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Application of Rocky Mountain Power for a Certificate of Public Convenience and Necessity for the Gateway South Transmission Project	<u>DOCKET NO. 21-035-54</u>  <u>ORDER</u>
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ISSUED: April 8, 2022

The Public Service Commission approves a settlement stipulation that grants Rocky Mountain Power’s application for a certificate of public convenience and necessity for the Gateway South Transmission Project.

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### **1. PROCEDURAL HISTORY AND BACKGROUND**

On October 7, 2021, Rocky Mountain Power (RMP) filed an application (“Application”) requesting an order granting a certificate of public convenience and necessity (CPCN) to construct the 416-mile Gateway South 500-kilovolt transmission line (the “Project”), approximately 183 miles of which is located in Utah. Western Resource Advocates (WRA), Utah Association of Energy Users (UAE), and Interwest Energy Alliance (IEA) subsequently intervened.

On January 25, 2022, the Division of Public Utilities (DPU), IEA, and UAE submitted written direct testimony. IEA recommended the Public Service Commission (PSC) grant RMP’s Application, as did the DPU pending RMP’s clarification of certain issues identified in the DPU’s testimony. UAE explained that it did not oppose granting the CPCN but expressed concerns about RMP’s proposed justification for the Project and asked the PSC to “clarify in its [o]rder that the granting of a CPCN does not constitute a project pre-approval or a judgment regarding the [prudence] or future recovery of costs.”<sup>1</sup>

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<sup>1</sup> UAE Direct Test. at 23:422-24.

On February 22, 2022, RMP, DPU, and IEA (“Signatories”) filed a settlement stipulation (“Settlement”). The Settlement represents the OCS and intervenors that did not sign (*i.e.* UAE and WRA) do not oppose the Settlement.

On March 1, 2022, the PSC issued an Amended Scheduling Order and Notice of Virtual Hearing. At hearing on March 14, 2022, the PSC heard testimony from RMP, DPU, and IEA in support of the Settlement. No party has opposed the Settlement, at hearing or otherwise.

## **2. THE APPLICATION**

The Application states RMP is moving forward with the Project as the next segment in its Energy Gateway development “because current circumstances make it both necessary and economic.”<sup>2</sup> RMP lists the following reasons for its request to construct the Project: (1) RMP needs to construct the Project to fulfill its obligation under its Federal Energy Regulatory Commission Open Access Transmission Tariff; (2) the Projects are a critical component of RMP’s short- and long-term plan to meet its federal reliability mandates; and (3) RMP’s 2021 IRP demonstrates the need for additional generation resources and associated transmission. Additionally, RMP represents the Project will provide substantial customer benefits.

The Application indicates RMP plans to construct and energize the Project by the end of 2024, requiring construction to begin by June 2, 2022. RMP represents it is on track to have all Utah siting permits by June 2022. The Application requests the PSC grant the requested CPCN for the Project no later than June 1, 2022.

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<sup>2</sup> Application at page 2, ¶ 1.

### **3. THE SETTLEMENT AND TESTIMONY AT HEARING**

In the Settlement, the Signatories agree: (1) the present or future public convenience and necessity does or will require construction of the Project;<sup>3</sup> (2) approval of the CPCN is limited to a determination of the public convenience and necessity of the Project, therefore, prudence, cost allocation, and rate recovery are outside the scope of this docket and are to be addressed through a future regulatory process;<sup>4</sup> and (3) certain issues unrelated to the public need justifying the Project that were raised in written testimony submitted in this proceeding are to be addressed in future proceedings.<sup>5</sup> In its testimony at hearing, RMP confirmed these were the parties' intentions and reiterated its request the PSC approve the Settlement.

At hearing, DPU recommended the PSC approve the Settlement and testified that, taken as a whole, the Settlement is just, reasonable, and in the public interest, emphasizing the parties agree public convenience and necessity requires or will require construction of the Project. In addition, DPU testified RMP attached evidence to the Application demonstrating compliance with Utah Code Ann. § 54-4-25(4), which requires certain representations regarding municipal permitting and lack of interference with other utilities' service areas.

Finally, IEA also testified in support of the Settlement at hearing, representing RMP "appears to be serving the needs of its customers in an effective and efficient manner," and that current western long-term utility plans assume that the Project will be constructed, making potential disapproval disruptive.<sup>6</sup>

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<sup>3</sup> Settlement at ¶ 13.

<sup>4</sup> Settlement at ¶ 12.

<sup>5</sup> *Id.*

<sup>6</sup> Hr'g Tr. at 20:21-25.

**4. DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW**

Utah law encourages negotiated resolution of proceedings before the PSC.<sup>7</sup> The PSC may adopt a settlement after considering the interests of the public and other affected persons, if the PSC finds the settlement is in the public interest.

Based on the Application and its attachments, the parties' written testimony, evidence presented at hearing, and our review of the Settlement, the PSC finds the public convenience and necessity requires or will require the construction of the Project. The PSC further finds RMP has complied with Utah Code Ann. §§ 54-4-25(4)(a) and (4)(b) by including a statement the Project will not unlawfully interfere with another utility's service territory and representing that RMP has obtained or is in the process of obtaining all necessary permits.

Given these findings and the lack of any opposition, the PSC finds the Settlement is just and reasonable in result and in the public interest.

ORDER

- (1) The Settlement is approved as filed;
- (2) RMP's request for a certificate of public convenience and necessity to construct the Project is granted; and
- (3) Per the Settlement, this Order makes no determination as to the Project's prudence, RMP's recovery of the Project's costs, allocation of such costs, or any other issue preserved in the Settlement for future adjudication.

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<sup>7</sup> Utah Code Ann. § 54-7-1.

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DATED at Salt Lake City, Utah, April 8, 2022.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg

PSC Secretary

DW#323426

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this written order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on April 8, 2022, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

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