

Ian McCubbin
555 Northmont Way
Salt Lake City UT 84103

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

<p>Formal Complaint of Ian McCubbin, David Goldsmith, Tim Watcke, Laurie Hofman, and David Classen against Rocky Mountain Power</p>	<p>DOCKET NO. 23-035-41 RESPONSE</p>
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Ian McCubbin, David Goldsmith, Tim Watcke, Laurie Hofman, and David Classen (“Complainants”) are responding to the Answer and Motion to Dismiss filed by Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or the “Company”) on October 10, 2023.

Background:

The Complainants have been requesting that the Company change above-ground power lines to below-ground power lines in the Fire High Consequence Areas (FHCA) in the Salt Lake City Foothill Open Space Area and City Creek Watershed since 2019. The Company's above-ground power lines are in areas that are rated by the State of Utah Division of Natural Resources as

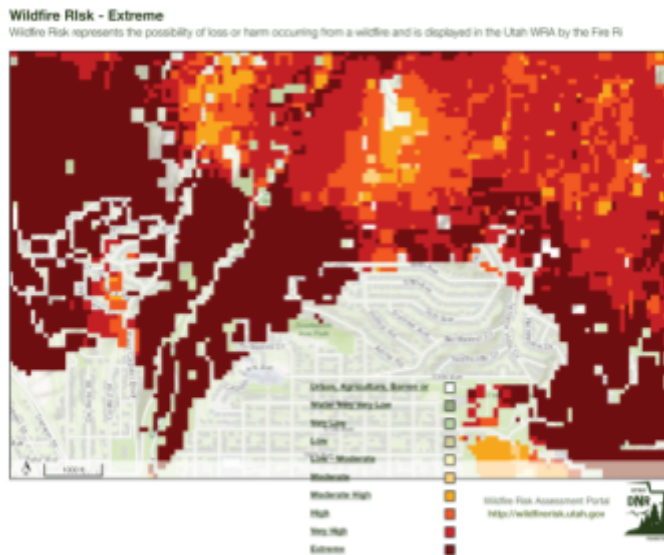


Figure : Wildfire Risk in City Creek Canyon and Upper Avenues of Salt Lake City

“very high” to “extreme” for wildfire risk, and in the FHCA of the Company per the Rocky Mountain Power 2020 and 2023 Utah Wildland Fire Protection Plan. The Company’s Answer and Motion to Dismiss failed to address the concern the Complainant's raised regarding the high frequency of weather-related outages at our homes, which is the basis of the Complainant's submission to the Utah Division of Public Utilities (DPU). Furthermore, Rocky Mountain Power did not address the concern that these

above-ground power lines are located within the City Creek Canyon watershed and therefore represent a significant threat to the Salt Lake City Municipal Water Supply in the event of a wildfire sparked by a downed power line.

Rocky Mountain Power's Utah 2023 Wildland Fire Protection Plan ("Wildfire Plan") specifically states that "burying transmission and distribution line assets located within Fire High Consequence Areas ("FHCA") can be considered on a case-by-case basis," and that "burial is only required when it is cost-effective or necessary due to functional or operational constraints." Accordingly, the Complainants are requesting that these lines be buried due to functional constraints related to weather-related outages, extreme wildfire risk in the FHCA, and threats to the City Municipal Water Supply.

Response

1. The Company inaccurately states the following in the Answer and Motion to Dismiss: "continuing over the course of the next [*sic*] four years, the Company has proactively discussed solutions with the Complainants. None have been successful, because the Complainants are unwilling to pay for the incremental costs to bury the power lines and related infrastructure." In the fall of 2019, after Formal Mediation with the Utah Division of Public Utilities (DPU), the Complainants began working in earnest to have the lines buried with the cost of the line conversion paid by the Complainants. Email communications were provided by Complainants to confirm funding was available for the costs of undergrounding the electrical facilities. Examples of these emails are provided below, and the full email communications are presented as Exhibits to this response.

From: Ian McCubbin <imccubbin@gmail.com>

Date: Monday, July 22, 2019 at 1:32 PM

To: Ambrose, Chad <Chad.Ambrose@rockymountainpower.net>, Turner, Thomas <Thomas.Turner@pacificorp.com>, Nichols, Trevor <Trevor.Nichols@pacificorp.com>, Blum, Jennifer <Jennifer.Blum@rockymountainpower.net>, Tanner, Travis <Travis.Tanner@rockymountainpower.net>

Subject: Re: [INTERNET] Re: Northmont way RMP power line

As you know we are committed to reducing the risk to our electrical service from wildfire hazards at the WUI. Additionally, we would like to improve our electrical service reliability. We have moved forward on submitting a request for move of the electrical service on 7/22 from overhead to below ground. That was the deadline you had on the 7/3 phone call. We have the green light from the 11 rate payers to submit this service request. We would like to confirm that if the cost exceeds the per house costs that our community is comfortable with, then we can cancel this service request. Please confirm if that is correct?

We understand that by submitting the service request, this will allow for a more accurate cost estimate from RMP. We also understand this does not legally commit us to the full unknown cost of the service. We will reach out to the other service providers to find out about moving the telcom wires from overhead to below ground.

From: Ian McCubbin <imccubbin@gmail.com>
Date: Monday, January 6, 2020 at 11:20 PM
To: Mansfield, Curtis <Curtis.Mansfield@pacificorp.com>
Cc: Braithwaite, Autumn <Autumn.Braithwaite@pacificorp.com>, Talo, Florisa <Florisa.Talo@pacificorp.com>, Tanner, Travis <Travis.Tanner@rockymountainpower.net>, Allen, Brady <Brady.Allen@pacificorp.com>, Lester, Dustin <Dustin.Lester@rockymountainpower.net>, Spencer, Christopher <Christopher.Spencer@pacificorp.com>, Favero, Kerry <Kerry.Favero@pacificorp.com>, Wharton, Chris <Chris.Wharton@slcgov.com>, Demmons, Lisa <Lisa.Demmons@slcgov.com>, Cynthia Dumas <cdumas@utah.gov>, Wood, Jemar <Jemar.Wood@pacificorp.com>, David Goldsmith <dsgoldsmith@gmail.com>, Tessa Arneson <tessa@mavenslc.com>, Tim Watcke <twatcke@gmail.com>, Kimmel, Austin <Austin.Kimmel@slcgov.com>, Milne, Christopher <Christopher.Milne@slcgov.com>, Clark, Tim <Tim.Clark@pacificorp.com>, Turner, Thomas <Thomas.Turner@pacificorp.com>
Subject: Re: [INTERNET] Re: OH Rebuild Scope & Cost

Hello Curt,

... We have been working with our 11 neighbors to move forward on this project. We have the easement documents signed and are ready to submit the signed Work Order #: 6717938. The cost of \$134,692 (12,244.73 per Homeowner) as a lump sum payment up front is a financial hardship to some of the neighbors, and given that we are all current RMP customers, we would like to find out what other billing options are available for this work. Chris Spencer is investigating this and has been in touch by phone with David Goldsmith. We will have the signed documents to RMP within a week.

One challenge we have had with this effort is the lack of direct communication from RMP about the process and how it will unfold. Chris has proposed that RMP setup a meeting with all the rate payers from 469-569 Northmont to discuss how the underground conversion project will happen. We think that direct communication from a RMP representative at this point would help and look forward to getting that scheduled.

The goal of the above ground to underground line burial project is twofold for our community; first to reduce wildfire risk and second is to improve the infrastructure so we do not have winter time outages associated with wind and snow/ice that results in power outages. The March and November 2019 downed lines at my property were both associated with heavy snow and winds. Your point about the plastic anchors failing in the November downed line incident was only part of the issue, as the line tension, heavy snow and wind were all contributing factors to the line going down. Our community believes that underground wires in the front of homes will reduce wildfire risk by moving the above ground lines away from the wildland urban interface in a high risk fire zone, and will also prevent storm damage to above ground lines in the winter months which results in loss of service.

From: Ian McCubbin <imccubbin@gmail.com>
Date: Tuesday, March 1, 2022 at 6:14 PM
To: Millward, Bryan (PacifiCorp) <Bryan.Millward@rockymountainpower.net>, Spencer, Christopher (PacifiCorp) <Christopher.Spencer@pacificorp.com>
Subject: Re: 8007219UT_custWorkRqst_
Hi Bryan and Chris,

Following up on a call Bryan and I had last week. We are working quickly to collect the funds for this project based on the call I had with Bryan. We are ready to move in the next weeks to send the funding for the AG to UG. I know this has been slow, and it has really dragged on for me trying to get this done from the neighborhood side. We have at least 4 neighbors that are willing to commit the funds to get this rolling

Today there was an RMP crew accessing backyards for the pole replacement effort. Can we get this UG conversion done in the coming months so the poles do not need to be replaced?

From: Ian McCubbin <imccubbin@gmail.com>
Date: Saturday, April 9, 2022 at 11:04 AM
To: Stefanie Liebert <sliebert@utah.gov>, Talo, Florisa (PacifiCorp) <Florisa.Talo@pacificorp.com>
Cc: Tariff Policy <TariffPolicy@pacificorp.com>, David Goldsmith <dsgoldsmith@gmail.com>
Subject: Re: Rocky Mountain Power

Hello Florisa and Stefanie

Thank you for the email responses regarding the undergrounding effort on Northmont Way SLC UT 84103. Based on guidance from Rocky Mountain Power (RMP) employees Chris Spencer (Managing Director, T&D Operations), TJ Turner (Capital Investment Manager) and Bryan Millward (Journeyman Estimator) we have been working with vendors to come up with the cost of undergrounding direct with one of RMP subcontractors or other vendors. RMP provided a list of companies for us to work directly with on obtaining estimates for this job in December

2021, and we have been engaged with them since that time. The current (attached) plans provided by RMP propose that the undergrounding of the utility lines is along the front (south side of properties) of our front yards. The feedback from most, if not all, of the vendors is this is the most expensive and disruptive approach to undergrounding the utility lines. There have been two suggested alternatives by the contractors. First option is to run the main underground utility lines under the street or the second option is to run the underground lines behind our homes in the open space where the above ground poles currently reside (north side of properties).

A few questions:

Is it Okay with RMP to proceed with these alternative approaches to reduce cost and minimize impact to driveways, other utilities (water) and damage to landscape?

Can we get plans from RMP for these 2 alternative approaches?

In regards to the Telecommunications companies (Century Link and Comcast) what is Rule 12 in referencing? Is this an RMP policy or DPU rules? For the last 3 years on the project we have struggled to understand and obtain the costs associated with the undergrounding effort for Comcast and Century Link. This has been the biggest unknown and unmanaged costs associated with this project. When homeowners ask for the full cost of this project we do not have an answer, as the telecommunications companies have not provided those cost estimates. Additionally if we do underground the RMP infrastructure, then we run the risk that the telecommunications infrastructure stays on the poles. What is the best way to proceed with Comcast and Century Link? Do we assume that if we provide them conduit below ground they will utilize it and remove from the poles?

From: Ian McCubbin <imccubbin@gmail.com>

Date: Wednesday, July 13, 2022 at 12:47 PM

To: Millward, Bryan (PacifiCorp) <Bryan.Millward@rockymountainpower.net>

Cc: Talo, Florisa (PacifiCorp) <Florisa.Talo@pacificorp.com>, Stefanie Liebert <sliebert@utah.gov>, Spencer, Christopher (PacifiCorp) <Christopher.Spencer@pacificorp.com>

Our homes very much want to get this project scheduled and completed asap. We have the funding in place. We have already provided the design document you attached (008007219-1) to the contractors, and this is the same plan provided originally in 2019 (006717938-1).

The above communications clearly show that the Complainant's good-faith willingness to pay for the cost of the below-ground conversion. The company statement that "because the Complainants are unwilling to pay for the incremental costs to bury the power lines and related infrastructure" is factually incorrect.

2. The Company was unable to provide a full cost of the project as it relates to the cost of the conversion of the Joint Users facilities on the Companies Above Ground Poles. The Joint User, Comcast/Xfinity and CenturyLink/Lumens would not provide a final estimate for the project until the Company issued a letter stating the project was underway. The Company required a 50% non-refundable payment for the line burial project in order to issue a letter to Comcast/Xfinity and CenturyLink/Lumens. As the cost of the Comcast/Xfinity and CenturyLink/Lumens was never known, it was difficult to commit 50% of the Rocky Mountain Power costs with an unknown overall project cost. During a the town hall style meeting between the Company and the Complainants in February 2020 the Company said that there are unknown costs of the undergrounding the Joint User telecommunications lines (Comcast/Xfinity and CenturyLink/Lumens) from the Company Aerial Power Line Poles. This large unknown added uncertainty to the cost from the Company for the project, and in March 2020 the COVID-19 Global Pandemic created even more uncertainty in financial markets and the global economy causing the Complainants to pause on this major construction project at their homes. The Company did not acknowledge in their response that one cause of the delay in implementing and funding this project and funding was the impact of COVID-19 and the unknown cost of undergrounding the Joint User lines.
3. The Company is responsible for costs associated with burying lines when required by local conditions. Given the current conditions in our area, including the age of the Company's facilities, high frequency of weather-related outages, location in the HFCA, and the location in the City Creek Watershed that directly feeds the Salt Lake City Municipal Water supply, the Complainants believe the functional conditions warrant that the Company bears the costs to bury the lines. Given that over the past four years the Complainants have fruitlessly worked with the Company to pay the cost of the underground conversion, it is now time that the Company move forward with this project and move the power lines underground as the local conditions make it necessary due to functional or operational constraints.

The 2023 Rocky Mountain Power Wildfire Plan states that the Company Plans to upgrade approximately 10% of the Distribution and Transmission lines in 2023, 2024, and 2025.

Furthermore, the Company's own report acknowledges that undergrounding overhead wires is the most robust way to reduce the threats posed by above-ground lines: "Rocky Mountain Power also evaluates the potential to convert overhead lines to underground lines for the rebuild projects. The potential wildfire mitigation benefits are undeniable. While an underground design does not eliminate every ignition potential, i.e., because of above-ground junctions, it is the most effective design to dramatically reduce the risk of any utility-related ignition. "

Motion for Commission Review of Case:

Complainant's respectfully request that the Public Service Commission review this case and consider that Rate Tariff Code is out of date and does not adequately address the risk presented by the conditions in our area by the outdated Company Facilities, Wildfire Risk Associated with downed Company Power Lines, High Frequency of Weather Related Outages, and the threat to the Municipal Water Supply in the City Creek Watershed. We encourage a formal assessment that Rate Tariff Code 12 is no longer applicable, and this project should be part of the facility updates under the Rocky Mountain Power 2023 Utah Wildland Fire Protection Plan.

Conclusion:

The Complainants have been working with the Company for over four years on this project, with no resolution. In general, there is a lack of transparency and accountability from the Company. The Company states that the cost differential between updating/replacing the aerial facilities versus undergrounding the facilities is prohibitively expensive. The Complainants have been asked to shoulder the cost of the underground efforts, and at a cost estimated to be \$140,883. Yet, the Company will not guarantee these costs, creating significant uncertainty for the Complainants, as they will not provide the cost for the Joint Users. Given that the Company has the workforce and equipment to manage and perform this type of civil work, it is not clear why the current estimate is determined to be "prohibitively expensive.". The Complainants believe

the incremental cost increase of 216% (\$140,883/\$65,068) for undergrounding versus replacement as a minor cost given the significant benefits of replacing outdated equipment in an FHCA located in a municipal watershed while protecting homes and lives.

Given the events in 2023 Lahaina Hawaii, 2021 Marshall Fire in Colorado , 2020 Santiam Canyon Fire in Oregon, and 2018 Paradise Fire in California, it is logical that the Company take the necessary steps to reduce exposure to future wildfires and downed power lines by burying these lines. Currently, the Company is seeking to increase its rates to Utahns to cover the cost of the legal settlement for the Santiam Canyon Fire (SLC Tribune 9/9/23), so the argument that “the Company’s prudently incurred expenditures for wildfire mitigation efforts under its Wildfire Plan are recovered from all of the Company’s Utah customers through the Wildfire Mitigation Balancing Account” is not valid, as it is clear that the Company is willing to charge Utah rate payers for legal costs associated with Wildfires in Oregon.

Moreover, given that the US Federal Government has provided the Company with Federal Relief to upgrade Company Facilities for resilience to Wildfires and Extreme Weather (SLC Tribune 9/2/23), it does not seem that this project will greatly impact the Company’s costs or Wildfire Mitigation Balancing Account. In view of the fact that Federal funds are available for under-grounding lines, and that it is necessary due to functional or operational constraints, the minimal cost increase of this project makes it cost-effective. We the Complainants request the Commission rule on our behalf and require that the Company move forward with this project and cover the cost of undergrounding its electrical equipment behind our homes. Realizing that there will be costs for the Complainants to connect to the new underground system.