringtown Road and Wards Lane.

Action: Approved with Conditions

Date of Action: 17 December 2019

Motion: Council Member Simonsen moved that Midway City hereby approves, with the following conditions, the CUP for proposed construction of new transmission lines to carry power coming through Midway from roughly the direction of Heber City and ending at the substation near the Cemetery off 500 S. Furthermore,

We accept the staff report.

We accept the following findings:

- The proposal is an administrative review.
- The proposed use is a conditional use, and the city may impose reasonable conditions to mitigate identified negative impacts.
- The proposal will create a second point of power access that will benefit residents of the entire valley.
- The proposal will allow more power to enter the valley that will benefit the entire valley and meet present and future community needs.
- The proposal benefits neighboring areas and the entire power grid by providing more connectivity and redundancy to support better function of the system as a whole.
- It is known that strong EMF signals (electromagnetic fields) are emitted by all energized conductors, including underground and overhead power lines. These fields can induce a current in other disconnected nearby conductors and therefore can have negative effects on some electronic devices. Of particular concern to the city are devices that are used for personal health purposes, such as cochlear implants. Whereas the city is aware of residents within the service area that rely on such devices it is of concern to the city to mitigate any potential negative impacts related to these devices. It has come to the attention of the city that there is a technology (GIL) that could help mitigate this impact, and the city desires this to be considered as well as any other applicable technologies of which we may be unaware.
- The Midway City General Plan contains many statements that establish objectives related to the preservation of open space, our rural atmosphere, and the beauty of our entry corridors. Our general plan also encourages our local economy to embrace and support our assets as a "resort" city. By definition and extension, careful management of these

assets is a key factor in securing our city's financial future and our sales tax base. We find that overhead power lines raise concerns related to these items that require us to carefully consider how to mitigate visual impacts related to this proposal.

Whereas the city has conducted an independent randomized poll that has found approximately 70% of respondents are in favor of burying these power lines within the city limits, the preferred method of construction is underground. Midway City intends that the lines will be buried with the following conditions:

- *Recognizing that the city is required by law to pay the difference between the cost of overhead lines and the cost of underground lines (in State Code referred to as "excess costs"), and also recognizing that the City Council has a fiduciary duty to manage financial interests of the citizens appropriately, and with reference to Utah State Code 54-14-203, we do not accept the estimated costs provided by the applicant as sufficient information upon which to base funding decisions. Furthermore, we require the applicant to provide 3 actual competitive construction bids, prepared by qualified, bonded, and insured 3rd party entities, in accordance with standard city policy, to establish the actual cost of this construction. These bids must be submitted to Midway City no later than Feb 15, 2020. Failure to deliver these bids on time will cause the city to be unable to fulfill its fiduciary duty to the citizens of Midway by no fault of its own. To be clear: If these bids are not submitted by the applicant, it does not cause the construction to revert to overhead. It is the obligation of the applicant to provide this information in a timely manner and therefore the reasonable remedy for lateness of this information is to adjust any other deadlines by an amount equal to the lateness of this information.*
- *The bids provided by the applicant will include the base cost of burying the line from Center Street to the end of Wards lane, using current standard materials and practices. The costs of the dip poles at each end must be itemized. In addition, the bids must include the following itemized additional options:*
 - *Continuing underground from Wards Lane to the substation (Additional end of line cost) and*
 - *upgrading components (IE "rack", etc) inside the substation to accommodate raising the underground line (Substation Option 1)*
 - *placing dip poles immediately outside the substation to raise the line outside the substation (Substation Option 2)*
 - *Going underground immediately west of the Fish Hatchery, at least 350' or greater from Center Street/ HWY 113 (Additional Entry Cost)*
 - *An itemized option to use GIL (Gas Insulated Lines) as the transmission line conductor that will be buried. (Alternative Conductor Option)*

Using the cost information the bids will provide, Midway City will then choose the options that meet our needs in terms of cost and function.

- *Whereas private citizens (represented by the organization known as VOLT) have recognized an underground transmission line project that must be paid by citizens presents a significant financial burden on the citizens of Midway, and have stated they want to help mitigate this burden, and whereas the City Council is significantly concerned about the citizen impact of the full cost of underground construction, the city hereby requires that in order to proceed with underground construction a minimum of 1.5 Million US dollars in "donation" funds must be presented to the city in the form of contractual authorization to use these funds for the purpose of the burial of transmission lines, from an escrow bank account serviced by a qualified escrow service. If VOLT is able to raise more than \$1.5M and the underground project costs exceed \$1.5M, the City*

is delighted to accept more help from VOLT. If the final cost of the construction is less than \$1.5M, any excess donations will be retained by the donating entity (IE "VOLT"). It is up to VOLT to return the amount to the rightful owners. We officially express our deep gratitude to the VOLT organization for their hard work and dedication in the service of our town in potentially making actual private funds available.

- *Midway City must secure sufficient funds to cover the cost of construction. If financing is needed then the board of HLP must approve the issuance of bonds sufficient to cover the remaining final cost of construction, as determined by the bids, and after adjusting for the "base" cost of overhead and any other adjustments. Midway City will also work with the HLP board to determine the best mechanism for the bonds to be repaid (IE per-meter charge, per Kwh charge, etc), considering also that the bond issuer may have requirements. Furthermore Midway City Council may, at its discretion, enter into a contract with HL&P that establishes that these funds are to be used by the City to pay for the underground construction costs related to the new construction in Midway, including costs related to any small portions that extend slightly but contiguously out of city limits as part of completing this project.*
- *The appropriate Wasatch County Land Use Authority must approve a change in the plan for construction of the portion of the line that is within County jurisdiction and under the existing county CUP that will allow the dip poles (as needed for transition from overhead to underground) near HWY 113 to be moved to a location that is acceptable to the City Council. As guidance for this process, at this time the Council envisions a location near the Fish Hatchery, but we are open to discussion of the best alternatives that will achieve our goals of mitigating visual impacts near to our entry corridor.*
- *Prior to construction, the applicant will submit "visual mitigation" landscaping plans and simulations, that show a reasonable use of vegetation following national standards to mitigate the visual impact of any large diameter (> 24" at ground level) dip poles that are used. The intent is to obscure the base of the poles as much as possible with vegetation, while following accepted industry overhead line construction standards and accommodating safety and access requirements.*
- *The Midway City attorney will conduct a thorough review of this motion and the related requirements, with the intent of ensuring the city is acting in good faith and following all applicable laws regarding use of City funds and the issuance of a CUP.*
- *As applicable to underground construction, the route followed will be the Alternate Route "B", allowing for possible future full width construction of 970 S should that ever come to pass.*
- *Whereas many private citizens have expressed in written form submitted by VOLT that they would donate the value of their easements to reduce the cost burden borne by the City, these amounts will be subtracted from the underground cost the City will pay.*
- *All distribution lines along the route shall also be buried at the cost of HL&P.*
- *HL&P shall install at its own cost conduit sufficient to allow communication lines to also be placed underground.*
- *The applicant will obtain all necessary property rights and easements prior to the commencement of construction.*
- *The applicant shall contact all property owners whose properties are directly affected by changes to the line(s) prior to beginning construction.*
- *In the event a final determination is made by a court with jurisdiction that any existing property rights are not sufficient for the project, the applicant will acquire legally sufficient property rights for the project, which may include negotiated agreements with the property owners or the use of eminent domain. As a part of this process and in*

accordance with Utah law, the applicant will pay compensation for the properties either as negotiated with the property owner or determined by the court.

- *Once construction is finished on the underground line, the actual costs will be trued-up and either the applicant shall refund the over-payment to the City, or the City shall pay the difference to the applicant.*
- *The City will pay the difference between the standard cost (which includes engineering cost, the cost to install the line, all easement costs, all severance damages that RMP would have been required to pay had the line gone above ground) and the actual cost of the buried line.*

With regard to an underground project, we add the following additional findings:

- Midway City conducted an independent randomized poll and it was reported that 70.1% of respondents expressed willingness to bear the cost burden of burying the line.
- The City is relying on representations made by property owners along the line route that they will donate the amounts paid for easements and severance damages to the City in order to reduce the cost of burying the lines.
- The City is relying on representations made by the "VOLT" group that they can raise a substantial amount of money to help pay for an underground project.

If the applicant has met all of the city's request's given in this motion in a timely manner, but the city has not been able to secure ALL of the following 3 items:

a) sufficient funding to pay for the project either through private donations or a vote by the HLP board to approve a sufficient issuance of bonds to make up the difference, and reasonable assurance that related bond funds will be obtainable and usable by the City for this purpose

AND

b) the required minimum in "donation" fund dollars

AND

c) a vote by the Wasatch County Council to approve a location for the dip poles that would otherwise be alongside HWY 113 that is acceptable to the Midway City Council

... by March 1, 2020, then the applicant may proceed with overhead construction with the following conditions:

- The route followed will be the "Alternate Route B", allowing for possible future full width construction of 970 S should that ever come to pass.
- *All distribution lines along the route shall also be buried at the cost of HL&P.*
- *HL&P shall install at its own cost conduit sufficient to allow communication lines to also be placed underground.*
- The applicant will obtain all necessary property rights and easements prior to the commencement of construction.
- The applicant shall contact all property owners whose properties are directly affected by changes to the line(s) prior to beginning construction.
- In the event a final determination is made by a court with jurisdiction that any existing property rights are not sufficient for the project, the applicant will acquire legally

sufficient property rights for the project, which may include negotiated agreements with the property owners or the use of eminent domain. As a part of this process and in accordance with Utah law, the applicant will pay compensation for the properties either as negotiated with the property owner or determined by the court.

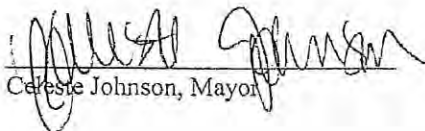
- The applicant will use the taller poles, with fewer poles and longer spans.
- The applicant will use the minimum possible diameter of poles in all locations. The applicant will use wood tangent poles wherever possible, and the applicant will work with property owners and the city in considering guyed structures versus large diameter structures as a possible construction method at "corners". The Midway City Council will ultimately decide which option is best, while complying with all applicable laws and construction standards.
- Where metal poles are used, the applicant will use the self weathering rust colored steel poles.
- Prior to construction, the applicant will submit "visual mitigation" simulations, that show a reasonable use of vegetation following national standards to mitigate the visual impact of any large diameter (> 24" at ground level) poles that are used. The intent is to obscure the base of the poles as much as possible with vegetation, while following accepted industry overhead line construction standards and accommodating safety and access requirements.
- While following national construction standards, in order to mitigate the possible negative affects of EMF on personal health electronic devices that may be used by nearby residents (such as unwanted noises caused in cochlear implants for example) the applicant will make a reasonable attempt at minimizing EMF emissions near overhead lines as measured on the ground underneath the line by using the most current available technologies for such purpose.
- The transmission lines used shall be non-specular or low-reflective so as to reduce visual impact.
- In general the applicant shall mitigate the visual impacts of the construction to the maximum extent possible while following all relevant safety and construction standards.

Second: Council Member Van Wagoner seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

| | |
|----------------------------|-----|
| Council Member Drury | Aye |
| Council Member Orme | Aye |
| Council Member Probst | Aye |
| Council Member Simonsen | Aye |
| Council Member Van Wagoner | Aye |


Celeste Johnson, Mayor

Wasatch County
Planning Commission
Report of Action
11 July 2019

ITEM #1 – Heber Light & Power and Rocky Mountain Power request a conditional use permit to rebuild and extend a transmission line and construct a new substation. The transmission line extension portion of this permit application begins on the existing transmission line on Old Highway 40, approximately 2 miles south of the Jordanelle Dam, and extends south 1.6 miles connecting onto the existing transmission line on Highway 40 approximately 0.8 miles south of the Highway 40/32 Interchange. The transmission line extension begins again at approximately 950 North and Highway 40 and runs 1.6 miles west and south, following the planned bypass road corridor, to the intersection of approximately 1200 West and Highway 113. The rebuilt transmission line portion of this permit application follows the existing transmission line on 1200 West. It continues south for approximately 0.25 miles. A new line would then go west along the fence line for approximately 700 feet. The line would then run from a proposed new substation located at 1465 West 650 South on the south side of 650 South. From that point a rebuilt line would run west approximately 2.1 miles ending at Highway 113, then again from the County portion of Wards Lane and 600 West and run 0.5 miles north ending at the Midway Substation located west of the cemetery in Midway City. The structures and poles will range in height from 75-90' with dead end poles ranging in height from 90-110'. *CONTINUED FROM THE JUNE 4th, 2019 MEETING TO THE JULY 11th, 2019 MEETING.*

Commissioner Smith was present as Chair.

STAFF PRESENTATION

The Staff Report to the Planning Commission provides details of the facts of the case and the Staff's analysis, conclusions, and recommendations. Key points addressed in the Staff's presentation to the Planning Commission included the following:

- Doug Smith presented the report with proposed findings and conditions.

CONCERNS RAISED BY PUBLIC

Any comments received prior to completion of the Staff Report are addressed in the Staff Report to the Planning Commission. Key issues raised in written comments received subsequent to the Staff Report or public comment during the public hearing included the following:

- Tracy Taylor stated that she believes the application is substantially different the substation and power lines. Explained that the comments were closed and that the previous notice did not have a specific location. Stated that the contract between RMP and HLP was concerning.
- Richard Doxey with Nymphas Murdock LLC. Thanked the commission for continuing the item. Was pleased with some of the things proposed. Was concerned about being specific on landscaping and height of trees at full growth should be 30-40 ft. ~~Showed previous substation plan.~~ Wanted to move the station to the north. Also concerned about the substation pole heights. Was concerned the size foot print was 8-10 acres in size. Stated that he believes the footprint is much larger. Wants the area to stay residential/agricultural. His ultimate question was what are the mitigating conditions the power company will commit to. Just wants the law followed and the greenery is better than the wall.
- Laren Gurtch. Presented list of questions in December meeting, still not addressed. Concerned about noise from substation, on poles. These questions must be addressed by this commission. Is opening this meeting for public hearing sufficient since it wasn't noticed as open? Was concerned about the length and number of poles,

wetland areas and why isn't this following an established road? Fundamental question he wants answered is why the easements question hasn't been answered. Wants a condition added that the applicant does not have any eminent domain rights. Wants limits put on that protect owners from additional eminent domain rights.

- Herb Burnett lives on 650 South explained that he thinks that the power lines would create noise and have some impact on the community on those lines. Believes there are real impacts both noise and financially. Just wants the commission to know that there are concerns and just doesn't want facts doesn't want things hidden.
- Tracy Taylor spoke again stating that she feels this process is all wrong and that it wasn't noticed properly so people are not here to comment.

APPLICANT RESPONSE

Key points addressed in the applicant's presentation to the Planning Commission included the following:

- Harold Wilson and Benjamin Clegg presented for Rocky mountain power. Mr. Clegg explained that they are planning on one wood and one smaller metal pole at the 113 crossing. Nicole XXX the transmission engineer for Rocky Mountain Power explained that they could try to make the crossing poles equidistant as possible from the roadway. Cited the current plan and had an exhibit that showed the current plans. Showed they were 100 feet or so away. She stated they could commit to 75' from the fence line at that crossing on the north and south.
- Went through a presentation that clarified the substation issues and requirements. Explained what zone they were in and that they were a conditional use. Stated that they are under the coverage numbers and they are at 14.5% and the requirement is 20%. Explained the acreage coverage for each part of the property.
- Commissioner Jewkes asked what the plans for the house are on the property. Applicant stated they haven't yet decided. May split off the house property later. Remainder would still comply with coverage requirements.
- Applicant stated they are complying with the intent of the landscaping code though they don't believe it applies to them. They created a landscape plan which they prevented. Looked at the berm and landscaping option as well as a concrete wall option. Clarified it is in one or the other.
- Went over state statute on conditional uses. Stated they met all county conditional use requirements as well as state requirements. Stated they met county code. Stated that they believe they have mitigated all the issues on the site as far as required.
- Commissioner Jewkes asked about the heights of the equipment in the substation. Wanted them to clarify their position that the power poles that are dead ends are poles and not structures or buildings.
- Commissioner Hendricks asked about the siting on the substation and that the bypass and Heber City are on the East. Harold explained that they will try to go the East as much as they can.
- With questions from commissioner Jewkes addressed how they searched for a site for the substation. Harold explained how they were really pursuing other properties but couldn't find a location until this owner was willing to sell. Didn't think it was fair to characterize the effort that way.
- Applicant stated they didn't believe there were any health requirements.
- Commissioner Zuercher asked if the non-spectral wire was being used near the Labrum dealership Applicant stated that it was.

PLANNING COMMISSION DISCUSSION

Key points discussed by the Planning Commission included the following:

- Commissioner Hendricks wanted to clarify some of the findings and conditions. What does condition 4 mean and how can they be specific on materials and setbacks. Clarified that he will be asking about that in the applicant presentation. Asked about finding number 4 and applicant will need to find that. Finding 8 about fencing. Clarified the berm will still have a safety/security fence. Asked about the centering on the lot.
- Commissioner Jewkes asked about the coverage and height requirements and if the staff was comfortable with those. Doug Smith clarified that we believe they do meet some, but the applicant will need to explain how they meet that.

- Chairman Smith asked Jon Woodard about the State Facilities Review Board and how that works. Jon explained how that board works and that any result we get through here would be better than going that route.
- Commissioner Jewkes has some questions. Asked about the letter sent to the County Attorney and if that was responded to. Jon was not sure what Scott did about this. Commissioner Jewkes wanted to know about Tracy Taylor's other concerns. Jon stated that the application could change as it has without a new application, also stated that a specific address is not required for noticing. Adam Long General Council for Heber Light and Power stated that HL&P are not in the business of owning easements or property, they're in the business of delivering power. The arrangement benefits HL&P and RMP.
- Commissioner Hendricks stated that the contract issues aren't in our purview. Commissioner Jewkes agreed with that.
- Commissioner Jewkes had questions about how high the poles were in the substation. Applicant stated that they would be 65'.
- Commissioner Hendricks outlined how the process has worked well so far and people have had many opportunities to comment.
- Commissioner Jewkes explained that we just need to reasonable mitigate the issues.
- The commission discussed possible conditions and how they could clarify and make them better.

MOTION - Lines portion (1a)

Commissioner Jewkes made a motion to approve the Conditional Use Report with all the findings and conditions with the following exceptions:

The fewest number of poles be used with heights at the higher end of the range.

The crossing at 113 use wood poles unless a metal one is required with 75' setbacks from the fenceline along the road

Commissioner Zuercher seconded the motion.

VOTE (5 TO 0)

| | | | |
|------------------|-----|-----|---------|
| Michael Smith | AYE | NAY | ABSTAIN |
| Charles Zuercher | AYE | NAY | ABSTAIN |
| Kimberly Cook | AYE | NAY | ABSTAIN |

| | | | |
|----------------|-----|-----|---------|
| Mark Hendricks | AYE | NAY | ABSTAIN |
| Joshua Jewkes | AYE | NAY | ABSTAIN |

MOTION - Substation Portion

Commissioner Jewkes made a motion to approve the substation with the findings and conditions in the report with the following exceptions:

Trees at planting must be 6' and 35' at maturity unless it interferes with operation and safety of the station.

Efforts should be made to move the station to the north and locate it properly. The setback to the South should be at least 100'.

Commissioner Hendricks seconded the motion.

VOTE (5 TO 0)

| | | | |
|------------------|-----|-----|---------|
| Michael Smith | AYE | NAY | ABSTAIN |
| Charles Zuercher | AYE | NAY | ABSTAIN |
| Kimberly Cook | AYE | NAY | ABSTAIN |

| | | | |
|----------------|-----|-----|---------|
| Mark Hendricks | AYE | NAY | ABSTAIN |
| Joshua Jewkes | AYE | NAY | ABSTAIN |

FINDINGS / BASIS OF PLANNING COMMISSION DETERMINATION

Additional Report of Action for item previously continued after a public hearing or other discussion: 06/04/2019

The motion includes facts of the case, analysis, conclusions and recommendations outlined in the Staff Report, with any changes noted: Planning Commission determination is generally consistent with the Staff analysis and determination.

1. 16.07.03 of the Wasatch County code lists electric substations as a conditional use.
2. The land use authority shall approve Conditional uses if reasonable conditions to mitigate negative effects can be imposed.
3. The planning Commission is the land use authority for conditional uses.
4. The applicant has demonstrated to the commission that the proposal complies with Section 16.23.07 of the current Wasatch County Code related to Conditional Uses and the impacts have been substantially mitigated by the specific conditions listed.
5. The proposal complies with Wasatch Code Chapter 16.07 (RA-5).
6. The proposal complies with Wasatch Code 16.07.09 requiring the height of structures to not exceed 35' above natural grade, noting that the conditional use of power poles over 49 feet in 16.07.03 is a specific provision of code for power poles heights that governs over the general limitation on the height of dwellings and structures, and which interpretation is in accordance with how the county has approved power poles throughout the county.
7. The proposal complies with Wasatch Code 16.07.12 requiring buildings and structures to not cover more than 20% of the area of the lot or parcel of land.
8. The landscape plan presented, if approved by the commission, provides a mixture of evergreen and deciduous trees that, along with the minimum 5' berm, will provide the necessary screening to mitigate the detrimental effects of the ground mounted equipment.
9. There are no known zoning violations on the property at this time.

CONDITIONS

Power Lines:

1. The planning commission should consider which of the following is more appropriate:
 - a. The applicant should keep the heights of the power poles as low as possible. This may require a higher number of poles in order to keep the power lines at minimum required heights.
- OR**
- b. The applicant should install the fewest number of poles possible. This may require heights at the high end of the requested range in more places, but would result in an overall lower number of poles. The applicant would still not go higher than necessary to meet safety and code requirements.
2. The applicant demonstrates that the proposal can satisfy the necessary findings outlined in 16.23.07 and with mitigating conditions be an acceptable use.
3. Distribution lines through the more noticeable parts of the system must be buried. A clear commitment by the applicant for specific areas and lengths should be determined.
4. Demonstration and clear understanding of the Highway 113 crossing at Southfield road with particular attention to setbacks from the highway for poles and consideration of wood poles and not large metal terminus poles.
5. All poles through straight portions should be wood with corner poles being rusted steel.
6. The maximum height limit for power poles is 110' on corner and end poles and 90' on all other poles.
7. The lines used should be non-spectral or low-reflective lines so as to reduce visual impact.
8. All Horizontal bars including distribution lines, where used, shall be rusted and not galvanized.
9. In all areas where two lines exist, Rocky Mountain Power and Heber Light & Power shall co-locate lines.

Substation:

1. The landscape plan must specify the mixture of deciduous and evergreen trees with species and sizes placed strategically to buffer the more impactful areas of the sub-station.
2. The landscape plan approved should have, at a minimum, 110 trees and sizes as per code section 16.21.10 which requires trees to be 2" caliper and 6' in height at time of planting.
3. The berming shall be a minimum of 5' in height as shown on the plans or as determined by the planning commission.
4. Any expansion of the use would require submittal of another conditional use application.
5. Any lighting installed on the substation property will need to be dark sky compliant with full cut-off.
6. Coverage of the site shall be in compliance with 16.07.12 including expansions.
7. Consideration of having the substation setbacks equal distances from the south, east and west property lines.

8. All Landscaping must be maintained in perpetuity.
9. Landscaping must be installed at the time of the construction of the substation.



Wasatch County Planning Commission - Chairman

The Staff Report is a part of the record of the decision of this item. Where findings of the Planning Commission differ from findings of Staff, those will be noted in this Report of Action. Official action of the Planning Commission on this item is subject to the approved minutes.

EXHIBIT D

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Counsel for Respondent Midway City

BEFORE THE UTAH UTILITY FACILITY REVIEW BOARD

ROCKY MOUNTAIN POWER
Petitioner

vs.

MIDWAY CITY
Respondent

**DIRECT TESTIMONY OF JOHN
NELSON**

Docket Number 20-035-03

1 **PURPOSE OF TESTIMONY**

2 **Q: Why are you providing this testimony?**

3 A: I have been asked to provide expert opinions regarding (1) whether the transmission line
4 proposed by Rocky Mountain Power ("RMP") through Midway City is necessary and must be
5 constructed by the end of 2020; (2) whether the conditions placed by Midway City on
6 construction of the proposed line will impair the ability of RMP to provide safe, reliable, and
7 adequate service to its customers; and (3) whether the bids proffered by RMP in this case are
8 competitive bids that accurately reflect the actual cost of constructing the proposed line
9 underground.

10
11 **WITNESS BACKGROUND AND QUALIFICATIONS**

12 **Q: Please state your name, business address and present position.**

13 A: My name is John P. Nelson and I am semi-retired living at 30997 Niakwa Road,
14 Evergreen, Colorado, 80439. I perform part time work for NEI Electric Power Engineering as a
15 Senior Power System Consultant.

16 **Q: Please describe your education and business experience.**

17 A: I received a Bachelor of Science degree from the University of Illinois in 1970 and a
18 Master of Science degree from the University of Colorado in 1975. I performed graduate studies
19 in the MBA program at the University of Colorado from 1976-1979. I taught graduate and
20 undergraduate power engineering classes at the University of Colorado from 1998-2000.

21 I have over 50 years of power engineering experience, including 10 years at the Public Service
22 Company of Colorado, 5 years with Power Line Models and over 35 years with NEI Electric
23 Power Engineering, which I founded in 1984. Please see my CV, which is attached hereto.

24 **Q: What experience and qualifications do you have regarding power companies and**
25 **transmission lines?**

26 A: I have over fifty years of experience in the planning, design, construction, maintenance
27 and operation of generation, transmission, distribution and utilization of electric power from 120
28 Volts through 500 kV. My experience includes extensive work not only in the United States but
29 also internationally where I have worked on utility and industrial power systems. I am quite

familiar with RMP's system in the states of Utah and Wyoming, where I have worked as a consultant to Amoco Production, later BP, in the Evanston, Wyoming area, P&M Coal near Kemmerer, Wyoming, Chevron in the Evanston, Wyoming Area, Lehi Power, Provo Power and Brigham City Power, Heber Light and Power and other industrial and utility companies. I jointly performed power system studies with Utah Power and Light, the predecessor of RMP, for the Evanston Wyoming area for the development of the 138 kV loop transmission system originating at the Naughton Power Station and ultimately including the development of the Railroad Substation.

Q: Have you provided expert witness opinions and testimony before?

A: Yes. I began providing technical assistance for the attorney's representing Public Service Company of Colorado (PSCO), now Xcel Energy in 1975 while I was employed by PSCO. When I left PSCO in 1979 to become a consulting engineer, I continued to assist PSCO in numerous cases and through different law firms. As a consulting engineer, I continued to receive cases to review resulting in expert reports, depositions and court testimony. Although I was a practicing engineer, I have probably spent upwards of between 5 and 10% of my profession career on legal investigations primarily involving electric utilities. I have testified on electrical injury cases, electrical related fires, electrical outages and other electrical power issues including professional audits of a number of electric Utility Companies such as Commonwealth Edison in Chicago, Duke Energy (South Carolina), ConEd (New York), LA Light and Power, and several other large utilities.

Q: In summary, what qualifies you to provide these expert opinions?

A: I have first-hand knowledge of the electric power system in question along with expert skill, knowledge and experience in the generation, transmission, distribution and utilization of electric power. I have also provided numerous expert studies, reports, depositions and court testimony on major power system incidents. I am familiar with planning studies and construction projects similar to the project involved in this case. Please refer to my attached CV for more detailed information regarding my qualifications.

EXPERT DATA

Q: What documents and materials have you reviewed related to this case?

A: I have reviewed the testimony of the following RMP witnesses and experts:

- Jake Barker – Director Transmission Planning and Power Quality (RMP)
 - Darin Myers, Project Manager, Rocky Mountain Power
 - Benjamin Clegg, Operations Manager and Principal Project Manager, Sigma Utility Solutions, LLC
 - Benjamin LeFevre, Managing Director and Certified General Appraiser, Integra Realty Resources
 - Jason Norlen, General Manager, Heber Light & Power
 - Craig Michaelis, Lead Electrical Engineer, Intermountain Consumer Professional Engineers, Inc.
- I have reviewed the RMP 138 kV transmission system and substations between Hale, Cottonwood and Railroad substations using Google Earth Pro.
 - I also reviewed the following documents:
 - Okonite 138 kV power cable catalog sheets – Product Data Section 2: Sheet 55
 - Okonite shield fault current calculations
 - RMP underground cable bids from bidders 13, 15 and 17
 - Numerous technical articles
 - Petition Before the Utah Facility Review Board dated Jan 15, 2020
 - Midway Response Before the Utah Facility Review Board dated Feb 21, 2020
 - Technical Provisions, specifications, Drawings and Maps – Jordanelle-Midway Underground 138 kV Line Section – Underground Transmission Project for Bidding – Issue Date Feb 21, 2020
 - Heber Light and Power Underground Communications and Power Specification Drawings
 - Heber Light and Power Underground Transmission Cost/Feasibility Study – Dated April 24, 2018
 - Summary of RMP Park City Area Planning Study
 - Response from RMP on Geotech Midway Studies

Q: What did you learn from those materials?

A: The knowledge that I gained from those materials provided me with a relatively clear understanding of the issues being raised in this case. In particular, the materials showed a clear

92 indication, in my professional opinion, that RMP is not a proponent of placing the RMP and HL&P
93 systems underground. The materials appear to show high costs, unnecessary requirements and
94 unreasonable time constraint on the project. Much of what I have learned in this case is presented
95 in my testimony below.

96 97 **EXPERT OPINIONS**

98 **Q: Do you have an opinion whether the transmission line proposed by RMP through**
99 **Midway City is necessary and must be constructed by the end of 2020?**

100 A: Yes. In my expert opinion and to a reasonable degree of scientific certainty, the
101 transmission line proposed by RMP is necessary, but the specific routing is not, and the
102 construction completion date by the end of 2020 is arbitrary.

103 **Q: Why did you reach these conclusions?**

104 A: RMP has indicated that the proposed line through Midway City is necessary and must be
105 constructed by the end of 2020. In my opinion, the end of 2020 is an optimistic date that has no
106 firm basis. This is not to say that having the line constructed by the end of 2020 is not a
107 reasonable goal. With the information provided by RMP, there appears to be a valid basis for
108 completing the construction as soon as possible. In particular, the discussion by RMP on the
109 occurrence of a single contingency 138 kV line outage resulting in unacceptable system voltages
110 shows that this problem has evolved over a number of years where RMP should have taken
111 corrective action years earlier. The argument that the 138 kV line in question must be completed
112 by the end of 2020 could have been made years earlier; for example by the end of 2017, 2018,
113 2019 or even an earlier date. The loads in the Heber City and Park City areas have materialized
114 over the years increasing the risk of power outages each year. While the risks have increased
115 each year, there is no unique circumstance requiring the line in question to be completed by the
116 end of 2020. In fact, with the present COVID-19 crisis and resulting economic downturn, the
117 loads most likely will decrease the impact of a single contingency outage. Furthermore, the
118 worst-case conditions that RMP took into consideration are statistically low, further reducing
119 the probability of such a condition. While it would be commendable to have the line completed
120 by the end of 2020, it is no more essential by 2020 than years earlier. With that said, the line
121 should be completed as soon as practical to improve the system reliability.

Q: What is the likelihood that delaying the proposed line until a start date of spring of 2021 would result in “an array of negative system outcomes . . . [that] include outages lasting days or weeks to thousands of customers of both companies”, as alleged by RMP?

A: The likelihood is very low, but it is statistically possible.

Q: What is the likelihood of the power system need exceeding the capacity of the Cottonwood-Snyderville and Hale-Midway transmission lines between now and the end of 2021?

A: The likelihood is very low, but it is statistically possible.

Q: What is the likely outcome if, hypothetically, the Hale-Midway 138kv transmission line were to have an outage, reducing the nominal voltage to 73%?

A: First, the probability of losing the Hale-Midway line is statistically low but could occur. Assuming the hypothetical loss of the Hale-Midway line under the conditions for which RMP has found the nominal voltage would reduce to 73%, the following is the likely outcome:

- Automatic load shedding in any substations where RMP may have undervoltage load shedding capability.
- System controller/dispatcher would shed loads in such a manner to restore voltages to tolerable levels.
- Local generation may trip off-line if the undervoltage is sustained for any period of time.

Q: In the foregoing hypothetical, do you agree that blackouts or equipment damage would result, as RMP claims?

A: We must keep in mind that the foregoing hypothetical is very unlikely and has also existed for years. With that said, I agree that blackouts could result from the worst-case scenario. However, I do not believe any electrical equipment in normal operating condition would be damaged. Electrical equipment is more susceptible to damage from overvoltage than from undervoltage. It should be noted that 73% is a serious condition that should be avoided.

Q: How would a hypothetical loss of a power source, like an outage in the Hale-Midway 138kv line, affect the power system and customers of RMP?

A: First, at this time the HLP system would experience a total power loss since the Hale-Midway 138 kV line is the sole source to HLP. In addition, it is probable that other RMP loads would need to be shed if the system becomes overloaded. As RMP has determined in their load flow studies, load shedding would be required and some customers could lose power until the line

is restored. If the outage is extended, RMP may need to resort to rotating blackouts until the system is restored. Again, this hypothetical scenario is worst-case and very unlikely, and the condition has also existed for years.

Q: What are the planning standards to remain above 90% of nominal voltage during an outage, and what happens if the nominal voltage dips below this?

A: Utility industry standards are typically developed by organizations like IEEE (Institute of Electrical and Electronic Engineers), ANSI (American National Standards Institute), NEMA (National Electrical Manufacturers Association) and others through consensus in order to have consistent requirements across the industry. The 90% limit on the nominal voltage for the transmission system is based on consensus agreement across the industry. The 90% minimum voltage has been determined to be an acceptable minimum normal transmission line voltage just as 105 - 110% has been determined to be the maximum normal voltage. Utilities would like to operate their transmission systems typically within a 95-105% range. The ultimate reason is to provide voltage to the customer that is reasonable, safe and consistent. Finally, extended periods of undervoltage can be detrimental to electrical equipment and loads, although not nearly as detrimental as overvoltage.

Q: If the nominal voltage drops to 63%, as suggested by RMP, what are the foreseeable outcomes in this case?

A: This is a hypothetical scenario that is unlikely to occur. Should it occur, loads will be shed in sufficient quantity to restore voltage to the system.

Q: In the unlikely event of a power outage on either of these transmission lines (i.e., Hale-Midway or Cottonwood-Snyderville), how long would it take to repair and restore service?

A: The vast majority of outages with 138 kV transmission lines are momentary in nature and may be caused by such events like lightning, wind or unloading of ice causing lines to slap together. The momentary outages are typically a fraction of a second. However, a more severe outage could take hours or days to locate and repair. If the line trips and stays out, a trouble-man may be required to inspect the line, determine the cause and have a crew repair the problem. Minor problems could be restored in two to ten hours. A major problem like a snow or rockslide could take a crew one or two days or possibly even longer, depending on the event. Again, this risk has existed for years and has not materially worsened or become more acute in 2020.

Q: What is the likely outcome if, hypothetically, the Cottonwood-Snyderville 138kv transmission line were to have an outage, reducing the nominal voltage to 73%?

A: The answer is similar results would occur as in the loss of the Hale-Midway line. However, different loads and substations may be involved. This is likewise an unlikely event and a risk that has existed for years.

Q: Does the system still operate in that case?

A: Yes, on a temporary reduced level. Rotating blackouts could be required, depending on the severity.

Q: Do you agree with RMP's conclusion that there will be 620 hours of exposure to risk for inadequate voltage in the years 2020-2021 if the proposed transmission line does not go in now? Why or why not?

A: We have requested documents from RMP relating to this issue but we have not received them. Without the benefit of reviewing those documents, I will assume that to be correct based on RMP's studies. However, a year includes 8,760 hours, so 620 hours of exposure is roughly 7% of the year. That 7% would also most like occur during the peak load hours and may result in a few hours of each day during the summer peak and winter peak.

Q: Is it common for all power systems to have certain exposure to this type of risk?

A: No. Good utility practice is to plan for no loss of customers on standard single contingency outages on a transmission system. However, there are risks for radially fed customers. Moreover, this is a risk that has existed for years, and nothing has recently changed to increase the risk.

Q: How much, if at all, will the risk increase if the proposed transmission line is delayed one year to 2021?

A: The overall increase in risk from 2019 to 2020 to 2021 is minor. However, RMP has shown that the present risk is real and present.

Q: What is the real risk to the system if the proposed transmission line is delayed for one year and completed by the end of 2021?

A: The real risk is low, but in the worst-case scenario, some customers could experience a longer than normal power disruption at peak times.

Q: Do you have an opinion whether the conditions placed by Midway City on construction of the proposed line will impair the ability of RMP to provide safe, reliable, and adequate service to its customers?

A: Yes. In my expert opinion and to a reasonable degree of scientific certainty, the conditions placed by Midway City on the construction of the proposed line will not impair the ability of Rocky Mountain Power to provide safe, reliable and adequate service to its customers.

Q: Why did you reach this conclusion?

A: The placement of all or part of a 138 kV transmission line underground is common throughout the electric industry. The placement of a 138 kV transmission line underground is a proven technology with excellent results. In fact, the placement of a 138 kV transmission line underground typically and significantly improves the reliability of the transmission line since the underground cable is well protected by its inherent design. It is not subject to normal adverse conditions such as lightning, high winds and icing. Furthermore, it reduces the exposure of high voltage to the general public. In summary, the proposed underground cable will not impair the ability of RMP to provide safe, reliable and adequate service to RMP customers. The time delay from completing the project in 2020 versus 2021 will not decrease the safe and reliable delivery of power to the system any more than what RMP has accepted for a number of years to this date.

Q: Do you have an opinion whether the bids proffered by RMP in this case are competitive bids that accurately reflect the actual cost of constructing the proposed line underground?

A: Yes. In my expert opinion and to a reasonable degree of scientific certainty, the bids proffered by RMP in this case appear to be high based on RMP's overly conservative specification. Furthermore, RMP received only three bids from a group of eighteen bidders. The limited number of bidders raises questions about the difficulty of each bidder to reasonably present a bid. There are several reasonable changes to the specifications that can be incorporated, which would significantly reduce the bids. The table below summarizes the bids RMP received for the project and include the cost placing the 138 kV line underground, the cost of terminating structures at each end of the underground circuit and a surcharge by RMP for overseeing the project. The primary difference between the three options is the length of overhead line being placed underground, with Option 1 being the shortest proposed length.

| | | | Bidder 13 | Bidder 15 | Bidder 17 |
|----------|--|--|--------------|--------------|--------------|
| Option 1 | | | \$14,087,283 | \$22,369,008 | \$12,646,665 |
| Option 2 | | | \$14,890,375 | \$24,245,299 | \$12,905,369 |
| Option 3 | | | \$17,315,492 | \$28,356,571 | \$14,773,386 |

Q: What were your cost estimate conclusions?

A: I have reviewed the cost estimates from the three bidders identified as Bidders 13, 15 and 17. I performed an engineering estimate on a per mile basis for placing the 138 kV overhead line underground. My first estimate is based on the RMP specification and is approximately \$8.1 million per mile. My second estimate is based on reducing some of the conservative RMP specification requirements and is approximately \$6.3 million per mile. As a result, I believe that the cost based on the RMP specifications, \$8.1 million, versus the cost of \$6.3 million for a reasonable alternative set of specifications is approximately 29% higher. In reviewing Option 1 of the RMP bid document, the distance specified is 6990 feet where my measured distance using Google Earth Pro is approximately 5810 feet. The distances for Option 2 and 3 in the specifications also appear to be longer than my measurements. The additional distance of 6990 from 5810 feet alone may result in a 20% higher bid.

Making a comparison of RMP's lowest cost from Bidder 17 including the riser poles is \$12.6 million and reducing the bid by \$0.4 million for RMP's surplus costs results in a comparative bid to my estimates of \$12.2 million. The \$12.2 million RMP is 42% higher than my cost estimate of \$8.9 million. Next, lowering my cost estimate for the reduced specification results in a cost estimate of \$6.9 million for 5810 feet. The \$12.2 million RMP cost is 83% higher. In conclusion, the RMP proposed costs are considerably higher than would be expected. The comparisons in the table below are based on what I actually believe the length of the circuit to be in comparison with the RMP bid. The percent differences should be lower based on a comparison of equal lengths.

| | 5280 ft (\$million) | 5810 ft (\$million) | Bidder 17 6990 ft (\$million) | % Difference |
|-------------------------|------------------------|------------------------|----------------------------------|--------------|
| RMP Spec Comparison | \$8.1 | \$8.9 | \$12.2 million | 42% |
| Reduced Spec Comparison | \$6.3 | \$6.9 | \$12.6 million | 83% |

Detail supporting my estimates is attached hereto.

SUMMARY OF TESTIMONY

Q: Please summarize your testimony.

268 A: While I am a proponent of installing transmission power lines overhead and understand
269 the philosophy of electric utilities to do so, it is apparent that RMP would prefer to quickly install
270 the 138 kV transmission line in question overhead due to time and costs. Likewise, it is apparent
271 that RMP has presented arguments against constructing a segment of their 138 kV transmission
272 underground line and has provided what appear to be a very conservatively high cost estimates
273 for placing the 138 kV lines in question underground. In addition, there are no extenuating
274 circumstances to complete the construction by the end of 2020, as alleged, and the cost of doing
275 such work should be much less expensive than that proposed by RMP.

276 **Q: Does this conclude your direct testimony?**

277 A: Yes.

| | | | | | | | | | |
|---|---------------|-----------------|-----------------|----------------------|--------------------------|---------------------------|-----------------|----------------------|------------------|
| RMP Midway UG Cable Cost Estimate | | | | | | | | | |
| Two, 138 kV UG Circuits 1250 MCM CU | | | | | | | | | |
| Per Mile (5280 Ft) 4 Conductors and Based on RMP Specs | | | | | | | | | |
| | 1 mile | Quantity | Material | Material Cost | Labor & Equip | Labor & E Cost | Total | Comments | |
| EQUIPMENT | Units | | | | | | | | |
| 138 kV, 1250 MCM CU Cable | 8 | 42240 | \$ 45.00 | \$ 1,900,800.00 | \$ 10.00 | \$ 422,400.00 | \$ 2,323,200.00 | 5280 ft Circuit | 8 Conductors |
| Fiberglass conduit, 6," 20 ft sections/ft | 8 | 42240 | \$ 15.00 | \$ 633,600.00 | \$ 7.50 | \$ 316,800.00 | \$ 950,400.00 | 8 conduits | |
| Fiberglass conduit, 4," 20 ft sections/ft | 2 | 10560 | \$ 10.00 | \$ 105,600.00 | \$ 5.00 | \$ 52,800.00 | \$ 158,400.00 | 2 Conduits | |
| Fiberglass conduit, 3," 20 ft sections/ft | 1 | 5280 | \$ 4.00 | \$ 21,120.00 | \$ 4.00 | \$ 21,120.00 | \$ 42,240.00 | 8 conduits | |
| 138 kV Surge Arresters | | 16 | \$ 2,000.00 | \$ 32,000.00 | \$ 2,500.00 | \$ 40,000.00 | \$ 72,000.00 | | |
| 138 kV Termination kit | | 16 | \$ 5,500.00 | \$ 88,000.00 | \$ 4,500.00 | \$ 72,000.00 | \$ 160,000.00 | | |
| Four 6" x 3 conduit spacers - Electric | 4 | 2485 | \$ 9.28 | \$ 23,058.07 | \$ 10.00 | \$ 24,847.06 | \$ 47,905.13 | 8.5 ft spacing | |
| Spacers for Communications | 1 | 422 | \$ 6.00 | \$ 2,534.40 | \$ 4.40 | \$ 1,858.56 | \$ 4,392.96 | 12.5 ft spacing | |
| Manholes - Electric | | 16 | \$ 25,000.00 | \$ 400,000.00 | \$ 10,000.00 | \$ 160,000.00 | \$ 560,000.00 | | |
| Manholes - Communications | | 8 | \$ 15,000.00 | \$ 120,000.00 | \$ 7,500.00 | \$ 60,000.00 | \$ 180,000.00 | | |
| Hardware for each support - Electric | | 2485 | \$ 2.00 | \$ 4,970.00 | \$ 3.00 | \$ 7,455.00 | \$ 12,425.00 | | |
| Hardware for each support - Com | | 2485 | \$ 2.00 | \$ 4,970.00 | \$ 3.00 | \$ 7,455.00 | \$ 12,425.00 | | |
| 138 kV Termination Structures | | | | | | | | | |
| 138 kV Termination OH-UG | | 4 | \$ 75,000.00 | \$ 300,000.00 | \$ 25,000.00 | \$ 100,000.00 | \$ 400,000.00 | | |
| Grounding | | 0 | \$ - | \$ - | \$ - | \$ - | \$ - | | |
| 4/0 CU Stranded Bare Conductor | 2 | 10560 | \$ 3.01 | \$ 31,785.60 | \$ 1.00 | \$ 10,560.00 | \$ 42,345.60 | Two 5280 ft Circuits | |
| Copperclad Grnd Rod 5/8" x 8 ft | | 20 | \$ 25.00 | \$ 500.00 | \$ 25.00 | \$ 500.00 | \$ 1,000.00 | | |
| Hardware - Misc | | 100 | \$ 15.00 | \$ 1,500.00 | \$ 20.00 | \$ 2,000.00 | \$ 3,500.00 | | |
| Concrete | | | | | | | | | |
| 138 Termination Structures | | 4 | \$ 600.00 | \$ 96,000.00 | \$ 600.00 | \$ 96,000.00 | \$ 192,000.00 | 40 | 40 cyd/structure |
| RMP Duct Bank electric- cyd | 1 | 782 | \$ 30.00 | \$ 23,466.67 | \$ 30.00 | \$ 23,466.67 | \$ 46,933.33 | 2 ft x 2 ft | |
| RMP Thermal Concrete Backfill - cyd | 1 | 1173 | \$ 37.50 | \$ 44,000.00 | \$ 37.50 | \$ 44,000.00 | \$ 88,000.00 | 2 ft x 3 ft | |
| Communications Duct Bank - Cy | 1 | 196 | \$ 30.00 | \$ 5,866.67 | \$ 30.00 | \$ 5,866.67 | \$ 11,733.33 | 1 ft x 1 ft | |
| HL&P Duct Bank Electric - cyd | 1 | 782 | \$ 30.00 | \$ 23,466.67 | \$ 30.00 | \$ 23,466.67 | \$ 46,933.33 | 2 ft x 2 ft | |
| HL&P Thermal Concrete Backfill - cyd | 1 | 1173 | \$ 37.50 | \$ 44,000.00 | \$ 37.50 | \$ 44,000.00 | \$ 88,000.00 | 2 ft x 3 ft | |
| Trenching and Road Work | | | | | | | | | |
| RMP Trench - 5 ft x 2 ft | 1 | 5280 | \$ - | \$ - | \$ 35.00 | \$ 184,800.00 | \$ 184,800.00 | | |
| HL&P Trench - 5 ft x 2 ft | 1 | 5280 | \$ - | \$ - | \$ 35.00 | \$ 184,800.00 | \$ 184,800.00 | | |
| Concrete cutting - ft | 2 | 10560 | \$ - | \$ - | \$ 10.00 | \$ 105,600.00 | \$ 105,600.00 | | |
| Environmental - Material removal - cyd | 2 | 3911 | \$ - | \$ - | \$ 20.00 | \$ 78,222.22 | \$ 78,222.22 | | |
| Road Repair - 6 ft wide - ft | 1 | 5280 | \$ 25.00 | \$ 132,000.00 | \$ 15.00 | \$ 79,200.00 | \$ 211,200.00 | | |
| Miscellaneous | | | | | | | | | |
| Miscellaneous Materials | | 1 | \$ 250,000.00 | \$ 250,000.00 | \$ 200,000.00 | \$ 200,000.00 | \$ 450,000.00 | | |
| Mob/Demob/Site Reclamation | | 2 | \$ 20,000.00 | \$ 40,000.00 | \$ 50,000.00 | \$ 100,000.00 | \$ 140,000.00 | | |
| Subtotal 1 | | | \$ - | \$ 4,329,238.07 | \$ - | \$ 2,469,217.84 | \$ 6,798,455.91 | | |
| | | | | Material | | Labor & Equip | M&L | | |
| Sales/Use Tax - 7.5 % Est Midway - Material | | | | | | | \$ 324,692.86 | | |
| Engineering - 5% | | | | | | | \$ 339,922.80 | | |
| Cable Testing | | | | | | | \$ 80,000.00 | | |
| Const Mgt - 7.5% | | | | | | | \$ 509,884.19 | | |
| Total | | | | | | | \$ 8,052,955.76 | | |

| | | | | | | | | | |
|--|---------------|-----------------|-----------------|----------------------|--------------------------|---------------------------|-----------------|----------------------|------------------|
| RMP Midway UG Cable Cost Estimate | | | | | | | | | |
| Two, 138 kV UG Circuits 1250 MCM CU | | | | | | | | | |
| Per Mile (5280 Ft) 3 Conductors/Circuit & Reduced Specs | | | | | | | | | |
| | 1 mile | Quantity | Material | Material Cost | Labor & Equip | Labor & E Cost | Total | Comments | |
| EQUIPMENT | Units | | | | | | | | |
| 138 kV, 1250 MCM CU Cable | 6 | 31680 | \$ 45.00 | \$ 1,425,600.00 | \$ 10.00 | \$ 316,800.00 | \$ 1,742,400.00 | 5280 ft Circuit | 6 Conductors |
| Fiberglass conduit, 6," 20 ft sections/ft | 8 | 42240 | \$ 15.00 | \$ 633,600.00 | \$ 7.50 | \$ 316,800.00 | \$ 950,400.00 | 8 conduits | |
| Fiberglass conduit, 4," 20 ft sections/ft | 1 | 5280 | \$ 10.00 | \$ 52,800.00 | \$ 5.00 | \$ 26,400.00 | \$ 79,200.00 | 1 conduit | |
| Fiberglass conduit, 3," 20 ft sections/ft | 0 | 0 | \$ 4.00 | \$ - | \$ 4.00 | \$ - | \$ - | 0 | |
| 138 kV Surge Arresters | | 12 | \$ 2,000.00 | \$ 24,000.00 | \$ 2,500.00 | \$ 30,000.00 | \$ 54,000.00 | | |
| 138 kV Termination kit | | 12 | \$ 5,500.00 | \$ 66,000.00 | \$ 4,500.00 | \$ 54,000.00 | \$ 120,000.00 | | |
| Four 6" x 3 conduit spacers - Electric | 4 | 2485 | \$ 9.28 | \$ 23,058.07 | \$ 10.00 | \$ 24,847.06 | \$ 47,905.13 | 8.5 ft spacing | |
| Spacers for Communications | 1 | 422 | \$ 6.00 | \$ 2,534.40 | \$ 4.40 | \$ 1,858.56 | \$ 4,392.96 | 12.5 ft spacing | |
| Manholes - Electric | | 8 | \$ 25,000.00 | \$ 200,000.00 | \$ 10,000.00 | \$ 80,000.00 | \$ 280,000.00 | | |
| Manholes - Communications | | 4 | \$ 15,000.00 | \$ 60,000.00 | \$ 7,500.00 | \$ 30,000.00 | \$ 90,000.00 | | |
| Hardware for each support - Electric | | 2485 | \$ 2.00 | \$ 4,970.00 | \$ 3.00 | \$ 7,455.00 | \$ 12,425.00 | | |
| Hardware for each support - Com | | 2485 | \$ 2.00 | \$ 4,970.00 | \$ 3.00 | \$ 7,455.00 | \$ 12,425.00 | | |
| 138 kV Termination Structures | | | | | | | | | |
| 138 kV Termination OH-UG | | 4 | \$ 75,000.00 | \$ 300,000.00 | \$ 25,000.00 | \$ 100,000.00 | \$ 400,000.00 | | |
| Grounding | | 0 | \$ - | \$ - | \$ - | \$ - | \$ - | | |
| 4/0 CU Stranded Bare Conductor | 2 | 10560 | \$ 3.01 | \$ 31,785.60 | \$ 1.00 | \$ 10,560.00 | \$ 42,345.60 | Two 5280 ft Circuits | |
| Copperclad Grnd Rod 5/8" x 8 ft | | 10 | \$ 25.00 | \$ 250.00 | \$ 25.00 | \$ 250.00 | \$ 500.00 | | |
| Hardware - Misc | | 50 | \$ 15.00 | \$ 750.00 | \$ 20.00 | \$ 1,000.00 | \$ 1,750.00 | | |
| Concrete | | | | | | | | | |
| 138 Termination Structures | | 4 | \$ 600.00 | \$ 96,000.00 | \$ 600.00 | \$ 96,000.00 | \$ 192,000.00 | 40 | 40 cyd/structure |
| RMP Duct Bank electric- cyd | 1 | 782 | \$ 30.00 | \$ 23,466.67 | \$ 30.00 | \$ 23,466.67 | \$ 46,933.33 | 2 ft x 2 ft | |
| RMP Thermal Concrete Backfill - cyd | 1 | 1173 | \$ 37.50 | \$ 44,000.00 | \$ 37.50 | \$ 44,000.00 | \$ 88,000.00 | 2 ft x 3 ft | |
| Communications Duct Bank - Cy | 1 | 196 | \$ 30.00 | \$ 5,866.67 | \$ 30.00 | \$ 5,866.67 | \$ 11,733.33 | 1 ft x 1 ft | |
| HL&P Duct Bank Electric - cyd | 1 | 782 | \$ 30.00 | \$ 23,466.67 | \$ 30.00 | \$ 23,466.67 | \$ 46,933.33 | 2 ft x 2 ft | |
| HL&P Thermal Concrete Backfill - cyd | 1 | 1173 | \$ 37.50 | \$ 44,000.00 | \$ 37.50 | \$ 44,000.00 | \$ 88,000.00 | 2 ft x 3 ft | |
| Trenching and Road Work | | | | | | | | | |
| RMP Trench - 5 ft x 2 ft | 1 | 5280 | \$ - | \$ - | \$ 35.00 | \$ 184,800.00 | \$ 184,800.00 | | |
| HL&P Trench - 5 ft x 2 ft | 1 | 5280 | \$ - | \$ - | \$ 35.00 | \$ 184,800.00 | \$ 184,800.00 | | |
| Concrete cutting - ft | 2 | 10560 | \$ - | \$ - | \$ 10.00 | \$ 105,600.00 | \$ 105,600.00 | | |
| Environmental - Material removal - cyd | 2 | 3911 | \$ - | \$ - | \$ 20.00 | \$ 78,222.22 | \$ 78,222.22 | | |
| Road Repair - 6 ft wide - ft | 1 | 5280 | \$ 25.00 | \$ 132,000.00 | \$ 15.00 | \$ 79,200.00 | \$ 211,200.00 | | |
| Miscellaneous | | | | | | | | | |
| Miscellaneous Materials | | 0.25 | \$ 250,000.00 | \$ 62,500.00 | \$ 200,000.00 | \$ 50,000.00 | \$ 112,500.00 | | |
| Mob/Demob/Site Reclamation | | 2 | \$ 20,000.00 | \$ 40,000.00 | \$ 50,000.00 | \$ 100,000.00 | \$ 140,000.00 | | |
| Subtotal 1 | | | \$ - | \$ 3,301,618.07 | \$ - | \$ 2,026,847.84 | \$ 5,328,465.91 | | |
| | | | | Material | | Labor & Equip | M&L | | |
| Sales/Use Tax - 7.5 % Est Midway - Material | | | | | | | \$ 247,621.36 | | |
| Engineering - 5% | | | | | | | \$ 266,423.30 | | |
| Cable Testing | | | | | | | \$ 60,000.00 | | |
| Const Mgt - 7.5% | | | | | | | \$ 399,634.94 | | |
| Total | | | | | | | \$ 6,302,145.51 | | |

EXHIBIT E

Corbin B. Gordon, #9194
Joshua D. Jukes, #15497
GORDON LAW GROUP, P.C.
322 East Gateway Dr., Suite 201
Heber City, UT 84032
Phone: 435-657-0984
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Counsel for Respondent Midway City

BEFORE THE UTAH UTILITY FACILITY REVIEW BOARD

ROCKY MOUNTAIN POWER
Petitioner

vs.

MIDWAY CITY
Respondent

**DIRECT TESTIMONY OF JERRY
WEBBER**

Docket Number 20-035-03

PURPOSE OF TESTIMONY

Q: Why are you providing this testimony?

A: I have been asked to provide expert opinions regarding the impact on home values that running the proposed new transmission lines would have if they go overhead.

WITNESS BACKGROUND AND QUALIFICATIONS

Q: Please state your name, business address and present position.

A: [ANSWER] Jerry R. Webber, 2330 South Main Street, Suite # 5

Q: Please describe your education and business experience.

A: [ANSWER]. Please see my CV, which is attached hereto.

Q: What experience and qualifications do you have regarding real estate appraisals in the context of utility easements?

A: [ANSWER]. I have completed many estimates of value regarding the taking of land for public utility easements for utility companies and private property owners. I have also completed many appraisals for takings for roadways, public parks, schools and redevelopment agencies in Salt Lake, Summit, Wasatch, Davis, Juab and Tooele Counties. Many of these cases have been tried in state and federal courts.

Q: Have you provided expert witness opinions and testimony before?

A: [ANSWER] Yes, I have qualified as an expert witness in State and Federal Courts relating to the value of real property, real property rights and damages to real property relating to rights of way, easements and partial takings of fee interests. I have attached a summary of my trial and deposition testimony.

Q: In summary, what qualifies you to provide these expert opinions?

A: [ANSWER]. I am a member of the Appraisal Institute, and have been awarded the MAI designation. I have met the required continuing education requirements in the Appraisal Institute since 1989. I am a licensed in the State of Utah as a certified general appraiser since 1989, and have met the continuing education requirements to continue in this status since 1989. My license in the State of Utah Expires June 30, 2021.

I have attached a copy of my educational transcript from the Appraisal Institute.

30

31

32

EXPERT DATA

33 **Q: What documents and materials have you reviewed related to this case?**

34 A: [ANSWER] I have reviewed articles and publications relating to the impact on real
35 estate values from high voltage transmission lines including:

36 High Voltage Transmission Lines and Residential Property Values in New England, published
37 in The Appraisal Journal, Fall 2019

38 Property Value Impacts from Transmission Lines, Subtransmission Lines and Substations, The
39 Appraisal Journal, Summer 2016.

40 The Effect of High Voltage Overhead Transmission Lines of Property Value, Letters to the
41 Editor, The Appraisal Journal, Winter 2018.

42 The Effect of High Voltage Overhead Transmission Lines of Property Values; A Review of the
43 Literature Since 2010, The Appraisal Journal Summer 2017.

44 The Price Effects of HVTLs on Abutting Homes, The Appraisal Journal, Winter 2013.

45 Land Uses and Value; Resources on Corridors, Land Use Regulation and Retail Leases, The
46 Appraisal Journal, Spring 2016.

47 Transit corridor Valuation: Issues and Methods, The Appraisal Journal, Summer 2012.

48 Valuation Guidelines for properties with Electric Transmission Lines, by Appraisal Group One

49 I utilized various reference documents relating to the classification of power lines, string
50 transmission lines and substations, transmission planning and specifications for power line
51 clearances.

52 I also reviewed various court decisions relating to valuation of real property.

53 **Q: What did you learn from those materials?**

54 A: [ANSWER] There is evidence that proximity to overhead or above ground power lines
55 and substations may impact the value of real estate. The impact of EMF from power lines is
56 varied.

57

58

METHODOLOGY

59 **Q: What are the standard methodologies for appraising real estate?**

60 A: [ANSWER] The appraisal of real estate is a process of comparison of known quantities
61 (comparable data) to unknown quantities (the value of a specific property). It is based on many
62 economic principles and is supported by empirical and objective measurements based on the
63 actions of participants in the real estate market place. It involves macro and micro economics
64 and the interpretation of data in the local market.

65 **Q: What methodology did you employ in this particular case and why?**

66 A: [ANSWER] I utilized qualitative analysis relating to the market participants and the
67 reaction to proximity to above ground or overhead high voltage electric transmission lines and
68 supporting structures. I also completed a quantitative analysis relating to the sales of properties
69 in Midway, and the impact on the sales price from the proximity and threat of installation of an
70 above ground or overhead electric power transmission line. Since the date of the initial
71 assignment, I have two additional sales in the area that further support my conclusion of
72 damages to support this quantitative analysis.

73 **Q: Please describe the characteristics of the properties that you valued in this case.**

74 A: [ANSWER] I appraised a total of 51 single family homes, improved lots and larger
75 acreage sites in close proximity to the proposed above ground or overhead power transmission
76 line from the fish hatchery to the cemetery in Midway. I have estimated the damages to each,
77 based on each properties proximity to the proposed power line.

78

79

EXPERT OPINIONS

80 **Q: Do you have an opinion regarding severance damages to the properties effected by**
81 **the transmission line?**

82 A: [ANSWER]. I concluded that proximity to the proposed above ground or overhead
83 power lines impacted these properties based on each individual property proximity to the
84 proposed above ground or overheard power lines and supporting structures.

85 **Q: Why did you reach this conclusion?**

86 A: [ANSWER] [EXHIBITS]. I have completed individual appraisals on each property.

87 **Q: Did you make any assumptions?**

88 A: [ANSWER] I was not provided drawings of the above ground or overheard power line
89 and its supporting structures. I assumed a width required under the standards for construction of

90 a above ground or overhead power line and supporting structures of similar voltage. The
91 approximate location of the proposed power corridor is attached to each appraisal.

92 **Q: Have you reviewed Exhibit ____?**

93 A: Yes

94 **Q: What is it?**

95 A: It's a summary of my conclusions for the 51 appraisals I performed on properties along
96 the proposed line of the overhead transmission lines. It was prepared by VOLT and given to
97 me.

98 I found the parcel identified as parcel 31 was not completed. The property identified as parcel
99 84 is a duplication of parcel 10. I completed an appraisal of the parcel identified as number 65,
100 the estimate of value absent the overhead transmission lines and supporting structures is
101 \$960,000, the value with the overhead transmission lines and supporting structure is \$912,000
102 and the damage to this specific parcel is \$46,000.

103

104

SUMMARY OF TESTIMONY

105 **Q: Please summarize your testimony.**

106 A: [ANSWER]. My testimony is that each property has suffered proximity damages as
107 summarized on each appraisal.

108 **Q: Does this conclude your direct testimony?**

109 A: Yes.

JERRY R. WEBBER, MAI
REAL ESTATE APPRAISER and CONSULTANT

APPRAISAL QUALIFICATIONS OF JERRY R. WEBBER

LICENSES, DEGREES AND MEMBERSHIPS

Graduated Olympus High School, Salt Lake City, Utah — 1967
Graduated University of Utah — 1971 — B.S. Degree – Management
Received Utah Real Estate Salesman's License in 1970
Received Real Estate Broker's License in 1975
Member of the National Association of Independent Fee Appraisers (N.A.I.F.A.), IFAS Designation 1974-1991
Appraisal Institute, MAI Designation
Owner-Broker of Webber Real Estate Company, Salt Lake City, Utah
Member of National Association of Real Estate Boards (NAREB) and Salt Lake Board of Realtors, G.R.I. Designation
Chairman National Education Committee, NAIFA, 1989-1991
President Utah Association of Appraisers, 1991-1992
Certified General Appraiser, Utah License# 5450980-CG00
1995-1998 Member, State of Utah Appraiser Registration Certification Board
1998-2002 Chairman State of Utah Appraiser License and Certification Board

APPRAISAL EDUCATION AND TRAINING

Successfully completed the following courses:

| | | |
|--|----------|--------------------------------|
| Residential Appraising | 24 hours | NAIFA |
| Capitalization Techniques | 8 hours | NAIFA |
| Uniform Eminent Domain | 24 hours | Utah State Bar |
| Commercial and Investment | 45 hours | NAREB |
| Recreation Property Appraising | 24 hours | American Society of Appraisers |
| Income Capitalization | 24 hours | AIREA |
| Mortgage Equity and Today's Financing | 14 hours | NAIFA |
| Income Capitalization | 80 hours | AIREA |
| Case Studies | 40 hours | AIREA |
| Uniform Standards of Professional Practice | 27 hours | AIREA |
| Appraising From Blueprints | 7 hours | Appraisal Institute |
| Appraiser as an Expert Witness | 7 hours | Appraisal Institute |
| Understanding Limited Appraisal | 7 hours | Appraisal Institute |
| Appraisal Review | 7 hours | Appraisal Institute |
| Fair Lending and the Appraiser | 6 hours | Utah Association of Appraisers |
| Appraisal Review | 7 hours | Appraisal Institute |
| Appraising From Blueprints | 7 hours | Appraisal Institute |
| Highest and Best Use Analysis | 40 hours | Appraisal Institute |

Developed 8-hour program of Utah Assoc. of Realtors on Appraising
Senior Instructor NAIFA 1979-1991
Qualified as an expert witness in District Courts and Federal Courts
Author of text: "Principles of Real Estate Appraisal," NAIFA
Co-author: "Case Studies in Real Estate Appraisal"
Helped develop Condemnation Seminar for NAIFA
Co-author "Capitalization Courses," NAIFA

PARTIAL LIST OF CLIENTELE SERVED

| | |
|---|--|
| American Investment Financial | Wells Fargo Bank |
| Key Bank | Western Management and Maintenance |
| Bank One | AT&T Capital |
| Zions First National Bank | Bank of the West |
| Jordan School District | Seven-Eleven Stores |
| Intermountain Association of Credit Men | Price Industries |
| Small Business Administration | Murray School District |
| State of Utah – Building Board | City of South Salt Lake |
| Tooele County Commission | Alta Industries |
| Sperry-Univac | Utah Power & Light |
| Brighton Bank | Westinghouse Electric |
| South Summit School District | Murray City Corporation |
| Celtic Bank | State of Utah, Natural Resources |
| State Farm Insurance | Numerous attorneys in Salt Lake, Davis and Utah Counties |

COURT APPEARANCES AND DEPOSITIONS BY JERRY R. WEBBER, MAI

| <u>DATE</u> | <u>CASE NAME</u> | <u>TYPE OF CASE</u> | <u>ATTORNEY</u> | <u>TRIAL</u> | <u>DEPOSITION</u> |
|--------------------|--------------------------|---------------------|-------------------|--------------|-------------------|
| February 26, 2020 | Mover V Mower | Divorce | Jeremy Jones | Yes | |
| December 5, 2019 | March V March | Divorce | Dean Andreasen | Yes | |
| July 30, 2019 | Wood V Cooper | Construction Defect | Bastiaan Coebergh | Yes | Yes |
| June 7, 2019 | Stephenson V Stephenson | Divorce | Mary Corporon | Yes | |
| August 1, 2018 | Killbourn V Killbourn | Divorce | Sam Barker | Yes | |
| April 26, 2018 | UDOT V Cross Island Land | Eminent Domain | Kevin Anderson | Yes | Yes, mediation |
| April 13, 2018 | TZA V Dinsmore | Fraud | David Scofield | Yes | |
| February 12, 2018 | Lucy V Lucy | Divorce | Michael Nielsen | Yes | |
| January 23, 2017 | Peterson V Peterson | Divorce | Joseph Orifici | Yes | |
| January 13, 2016 | Ray V Corporon | Legal Malpractice | Phillip Ferguson | Yes | |
| December 3, 2015 | Martin V Kristensen | Rental Value | James Deans | Yes | |
| October 21, 2015 | UDOT V FPA West Point | Eminent Domain | Kenneth Okazaki | Yes | Yes |
| March 5, 2015 | UDOT V FPA West Point | Estate Dispute | Kenneth Okazaki | Yes | |
| February 5, 2015 | Thomas V Mattena | Contract Breach | Ray Matneau | Yes | |
| March 24, 2014 | Wallace V South Farm | Divorce | Chad Derum | Yes | |
| December 3, 2013 | Naegle V Naegle | Divorce | Jerrold Jennings | Yes | Yes, mediation |
| September 23, 2013 | Cameron V Cameron | Divorce | Bryant McConkie | Yes | |
| August 23, 2013 | UDOT V Admiral Beverage | Eminent Domain | James Jardine | Yes | |
| June 11, 2013 | Fadus V Fadus | Divorce | Terry Cathcart | Yes | |
| January 16, 2013 | UDOT V TBT Properties | Eminent Domain | Brant Wall | Yes | |

Court Appearances and Depositions of Jerry R. Webber, MAL, page 2

| <u>DATE</u> | <u>CASE NAME</u> | <u>TYPE OF CASE</u> | <u>ATTORNEY</u> | <u>TRIAL</u> | <u>DEPOSITION</u> |
|--------------------|---------------------------|----------------------|-------------------|--------------|-------------------|
| October 29, 2012 | Seeborn V Seeborn | Divorce | James Woodall | Yes | |
| July 12, 2012 | Bank of America V Olch | Deficiency Judgement | Richard Burbridge | | Yes |
| July 2, 2012 | Wallace V South Farm | Contract Breach | Chad Derum | | Yes |
| June 28, 2012 | Whatcott V Whatcott | Divorce | Jill Coil | Yes | |
| June 19, 2012 | Barnett V Barnett | Divorce | James Woodall | Yes | |
| May 8 - 9, 2012 | Crawford V Homestead | Flood Damage | Rick Van Wagoner | Yes | |
| April 10, 2012 | Tanner V Free | Standard of Care | Mark Larsen | | Yes |
| March 13, 2012 | Maloney V Maloney | Divorce | Kara Barton | Yes | |
| February 9, 2012 | Crawford V Homestead | Flood Damage | Melinda Bowen | | Yes |
| February 8, 2012 | Boulder | Bankruptcy | Scott B. Mitchell | Yes | |
| February 3, 2012 | Bank of America V Olch | Deficiency Judgement | Richard Burbridge | | Yes |
| January 24, 2012 | Wilson V Wilson | Divorce | Gayanne Schmid | Yes | |
| October 13, 2011 | Bank of the West V BNB | Deficiency Judgement | Byron Scott | | Yes |
| August 23, 2011 | Howe V Howe | Divorce | Matthew Olsen | Yes | |
| May 18, 2011 | Preston V Preston | Divorce | Bryant McConkie | Yes | |
| February 25, 2011 | Wagner | Bankruptcy | Scott B. Mitchell | Yes | |
| January 16, 2011 | Salt Lake County V Walsh | Eminent Domain | John Walsh | | Yes |
| December 16, 2010 | Salt Lake County V Walsh | Eminent Domain | John Walsh | | Yes |
| September 23, 2010 | Wagner V America West | Bankruptcy | Scott B. Mitchell | | Yes |
| August 12, 2010 | Goggin V Goggin | Divorce | Frederick Green | Yes | |
| May 3, 2010 | Air Center of Salt Lake | Bankruptcy | | Yes | |
| February 22, 2010 | McPhie V McPhie | Divorce | James Woodall | Yes | |
| January 26, 2010 | Madill V Madill | Divorce | David Friel | Yes | |
| October 22, 2009 | Watson V Watson | Divorce | Sharon Donovan | Yes | |
| September 22, 2009 | Murphy V Murphy | Divorce | Sharon Donovan | Yes | |
| August 24, 2009 | Adams V Adams | Divorce | Joseph Goodman | Yes | |
| August 13, 2009 | Warenski V High | Divorce | James Woodall | Yes | |
| May 6, 2009 | Lewis V Lewis | Divorce | Dena Sarandos | Yes | |
| March 30, 2009 | Harris V Harris | Divorce | Kara Barton | Yes | |
| February 5, 2009 | Lyman V Lyman | Divorce | Samuel M. Barker | Yes | |
| January 13, 2009 | Wells V Wells | Divorce | Steven Tycksen | Yes | |
| December 18, 2008 | Pomikala V Pomikala | Divorce | Stephen R. Cook | Yes | |
| September 29, 2008 | Rowley V Rowley | Divorce | Bart Johnson | Yes | |
| July 9, 2008 | Christensen V Christensen | Divorce | Miles Holman | Yes | |
| March 7, 2008 | Robinson V Robinson | Divorce | Matthew Olsen | Yes | |
| February 27, 2008 | Menello V Menello | Divorce | Randy Ludlow | Yes | |
| February 7, 2008 | Drury V Drury | Divorce | Steve Kuhnsen | Yes | |
| January 15, 2008 | Wilson V Wilson | Divorce | Ellen Maycock | Yes | |

| <u>DATE</u> | <u>CASE NAME</u> | <u>TYPE OF CASE</u> | <u>ATTORNEY</u> | <u>TRIAL</u> | <u>DEPOSITION</u> |
|--------------------|---------------------------|------------------------|--------------------|--------------|-------------------|
| November 9, 2007 | Bradshaw V Bradshaw | Divorce | Michael Murphy | Yes | |
| September 18, 2007 | Kaas V Robb | Loss of Value | Jared Bramwell | | Yes |
| August 1, 2007 | Jero V Lee | Divorce | Paul Liapis | Yes | |
| June 21, 2007 | Webster V Webster | Divorce | Paul Liapis | Yes | |
| April 19, 2007 | Aurora Loan V Kimball | Standard of Care | Peter Salmon | | Yes |
| March 8, 2007 | Cates V Cates | Divorce | John Walsh | Yes | |
| February 2, 2007 | Köhler V Kohler | Divorce | James Woodall | Yes | |
| January 8, 2007 | Stewart V Metro Title | Loss of Value | George Burbridge | | Yes |
| August 24, 2006 | Becker V Becker | Divorce | Paul Liapis | Yes | |
| June 27, 2006 | Galegos V Lloyd | Trespass | George Hunt | Yes | |
| May 23, 2006 | Bradshaw V Bradshaw | Divorce | Matthew Olsen | Yes | |
| February 9, 2006 | Galegos V Lloyd | Trespass | George A. Hunt | | Yes |
| January 4, 2006 | Floyd V Grimes | Divorce | James H. Woodall | Yes | |
| June 16, 2005 | Robinson V Baggett | Divorce | Michael K. Mohrman | Yes | |
| May 17, 2005 | Crawford V Crawford | Divorce | Amy Hayes | Yes | |
| April 18, 2005 | Rackley V Rackley | Divorce | Frederick Green | Yes | |
| February 16, 2005 | Dansie V Hi Country | Contract Breach | Dale Gardiner | Yes | |
| February 15, 2005 | Welch V Heatizon | Fire Loss | Dennis Conroy | Mediation | |
| December 6, 2004 | Kimball V Kimball | Divorce | Wendy Lehms | Yes | |
| November 18, 2004 | Hemphill V Hemphill | Divorce | Williams/Donovan | Yes | |
| October 26, 2004 | Zions V McCoy | Appraisers Liability | David McGrath | Yes | Yes |
| October 22, 2004 | Campbell V Campbell | Divorce | Ellen Maycock | Yes | |
| October 21, 2004 | Bangerter V Bangerter | Divorce | Frederick Green | Yes | |
| October 18, 2004 | Bangerter V Bangerter | Divorce | Kellie Williams | Yes | |
| October 15, 2004 | UDOT V Failor | Eminent Domain | Kendra Shirey | | Yes |
| September 20, 2004 | Potter V Potter | Divorce | Greg Constantino | Yes | |
| August 25, 2004 | Hemphill V Hemphill | Divorce | Kelly Williams | Yes | |
| June 23, 2004 | Demille V Demille | Divorce | Paul Liapis | Yes | |
| February 6, 2004 | Welch V C J Roofing, | Loss of Value | Dennis Conroy | | Yes |
| November 30, 2003 | South Jordan V Makris | Eminent Domain | Craig Call | Mediation | |
| October 20, 2003 | Goodwin V Goodwin | Divorce | Nolan Olsen | Yes | |
| September 5, 2003 | McGuire V Nanitola | Contract Breach | Jeffery Williams | Yes | |
| April 10, 2003 | Ashby V Ashby | Divorce | Lisa Jones | Yes | |
| January 22, 2003 | Pace V Pace | Divorce | Randy Ludlow | Yes | |
| November 18, 2002 | Jones V Jones | Divorce | Terry Cathcart | Yes | |
| October 9, 2002 | Worthington V Worthington | Divorce | James Hanks | Yes | |
| May 14, 2002 | Read V Read | Divorce | James Woodall | Yes | |
| June, 2001 | Riverdale Homeowners | Loss of Value and Rent | Richard Burbridge | | |
| May 16, 2001 | Ivory V Ivory | Car Washes, Divorce | B. L. Dart | Yes | |
| April 20, 2001 | Ivory V Ivory | Car Washes, Divorce | B. L. Dart | Yes | |
| February 22, 2001 | UDOT V McMillan | Eminent Domain | Craig Call | Mediation | |
| February 1, 2001 | Doilney V Doilney | Divorce | Clark Sessions | Yes | |

| <u>DATE</u> | <u>CASE NAME</u> | <u>TYPE OF CASE</u> | <u>ATTORNEY</u> | <u>TRIAL</u> | <u>DEPOSITION</u> |
|--------------------|-------------------------|---------------------|-------------------|--------------|-------------------|
| December 6, 2000 | Vickers V Beckstead | Appraiser Liability | Bruce Baird | | Yes |
| October 10, 2000 | Dads Restaurant | Bankruptcy | Steve Tycksen | Yes | |
| September 25, 2000 | Hoffman V Hoffman | Divorce | David McPhie | Yes | |
| August 17, 2000 | MSI V Town of Alta | Zoning Damages | Gesas/Christensen | | Yes |
| July 27, 2000 | LaTorete V LaTorete | Divorce | David Dolowitz | Yes | |
| July 6, 2000 | Davis School V Evans | Eminent Domain | Richard Cahoon | | Yes |
| May 4, 2000 | Elman V Elman | Divorce | Stewart Hansen | Yes | |
| April 3, 2000 | Riley V Riley | Divorce | Marty Olsen | Yes | |
| October 18, 1999 | Simsich V Simsich | Right of Way Damage | Scott Charlier | Yes | |
| October 18, 1999 | Johnson V Johnson | Divorce | James Watts | Yes | |
| August 16, 1999 | Pritzkau V Pritzkau | Divorce | Paul Liapis | Yes | |
| July 27, 1999 | Fairclough V Fairclough | Divorce | Steve Cook | Yes | |
| June 2, 1999 | Adamson V Adamson | Divorce | Donovan/ORourke | Yes | |
| May 21, 1999 | Jones V Jones | Divorce | David Dolowitz | Yes | |
| May 14, 1999 | Howe V Howe | Divorce | David Dolowitz | Yes | |
| April 14, 1999 | Martin V Olch | Loss of Bargain | B. L. Dart | Yes | |
| December 14, 1998 | UDOT V Curtis | Eminent Domain | Dick Burbridge | | Yes |
| December 8, 1998 | UDOT V Curtis | Eminent Domain | Clark Sessions | | Yes |
| September 2, 1998 | McCall V McCall | Divorce | | | |
| August 13, 1998 | Adams V Adams | Divorce | | | |
| May 15, 1998 | Knight | Tax Appeal | Keith Knight | Yes | |
| May 24, 1998 | UDOT V DAI | Eminent Domain | Kevin Anderson | Yes | |
| May 13, 1998 | UDOT V Majestic | Eminent Domain | Robert Campbell | Yes | |
| February 11, 1998 | Medical Leasing | Tax Appeal | | Yes | |
| December 23, 1997 | Ellis V Ellis | Divorce | | Yes | |
| December 16, 1997 | Stout V McPhie | Divorce | | Yes | |
| December 12, 1997 | Cecala V Cecala | Divorce | | Yes | |
| October 28, 1997 | Fox V Fox | Divorce | B. L. Dart | Yes | |
| September 2, 1997 | Freed V Freed | Divorce | Paul Liapis | Yes | |
| September 3, 1997 | Silver Mine Builders | Loss of Profits | Robert Campbell | | Yes |
| August 25, 1997 | UDOT V HK Truck | Eminent Domain | Robert Campbell | | Yes |
| August 13, 1997 | UDOT V Jensen | Eminent Domain | Brant Wall | Yes | |
| May 28, 1997 | SLC V Gilmor | Eminent Domain | Brant Wall | Yes | |
| May 12, 1997 | Storheim | Bankruptcy | | Yes | |
| April 8, 1997 | UDOT V Peterson | Eminent Domain | Jim McIntosh | Yes | |
| February 14, 1997 | UDOT V Ryder Truck | Eminent Domain | Clark Sessions | Yes | |



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January 3, 2020

Jerry R. Webber, MAI
 Jerry R. Webber Real Estate
 2330 South Main Street # 5
 Salt Lake City, UT 84115-2796

Account # 95799

This document may not be accepted by all licensing boards as verification of course completion.
 Please note that the hours reflected below may differ by state.
 Refer to the specific state matrix for actual state approved hours.

| Program | Date | Location | Type | Status | Attendance | Hours Attend | Hours Exam |
|---|---------------------|---------------------------------------|------|--------|------------|--------------|------------|
| Ignorance Isn't Bliss: Understanding an Investigation by a State Appraiser Regulatory Board or Agency | November 22, 2019 | Salt Lake Board of Realtors | CE | | Attended | 4 hours | |
| 7-Hour National USPAP Update Course | May 17, 2019 | Salt Lake Board of Realtors | CE | | Attended | 7 hours | |
| Fall Symposium 2018 | October 19, 2018 | Salt Lake Public Safety Building | | | Attended | | |
| The Discounted Cash Flow Model: Concepts, Issues, and Applications | September 14, 2018 | Salt Lake Board of Realtors | CE | | Attended | 7 hours | |
| Preparing for Utah's New Normals Seminar | September 7, 2018 | Hampton Inn | | | Attended | | |
| Fall Symposium 2017 | October 27, 2017 | Salt Lake City Public Safety Building | | | Attended | | |
| 7-Hour National USPAP Update Course | May 12, 2017 | Salt Lake Board of Realtors | CE | | Attended | 7 hours | |
| Residential and Commercial Valuation of Solar | April 13 - 14, 2017 | Salt Lake Public Safety Building | CE | Pass | Attended | 14 hours | 1.00 |
| New Residential Construction Issues: Appraisal Development & Reporting Considerations for a Residential Construction Lender | March 21, 2017 | Salt Lake Board of Realtors | | | Attended | | |
| 7-Hour National USPAP Update Course | May 1, 2015 | Argosy University | CE | | Attended | 7 hours | |

| | | | | | | | |
|--|------------------------|--------------------------------|----|------|----------|-------------------------|------|
| Business Practices and Ethics | April 30, 2015 | Argosy University | CE | | Attended | 6 hrs. Classes/5 Online | |
| Evaluating Commercial Construction | May 1 - 2, 2013 | Hilton Garden Inn | | | Attended | | |
| Business Practices and Ethics | February 22, 2013 | Hilton Garden Inn | CE | | Attended | 6 hrs. Classes/5 Online | |
| 7-Hour National USPAP Update Course | February 21, 2013 | Hilton Garden Inn | CE | | Attended | 7 hours | |
| Business Practices and Ethics | May 6, 2011 | Hilton Garden Inn | CE | | Attended | 6 hrs. Classes/5 Online | |
| 7-Hour National USPAP Update Course | May 5, 2011 | Hilton Garden Inn | CE | | Attended | 7 hours | |
| Appraisal Curriculum Overview (2-day General) | November 4 - 5, 2010 | Hilton Garden Inn | | | Attended | | |
| Condemnation Appraising: Principles and Applications | February 24 - 26, 2010 | Hilton Garden Inn | CE | Pass | Attended | 21 hours | 1.00 |
| 7-Hour National USPAP Update Course | May 8, 2009 | Hilton Garden Inn | CE | | Attended | 7 hours | |
| Appraising Distressed Commercial Real Estate: Here We Go Again | April 17, 2009 | Courtyard by Marriott, Sandy | | | Attended | | |
| Forecasting Revenue | February 20, 2009 | Hilton Garden Inn | CE | | Attended | 7 hours | |
| Business Practices and Ethics | May 4, 2007 | Utah State Bar Law and Justice | CE | Pass | Attended | 6 hrs. Classes/5 Online | |
| 7-Hour National USPAP Update Course | May 3, 2007 | Utah State Bar Law and Justice | CE | | Attended | 7 hours | |
| Litigation Skills for the Appraiser | February 9, 2007 | Hilton Garden Inn | | | Attended | | |
| Feasibility Analysis, Market Value & Investment Timing | February 3, 2006 | Little America Hotel | | | Attended | | |



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January 3, 2020

| | | | | |
|---|-------------------------------|---------------------------------|------|--------------|
| 7-Hour National USPAP Equivalent Course | May 1, 2004 - 15, 2014 | On-Demand Online Education | | Attended |
| Standards of Prof. Practice, Part B | January 1 - December 31, 1991 | Exam | | Not Attended |
| Comprehensive Examination | February 8, 1988 | CB Richard Ellis, San Francisco | Pass | Attended |
| Comprehensive Examination | August 10, 1987 | University of Florida | | Attended |



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Classroom Offerings | Synchronous Offerings | Conferences

| Title | Sponsor | Start Date | End Date | Exam Date | Location | Status | |
|--|--------------|------------|------------|-----------|----------------|------------|--|
| Business Practices and Ethics * 2011-05-06, Salt Lake City, UT | Utah Chapter | 05/06/2011 | 05/06/2011 | | Salt Lake City | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=9D795044-024F-A907-8F2B-3E2A9EDFB0D) |
| 7-Hour National USPAP Update Course * 2013-02-21, Salt Lake City, UT | Utah Chapter | 02/21/2013 | 02/21/2013 | | Salt Lake City | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=62A76341-BDE5-444C-B165-2FE78F4B1ABF) |
| Business Practices and Ethics * 2013-02-22, Salt Lake City, UT | Utah Chapter | 02/22/2013 | 02/22/2013 | | Salt Lake City | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=72C93FEB-8F12-496B-908B-64ADC89FC452) |
| Evaluating Commercial Construction * 2013-05-01 - 2013-05-02, Salt Lake City, UT | Utah Chapter | 05/01/2013 | 05/02/2013 | | Salt Lake City | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=5AFA861E-4545-4ED5-B2B5-740EFC07C366) |
| Business Practices and Ethics * 2015-04-30, Draper, UT | Utah Chapter | 04/30/2015 | 04/30/2015 | | Draper | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=09095BD5-5379-40D7-8BAF-2B82CD79BD48) |
| 7-Hour National USPAP Update Course * 2015-05-01, Draper, UT | Utah Chapter | 05/01/2015 | 05/01/2015 | | Draper | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=AB4AD884-03C2-485A-8E08-D6C4267C3B64) |
| 7-Hour National USPAP Update Course * 2017-05-12, Sandy, UT | Utah Chapter | 05/12/2017 | 05/12/2017 | | Sandy | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=9EA6CC34-C5D2-4DAA-8292-23AD8FE20563) |

| Title | Sponsor | Start Date | End Date | Exam Date | Location | Status | |
|---|--------------|------------|------------|----------------------|----------------|------------|--|
| Residential & Commercial Valuation of Solar * 2017-04-13 - 2017-04-14, Salt Lake City, UT | Utah Chapter | 04/13/2017 | 04/14/2017 | April 14, 2017: Pass | Salt Lake City | Passed | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=06A3E340-6F09-467A-A97E-60A4940CC500) |
| New Residential Construction Issues: Appraisal Development & Reporting Considerations for a Residential Construction Lender * 2017-03-21, Sandy, UT | Utah Chapter | 03/21/2017 | 03/21/2017 | | Sandy | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=0A2B2BED-E906-4A77-A362-F0A6468CD9CE) |
| Fall Symposium 2017 * 2017-10-27, Salt Lake City, UT | Utah Chapter | 10/27/2017 | 10/27/2017 | | Salt Lake City | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=089021EE-4589-419A-BF92-A3D9792F894E) |

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Online Courses

| Course | Status | Completed | Start Date | End Date | |
|---|-----------|---------------|------------|------------|---|
| 7-Hour National USPAP Equivalent Course, Online | Completed | June 27, 2005 | 06/15/2005 | 07/15/2005 | View Certificate (DynamicPage.aspx?webcode=AlOnlineF-AA12-40E0-B518-47B804843848) |

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Exams

| Exam | Status | Exam Date | Exam Deadline |
|--|--------|------------|--|
| Residential & Commercial Valuation of Solar | Passed | 04/14/2017 | View (DynamicPage.aspx?webcode=AIExamRegDetail&Reg_key=06A3E340-6F99-467A-A87E-60A4940CC500) |
| Condemnation Appraising; Principles & Applications | Passed | 02/26/2010 | View (DynamicPage.aspx?webcode=AIExamRegDetail&Reg_key=DE30412A-27DA-4A1B-849E-3D1F75181438) |
| Business Practices and Ethics | Passed | 05/04/2007 | View (DynamicPage.aspx?webcode=AIExamRegDetail&Reg_key=5D5631B2-3CC9-4BAE-B604-A21E2711A251) |

Showing 1 to 3 of 3 rows

Webinars

| Webinar | Status | Start Date |
|---------------------|--------|------------|
| No Current Webinars | | |

Showing 1 to 1 of 1 rows

Chapter Social Events

| Title | Start Date | End Date |
|--------------------------|------------|----------|
| No Current Social Events | | |

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Classroom Offerings | Synchronous Offerings | Conferences

| Title | Sponsor | Start Date | End Date | Exam Date | Location | Status | |
|---|--------------|------------|------------|-----------|----------------|------------|--|
| The Discounted Cash Flow Model: Concepts, Issues, and Apps. * 2018-09-14, Sandy, UT | Utah Chapter | 09/14/2018 | 09/14/2018 | | Sandy | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=1B06CE8A-9E45-4939-9FDF-580F02E7536C) |
| Preparing for Utah's New Normals Seminar * 2018-09-07, Woods Cross, UT | Utah Chapter | 09/07/2018 | 09/07/2018 | | Woods Cross | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=A9404C55-1AE2-464F-831F-167736436134) |
| Fall Symposium 2018 * 2018-10-19, Salt Lake City, UT | Utah Chapter | 10/19/2018 | 10/19/2018 | | Salt Lake City | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=5DE6F59D-8FBE-419F-BBD8-889068F24CC4) |
| 7-Hour National USPAP Update Course - 2018/19 * 2019-05-17, Sandy, UT | Utah Chapter | 05/17/2019 | 05/17/2019 | | Sandy | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=EEDA35BF-E6FA-4A67-A08F-C144F681661C) |
| Ignorance Isn't Bliss: Understanding an Investigation by a State Appraiser Regulatory Board or Agency * 2019-11-22, Sandy, UT | Utah Chapter | 11/22/2019 | 11/22/2019 | | Sandy | Registered | View (DynamicPage.aspx?webcode=aicourseregdetail&Reg_key=C332E715-5A92-4C67-B51B-E4690E54122D) |

Online Courses

| Course | Status | Completed | Start Date | End Date | View Certificate (DynamicPage.aspx?webcode=AIOnline&AA12-40E0-B518-47B604843848) |
|---|-----------|---------------|------------|------------|---|
| 7-Hour National USPAP Equivalent Course, Online | Completed | June 27, 2005 | 06/15/2005 | 07/15/2005 | |

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Exams

| Exam | Status | Exam Date | Exam Deadline | |
|--|--------|------------|---------------|--|
| Residential & Commercial Valuation of Solar | Passed | 04/14/2017 | | View (DynamicPage.aspx?webcode=AIExamRegDetail&Reg_key=06A3E340-6F99-467A-A87E-60A4940CC500) |
| Condemnation Appraising: Principles & Applications | Passed | 02/26/2010 | | View (DynamicPage.aspx?webcode=AIExamRegDetail&Reg_key=DE30412A-27DA-4A1B-849E-3D1F76181438) |
| Business Practices and Ethics | Passed | 05/04/2007 | | View (DynamicPage.aspx?webcode=AIExamRegDetail&Reg_key=5D6631B2-3CC9-4BAE-B604-A21E2711A251) |

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Webinars

| Webinar | Status | Start Date |
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| No Current Webinars | | |

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Chapter Social Events

| Title | Start Date | End Date |
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| No Current Social Events | | |

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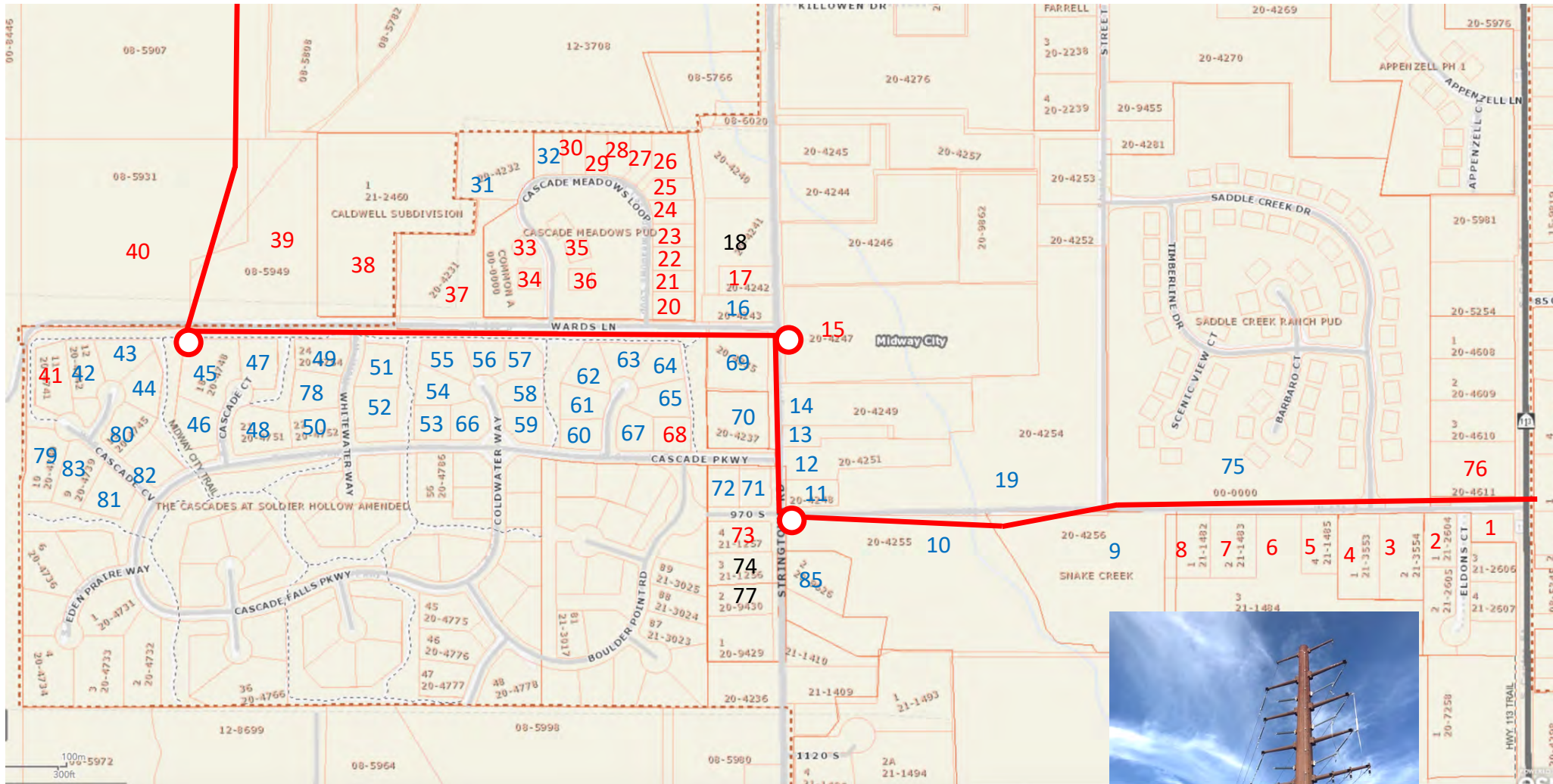
| PROPERTY # | ADDRESS | APPRAISAL | MPACTED APPRAISAL | DECREASE VALUE | DECREASE PERCENTAGE |
|------------|---------------------------------|-----------------|-------------------|----------------|---------------------|
| 1 | | | | \$- | #DIV/0! |
| 2 | | | | \$- | #DIV/0! |
| 3 | | | | \$- | #DIV/0! |
| 4 | 115 W 970 S | | | \$- | #DIV/0! |
| 5 | 131 W 970 S | | | \$- | #DIV/0! |
| 6 | 171 W 970 S | | | \$- | #DIV/0! |
| 7 | Property #7 on Map | | | \$- | #DIV/0! |
| 8 | Property #8 on Map | | | \$- | #DIV/0! |
| 9 | Property #9 on Map | \$ 1,110,000.00 | \$ 1,054,500.00 | \$ 55,500.00 | 5.00% |
| 10 | Property #10 on Map | \$1,272,800.00 | \$1,196,432.00 | \$76,368.00 | 6.00% |
| 11 | 955 Stringtown Road | \$251,000.00 | \$200,800.00 | \$50,200.00 | 20% |
| 12 | 945 Stringtown Road, Midway, UT | \$465,000.00 | \$395,250.00 | \$69,750.00 | 15% |
| 13 | 923 Stringtown Road, Midway, UT | \$675,000.00 | \$573,750.00 | \$101,250.00 | 15% |
| 14 | 905 Stringtown Road, Midway, UT | \$1,100,000.00 | \$990,000.00 | \$110,000.00 | 10% |
| 15 | 845 Stringtown Rd | | | \$- | #DIV/0! |
| 16 | 858 Stringtown Road, | \$500,000.00 | \$400,000.00 | \$100,000.00 | 20% |
| 17 | 840 Stringtown Rd | | | \$- | #DIV/0! |
| 18 | Property #18 on Map | | | \$- | #DIV/0! |
| 19 | Property #19 on Map | \$1,879,600.00 | \$1,766,824.00 | \$112,776.00 | 6.00% |
| 20 | 526 W Cascade Meadows loop | | | \$- | #DIV/0! |
| 21 | | | | \$- | #DIV/0! |
| 22 | | | | \$- | #DIV/0! |
| 23 | | | | \$- | #DIV/0! |
| 24 | 536 W Cascade Meadows Loop | | | \$- | #DIV/0! |
| 25 | 538 W Cascade Meadows Loop | | | \$- | #DIV/0! |
| 26 | | | | \$- | #DIV/0! |
| 27 | 542 W Cascade Meadows Loop | | | \$- | #DIV/0! |
| 28 | 544 W Cascade Meadows Loop | | | \$- | #DIV/0! |
| 29 | 548 W Cascade Meadows Loop | | | \$- | #DIV/0! |
| 30 | 550 W Cascade Meadows Loop | | | \$- | #DIV/0! |

| | | | | | |
|----|---|----------------|----------------|--------------|---------|
| 31 | 870 West Cascade Way | \$275,000.00 | \$254,375.00 | \$20,625.00 | 8% |
| 32 | 580 W Cascade Meadows Loop | \$1,090,000.00 | \$1,062,750.00 | \$27,250.00 | 3% |
| 33 | | | | | #DIV/0! |
| 34 | | | | \$- | #DIV/0! |
| 35 | | | | \$- | #DIV/0! |
| 36 | | | | \$- | #DIV/0! |
| 37 | Property # 37 on Map | | | \$- | #DIV/0! |
| 38 | 696 W Ward Ln | | | \$- | #DIV/0! |
| 39 | Property #39 on Map | | | | |
| 40 | | | | \$- | #DIV/0! |
| 41 | 870 Cascade Cove | | | \$- | #DIV/0! |
| 42 | 902 Farrell Farm Circle, Midway, UT | \$1,200,000.00 | \$1,080,000.00 | \$120,000.00 | 10% |
| 43 | About 900 South Farrell Farm Circle, Midway, UT | \$265,000.00 | \$238,500.00 | \$26,500.00 | 10% |
| 44 | 905 Farrell Farm Circle, Midway, UT | \$1,250,000.00 | \$1,125,000.00 | \$125,000.00 | 10% |
| 45 | 908 Cascade Court, Midway, UT | \$2,000,000.00 | \$1,800,000.00 | \$200,000.00 | 10% |
| 46 | 920 Cascade Ct | \$1,160,000.00 | \$1,073,000.00 | \$87,000.00 | 7.50% |
| 47 | About 901 South Cascade Court, Midway, UT | \$268,000.00 | \$241,200.00 | \$26,800.00 | 10% |
| 48 | 925 Cascade CT | \$1,125,000.00 | \$1,040,625.00 | \$84,375.00 | 7.50% |
| 49 | 888 Whitewater Way | \$1,225,000.00 | \$1,102,500.00 | \$122,500.00 | 10.00% |
| 50 | 924 South Whitwater Way | \$265,000.00 | \$251,750.00 | \$13,250.00 | 5% |
| 51 | 885 South Whitewater Way, Midway, UT | \$1,060,000.00 | \$954,000.00 | \$106,000.00 | 10% |
| 52 | 915 Whitewater Way | \$265,000.00 | \$245,125.00 | \$19,875.00 | 8% |
| 53 | 644 Cascade Parkway | \$255,000.00 | \$242,250.00 | \$12,750.00 | 5% |
| 54 | 906 Coldwater Way, Midway, UT | \$965,000.00 | \$892,625.00 | \$72,375.00 | 8% |
| 55 | 904 Coldwater Way, Midway, UT | \$950,000.00 | \$855,000.00 | \$95,000.00 | 10% |
| 56 | 901 Coldwater Way, Midway, UT | \$975,000.00 | \$877,500.00 | \$97,500.00 | 10% |
| 57 | 905 Coldwater Way | \$260,000.00 | \$234,000.00 | \$26,000.00 | 10% |
| 58 | 909 Coldwater Way | \$255,000.00 | \$235,875.00 | \$19,125.00 | 8% |
| 59 | 925 Coldwater Way | \$960,000.00 | \$912,000.00 | \$48,000.00 | 5% |
| 60 | 930 Price Farm Court, Midway UT | \$665,000.00 | \$631,750.00 | \$33,250.00 | 5% |
| 61 | 910 Price Farm Court, Midway, UT | \$1,050,000.00 | \$971,250.00 | \$78,750.00 | 8% |

[illegible]

| | | | | | |
|--|--|---------------------|--------------|----------------|--|
| | | \$43,484,200.00 | Total Impact | \$3,445,162.00 | |
| | | | | | |
| | | | | | |
| | | Full length of line | 6042 Ft | | |

MIDWAY UTAH JORDANELLE – MIDWAY TRANSMISSION LINE IMPACT MAP



KEY

BLUE = APPRAISAL RECEIVED

RED = APPRAISAL NEEDED

— = PROPOSED ROUTE

○ = 7ft Diameter 85-115' Steel Pole (seen in picture)

○ = 3ft Diameter 75-80' Steel Pole

○ = 2.5ft Diameter 75-80' Wooden Pole?



EXHIBIT F

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Counsel for Respondent Midway City

BEFORE THE UTAH UTILITY FACILITY REVIEW BOARD

ROCKY MOUNTAIN POWER
Petitioner

vs.

MIDWAY CITY
Respondent

**RESPONDENT MIDWAY CITY’S
EMERGENCY PETITION FOR
RECONSIDERATION/REHEARING AND
STAY PENDING APPEAL OF THE MAY
7, 2020 ORDER**

Docket Number 20-035-03

Respondent Midway City, by and through counsel of record and pursuant to Utah Code §§ 54-13-307, 63G-4-405, submits this Emergency Petition for Reconsideration/Rehearing and Stay Pending Appeal of the May 7, 2020 Order (the “Order”).

FACTUAL AND PROCEDURAL BACKGROUND

After a hearing on the merits, this Board entered a written Order on May 7, 2020 granting, in large part, Rocky Mountain Power’s (“RMP”) Petition for Review. As the Board is aware, the Petition which arose from RMP’s application to Midway for a conditional use permit to construct, together with Heber Light & Power (“HLP”), a double-circuit 46kV and 138kV transmission line (one each for HLP and RMP) through a residential area of Midway City. The

CUP was granted by Midway on December 18, 2019 with numerous conditions, including a process aimed at constructing the line underground.¹

In its Order, the Board found that “the Project, including its Midway Segment, is needed for RMP to provide safe, reliable, adequate, and efficient service to its customers.” (05.07.20 Order at 5.) The Board further held that the “actual excess costs” under Section 54-14-103(1) of the Utility Facility Review Board Act (the “Act”) to construct the line underground must include the costs of any easements, which the Board valued at \$691,344.00 based on estimates provided by RMP. (*Id.* at 6-7.)

Despite undisputed evidence that the bids obtained by RMP to arrive at the actual excess costs—which Midway would be forced to pay upfront—were incorrect and drastically inflated, the Board declined to address this discrepancy. The Board also refused to examine the specifications demanded by RMP for the Project, even though substantial evidence showed that those specifications were overly conservative and unnecessary by industry standards. (*Id.* at 7.)

Finally, the Board held that “construction of the Project, including the Midway Segment, should commence by **Wednesday, November 18, 2020** in order to avoid a significant risk of impairment to safe, reliable, and adequate service.” (*Id.* at 9 (original emphasis).) The Board concluded that Midway would be required to follow the requirements of the Act and CUP, which means that Midway must elect its preferred length of the line within 15 days of its Order (May 22, 2020) and must enter into a written agreement to pay the actual excess costs (as determined by the Board) within 20 days of its Order (May 27, 2020).

¹ The full factual background in this case has been the subject of several filings with the Board and will not be repeated here.

These time frames make it critical that Midway obtain a stay of the Board's Order before the triggering dates pass, otherwise the Order is *effectively unreviewable*, as any appeal would become moot. After a deliberation, due notice and a public hearing held just last night, the Midway City council directed counsel to seek a stay of the Board's Order. Given the timelines at play in the Order and Act, however, a stay must be granted *immediately*, if at all.

Unfortunately, if the Board is unable to grant the stay *by close of business on May 21, 2020*, Midway City will be forced to seek review and a stay from the Court of Appeals, which has jurisdiction to review the Order. Utah Code § 54-13-308.

I. The Board Should Reconsider its May 7, 2020 Order.

Pursuant to Utah Code § UCA 54-7-15 and Utah Admin R746-1-801, this Board has authority to reconsider or rehear the Order. The Board should reconsider the Order based on the following significant issues, which may likely be the subject of Midway's appeal:

A. More than Mere Estimates of Easements Are Required to Establish Actual Excess Costs.

The Board, respectfully, erred when it held that RMP had satisfied its burden of providing the actual excess costs when the only evidence RMP provided of the value of the easements and rights-of-way required for overhead construction were general estimates conducted without any individualized analysis. (Order at 6.) The Board likewise erred in relying on that evidence in arriving at the actual excess cost. (*Id.*)

The Act requires RMP to include the actual cost of "any right-of-way" in establishing the "actual excess costs" of the underground line. Utah Code § 54-14-103(1). The CUP requires the same thing. (CUP at 4, bullet 15.) Running the lines overhead through homeowners' yards will require easements. Unlike the actual construction costs, where competitive bids (as opposed to

estimates) are required, the statute does not explain how “actual” easement costs are to be determined. As such, the plain meaning of those words—“the actual cost ... of any right-of-way”—must be used. *E.g., Garfield Cnty. v. United States*, 2017 UT 41, ¶ 15, 424 P.3d 46 (the plain meaning of statutory language must be used to interpret a statute). The phrase “actual cost” in ordinary parlance means more than conjecture or even a mere estimate. It must be a precise calculation of the market costs of acquiring the easements.

The Board held, however, that RMP may “rely on appraisals or other appropriate expert opinions” to determine actual excess costs. (Order at 6.) The Board also held that “exactitude” was “impossible” and not required. (*Id.* at 6-7.) While condemning or obtaining the easements through final judgment may not be required, it does not follow that conjecture and mere estimates is sufficient. And, yet, it is undisputed that RMP submitted nothing more than that. RMP’s expert (Benjamin LeFevre) admitted that he made no attempt at an individualized analysis, and that his estimates were based on unknown, unidentified other owners and transactions having no relationship to the actual properties on which the easements must encroach. Mr. LeFevre ***rejected*** RMP’s own ridiculous estimate of \$20,000.00 but did not provide any reliable estimate of his own. In fact, he testified that he did ***not*** intend to provide an actual estimated value of the easements and was not hired for that purpose.

By contrast, the City’s expert, Gerry Webber, did an extensive and particularized analysis of the ***actual properties*** affected by the line. His well-supported conclusion was that the total costs of the easements is likely to be more than \$2 million.

In its Order, the Board rejected both experts and created a hybrid of sorts methodology that arrived at a figure of \$691,344.00 as the value of the easements in calculating actual excess costs.

The error is not in the number. Rather, the error lies in the methodology and the requirements of the Act. The statute creates a conundrum. The Board must determine the “actual cost” of the line and the “actual cost” of the easements. The Act does not specify the method to do so, but if the Act allowed mere estimates, then it would have said so, just as it did in the case of the estimated costs. The fact that the Act uses the term “actual” rather than “estimated” in the context of actual excess costs compels the conclusion that mere estimates are not sufficient.²

RMP’s evidence of actual excess costs was also deficient because it did not include severance damages resulting from the easements RMP must obtain. The CUP requires severance damages to be included in the actual costs. (CUP at 4, bullet 15.) Utah law requires the same. *Utah Dep’t of Transp. v. Target Corp.*, 2020 UT 10, 459 P.3d 1017; Utah Code § 78B-6-511(1)(b).

Finally, RMP’s calculation of severance, and the Board’s adoption of that evidence, was also erroneous because it did not include portions of common areas within PUDs as required by Utah Code Ann. § 78B-6-511(1)(c). This means that the supposed actual costs of the easements were not actual costs, they were erroneous estimates.

Accordingly, the calculation of the actual costs of easements was in error and should be reconsidered and corrected.

² Under Section 54-14-202, the Board had the right to request more accurate information from RMP relating to the value of the estimates, and to suspend the issuance of its decision “for 30 days after the day on which the public utility provides the information requested ...”.

B. The Board's Calculation of the Standard Costs was Erroneous Because it Did Not Include RMP's Management Fee.

The testimony at trial was *undisputed* that RMP always charges a management “surcharge” or fee in connection with all its facilities construction, including overhead transmission lines. Darrin Meyers testified on behalf of RMP that RMP would exact a surcharge or overhead construction in this case amounting to approximately 7.5% of the total cost and that the \$269.00 per linear foot estimate of the standard costs, adopted by the Board, did *not* include the surcharge (or the cost of easements, for that matter). This standard fee increases the standard cost of construction somewhere in the neighborhood of \$100,000.00, which would reduce the actual excess cost that Midway City would be forced to raise and pay up front.³ Yet, the Board declined to include it in the calculation of standard costs and actual excess costs. This is arbitrary and capricious.

C. The Board Abdicated its Review Responsibility in Refusing to Review the Merits of the Specifications and the Bids.

The Act gives the Board jurisdiction to review the specifications employed by a utility in calculating actual excess costs and to review the bids obtained by the utility for the same purpose. Utah Code § 54-14-305(2)(b). The Act also allows the Board to resolve disputes regarding specifications and bids. Utah Code § 54-14-203. It was on this basis that Midway expressly invoked the jurisdiction of the Court and asked for a review of these issues. (Midway Tr. Br. at 3.)

³ It is not sufficient to posit that this is harmless error due to the “true up” provision in the CUP because Midway must raise sufficient funds through its citizenry, and on this politically charged issue, every dollar counts. If Midway is unable to successfully raise the actual excess costs on the front end, the true up provision does not matter.

In its Order, however, the Board refused to do either, holding instead that a utility is entitled to rely on its “standard specifications and policies” no matter how objectively unreasonable those specifications, policies and practices may be. (Order at 7.) The Board also refused to examine, or even mention, the bids even though the *undisputed* evidence was that two of the three bids were significantly inflated, and RMP knew or should have known about this but did nothing. Darrin Meyers, the individual at RMP who generated the Request for Proposals and was responsible for the bids, admitted that the bids were wrong and that the contractors must have “misunderstood” the specifications, which immediately calls into question the validity of RMP’s specifications. This, too, is arbitrary and capricious and contrary to law.

C. The Board Ignored Undisputed Evidence of Erroneous Bids and Improperly Relied on That Evidence.

Similarly, the Board ignored undisputed evidence that the bids were inflated yet relied on those bids in calculating the actual excess costs of underground construction, forcing Midway to unnecessarily raise and pay those incorrect amounts. (Order at 7-8.) This is an error of fact and law that should be corrected.

II. Regardless of Whether it Intends to Reconsider the Order, the Board Should Immediately Stay the Order Pending Appeal.

Under the Administrative Procedures Act, this Board is granted the power to stay its own decision while on review. Utah Code § 63G-4-405(1). The standard for granting a stay appears to be “good cause.” *In re Rocky Mtn. Power’s Pet. for Review to the Utah Facility Review Bd.*, 2016 WL 4126154, at *3 (July 29, 2016).

Good cause exists here because if a stay is not granted, the appeal will become almost immediately moot, robbing Midway of its statutory and constitutional right to an appeal and

review of an administrative order.⁴ Under the Board's Order, Midway must elect its preferred route for the line within 15 days (May 22, 2020) and must enter into a written agreement to pay the actual excess costs (as determined by the Board) within 20 days (May 27, 2020). The deadlines are literally around the corner, and there is no possible way for Midway to obtain legitimate reconsideration or review by either this Board or the Court of Appeals without a stay.

This exact scenario played out in the last case this Board decided, also coincidentally involving RMP. In that case, Wasatch County appealed a June 2016 decision of the Board holding that the County had improperly denied RMP's application for a CUP for the construction of a transmission line and ordering the County to issue the CUP *within 60 days*. The County asked this Board for a stay pending appeal, which the Board summarily denied. *In re Rocky Mtn. Power's Pet. for Review to the Utah Facility Review Bd.*, 2016 WL 4126154 (July 29, 2016). The County appealed, and in January 2018, the Court of appeals *reversed* the opinion of this Board, holding that the County had the discretion to deny the CUP where the negative impacts of the line could not be mitigated. *Wasatch Cnty. v. Utility Facility Review Bd.*, 2018 UT App 1, ¶ 13, 414 P.3d 958. The Court set aside the Board's order and directed the Board to conduct further proceedings consistent with the Court's opinion.

In the meantime, the County had been obliged to issue a CUP within 60 days to RMP under the terms of the Board's order, which had not been stayed. This Board then petitioned the Court of Appeals for rehearing. Not surprisingly, in October 2018, the Court of Appeals

⁴ Filing a notice or petition for appeal does not stay or prevent the Board's order from becoming effective. Utah Code § 54-14-307(1).

withdrew its prior decision, holding that the dispute had become moot in the interceding 18 months:

[A]bundant case law supports the proposition that once construction (of, for instance, buildings or power lines) has commenced, ***an appellant must avail itself of all avenues of preserving the pre-construction status quo or risk the construction rendering the appeal moot.*** Here, Rocky Mountain sought a conditional use permit so that it could construct the new transmission lines and towers. The Board issued the permit, and Wasatch County did not even seek, much less obtain, a stay from this court. As a result, the construction is complete and the presence of the completed power lines, coupled with Wasatch County's failure to seek a stay, has rendered this proceeding for judicial review moot.

Wasatch Cnty. v. Utility Facility Review Bd., 2018 UT App 191, ¶ 19, 437 P.3d 406 (emphasis added).

Unless a stay is immediately granted here, the same scenario will play out, depriving the non-utility party, once again, of its right to appellate review. In fact, the need here is even more immediate, as the issue may become moot within only a week, not sixty days.

As such, this Board should immediately grant a stay of its May 7, 2020 Order, regardless of whether it reconsiders or rehears the Order. Midway City has acted as quickly as possible, filing this Petition as soon as the action was approved by the City Council after public hearing and two weeks before the 30-day time limit expired.

CONCLUSION

For the foregoing reasons, this Court should grant a stay of its May 7, 2020 Order pending appeal and reconsider the merits of the Order to correct the errors identified herein.

DATED this 20th day of May 2020.

/s/ Corbin B. Gordon
Corbin B. Gordon
Counsel for Respondent
Midway City

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of May 2020, I filed a copy of the above-captioned document with the Clerk of the Court via the Court's electronic filing system, which delivered an electronic copy to the following:

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/s/ Corbin B. Gordon

EXHIBIT G

2016 WL 4126154 (Utah P.S.C.)

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

Docket No. 16-035-09

Utah Public Service Commission

July 29, 2016

ORDER CONFIRMING BENCH RULING

BEFORE: LeVar, Chair, Clark, Holbrook, and White, Board Members.

BY THE COMMISSION.

INTRODUCTION

*1 On June 3, 2016, the Utility Facility Review Board (Board) issued a final agency action in this docket (Order). The Order requires Wasatch County to issue a conditional use permit to Rocky Mountain Power (RMP) to construct a 0.26 mile-long segment of a 138 kV transmission line upgrade project located in Wasatch County (Project). Wasatch County filed a Notice of Appeal with the Utah Court of Appeals, pursuant to [U.C.A. § 54-14-308](#), and a Motion to Stay Order (Motion) with the Board, pursuant to [U.C.A. §§ 54-14-307](#) and [63G-4-405](#).

On July 14, 2016, the Board convened to hear oral argument and deliberate on the Motion. At the conclusion of the hearing, the Board voted unanimously to deny the Motion. This order confirms the Board's ruling.

DISCUSSION

Issue and Standard of Review

Wasatch County asks the Board to enter a stay pending judicial review of its appeal pursuant to [U.C.A. § 63G-4-405\(1\)](#), which states: “Unless precluded by another statute, the agency may grant a stay of its order or other temporary remedy during the pendency of judicial review, according to the agency's rules.” Wasatch County acknowledges the Board has not promulgated agency rules governing the issuance of a stay, but urges the Board to consider its Motion before pursuing a stay with the appellate court.¹ We review the Motion for good cause pursuant to our discretionary decision making authority. In doing so, we recognize that a stay must ordinarily be sought from the agency or court below before the appellate court will hear the issue.²

Parties' Positions

Wasatch County only offers one reason for a stay — because an appeal is pending.³

*2 RMP opposes the County's Motion mainly for two reasons — reliability threats and economic effects. To support its argument RMP submitted two declarations. The declaration of Mr. Shortt explains that under the current system configuration, when the load area reaches its peak loading period, a loss of one transformer results in low voltages and outages.⁴ To mitigate this reliability risk during peak loading, RMP is forced to operate the system in the load area as three radial systems, with each system having one power source.⁵ Under this radial configuration, an outage on a transmission line or a loss of the source of power on any one radial line would result in an outage for a large number of customers. RMP estimates that an outage on the radial system in Park City could affect 14,000 to 27,000 customers and last up to several days.⁶ Extended outages could have severe health and safety impacts affecting customers in the load area.⁷ Completing the Project will provide an additional

power source in the area and will eliminate the need to operate the system radially, greatly reducing the frequency and duration of outages.⁸ As further support, RMP cites to a letter from Heber Light & Power supporting the “improvements to reliability” through completion of the Project:

Heber Light & Power is very concerned that [RMP's] system lacks sufficient capacity.... [T]he Silver Creek Substation is critical to Heber Light & Power Company's operations and will directly benefit the Company's customers. First, this connection coupled with the proposed 138kV line serving the Heber Valley will eliminate voltage fluctuations that have plagued the system during peak loads by increasing the capacity of ...[RMP] lines feeding the Heber Valley. Second, this connection and related line serving the Heber Valley from the north will solve [Heber Light & Power's] precarious reliance on the single 138kV line in Provo Canyon. Finally, it will allow [Heber Light & Power] to construct a second point of interconnect to [RMP's] transmission system providing needed redundancy for [Heber Light & Power's] Midway Substation and facilitating vital system maintenance.⁹

*3 RMP also argues that granting a stay would have far-reaching adverse economic consequences potentially affecting RMP's customers statewide. The declaration of Mr. Clegg estimates that a one-year delay in construction of the Project will add approximately \$924,000 to the costs of completing the Project when inflation and cost of capital related costs are considered.¹⁰

Findings and Conclusions

The fact that an appeal is pending is inadequate to support a stay.¹¹ Further, the Board's order granting RMP's petition was based at least in part on the need to promptly improve the reliability of RMP's system in the area served by the Project. As we previously recognized, “RMP has an obligation to serve its customers with safe, reliable, adequate, and efficient service, along with meeting the increasing energy demands of its customers. *Failure to construct the Project will expose customers to unacceptable reliability risk during certain times of the year, inhibiting RMP's capacity to serve the growing energy demand of its customers.*”¹² The evidence RMP presented in response to the Motion further reinforces the need for completion of the Project without further delay. Thus, as we recognized in our prior order, “[t]he uncontested testimony from RMP is that ‘[t]he company and its customers, including ... customers in Wasatch County ... need this project to provide safe, reliable, adequate and efficient power and service.’”¹³

ORDER

For the reasons explained above, we deny Wasatch County's motion to stay.

DATED at Salt Lake City, Utah, July 29, 2016.

Attest:

/s/ Gary L. Widerburg

Board Secretary

Footnotes

- 1 To this end, U.C.A. § 63G-4-405(2) states: “Parties shall petition the agency for a stay or other temporary remedies unless extraordinary circumstances require immediate judicial intervention.”
- 2 See U.C.A. § 63G-4-401 (requiring exhaustion of administrative remedies before seeking judicial review of a final agency action). See also U.C.A. § 63G-4-405(2) (requiring party to petition administrative agency for a stay before seeking a stay on appeal); Utah R. App. P. 8(a) (“Stay must ordinarily be sought in the first instance”).

- 3 *See* Motion to Stay Order of June 3, 2016, filed June 29, 2016. *See also* Hr'g Tr. 7:9-11, 21 (July 14, 2016) (“[Wasatch County is] simply saying the standard for a stay is [to] allow the Court of Appeals to look at this. ... I ... conclude at that.”).
- 4 *See* Declaration of Kenneth M. Shortt in Support of Rocky Mountain Power's Memorandum in Opposition to Wasatch County's Motion to Stay Order of June 3, 2016 at 2, ¶ 3, filed July 13, 2016.
- 5 *See id.*
- 6 *See id.* at 3, ¶ 6.
- 7 *See id.* at 3, ¶ 8.
- 8 *See id.* at 2, ¶ 3.
- 9 Letter from Heber Light & Power at 1, attached to Rocky Mountain Power's Memorandum in Opposition to Wasatch County's Motion to Stay Order of June 3, 2016, filed July 13, 2016.
- 10 *See* Declaration of Benjamin Clegg in Support of Rocky Mountain Power's Memorandum in Opposition to Wasatch County's Motion to Stay Order of June 3, 2016 at 2, filed July 13, 2016.
- 11 *See generally* U.C.A. § 54-14-307(1) (“[A] petition for judicial review does not stay or suspend the effectiveness of a written decision of the board.”). *Cf. Chevez v. Williams*, 1999 UT 86, ¶ 47, 993 P.2d 191 (stating rule under the Utah Rules of Civil Procedure that “[t]here is no automatic stay ... upon the filing of a notice of appeal.”).
- 12 Order at 9-10 (emphasis added), issued June 3, 2016.
- 13 *Id.* at 10.

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