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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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| In Re: | : | |
| Petition of Anderson Geneva, LLC, Ice Castle | : | DOCKET NO. 11-888-01 |
| Retirement Fund, LLC, and Anderson Geneva | : | |
| Development, Inc. | : | UTAH TRANSIT AUTHORITY’S |
| | : | MEMORANDUM IN SUPPORT OF |
| | : | PETITION TO INTERVENE |
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Utah Transit Authority (“UTA”), through undersigned counsel, hereby submits this Memorandum in Support of its Petition to Intervene in the proceeding of *In re: Petition of Anderson Geneva, LLC, Ice Castle Retirement Fund, LLC, and Anderson Geneva Development, Inc.*, Public Service Commission Docket No. 11-888-01.

INTRODUCTION

UTA owns a railroad corridor (the “UTA Corridor”) running generally north and south through portions of Utah County, including through the city of Vineyard, Utah. The UTA Rail

Corridor is intersected by 400 North Street in Vineyard, which the Public Service Commission (“Commission”) ruled earlier this year is a public roadway. *See* February 7, 2011 Order in Commission Docket No. 09-888-1. Subsequent to that ruling, the Utah Department of Transportation (“UDOT”) conducted a surveillance review of the intersection of the UTA Corridor and 400 North Street (the “Crossing”). On February 28, 2011, UDOT issued a Surveillance Report and Ruling, which directed certain safety improvements to be made at the Crossing, and also made some determinations as to who should bear the cost of those improvements.

On March 30, 2011, Anderson Geneva, LLC, Ice Castle Retirement Fund, LLC, and Anderson Geneva Development, Inc. (collectively, “Petitioners”) filed a Petition for Relief Against Unlawful Action by Utah Department of Transportation. Petitioners challenged certain aspects of UDOT’s February 28 Ruling, including UDOT’s determinations regarding the required safety improvements, and also UDOT’s allocation of the cost of improvements. Essentially, Petitioners seek to assign more costs to UTA.

ARGUMENT

Commission rules contemplate that third parties may intervene in an ongoing Commission proceeding. *See* Utah Admin. Code R 746-100-7. Intervention must be allowed if:

- (a) the petitioner's legal interests may be substantially affected by the formal adjudicative proceeding; and
- (b) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention.

Utah Code Ann. § 63G-4-207(2).

UTA's legal interests could be substantially affected by this proceeding. Petitioners seek to overturn UDOT's determinations regarding the extent of the required safety improvements at the Crossing, for which UTA is financially responsible pursuant to the February 28 ruling. *See, e.g.,* Petition at paragraph 9. Further, Petitioners seek to apportion more costs to UTA than were apportioned to UTA under the February 28 ruling. *See, e.g.,* Petition at paragraph 12. In short, Petitioners seek more extensive improvements at the Crossing than required by UDOT's February 28 ruling, and seek to place more of the costs of those improvements on UTA. UTA should be allowed to intervene in this proceeding in order to protect its interests.

Furthermore, neither the "interests of justice" nor "the orderly and prompt conduct of the adjudicative proceedings" will be impaired by UTA's intervention at this point. The proceeding is just getting under way. No scheduling order is in place, and no discovery has been conducted. This is the right time for UTA to intervene.

CONCLUSION

Because UTA's legal interests may be substantially affected by the Commission's ruling in this proceeding, and because it is still very early in the course of the proceeding, UTA should be allowed to intervene, pursuant to Utah Code Ann. § 63G-4-207.

Dated this ____ day of May, 2011.

Robert H. Hughes
Associate Corporate Counsel
Utah Transit Authority

MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing **UTAH TRANSIT AUTHORITY'S MEMORANDUM IN SUPPORT OF PETITION TO INTERVENE**, postage prepaid, this ___th day of May, 2011, to the following:

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