

Robert H. Hughes (#9787)
Associate Corporate Counsel
Utah Transit Authority
669 West 200 South
Salt Lake City, Utah 84101
Telephone: (801) 287-2146
E-mail: rhughes@rideuta.com
Attorney for Utah Transit Authority

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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
	:	PROPOSED ANSWER TO PETITION
	:	FOR RELIEF AGAINST UNLAWFUL
	:	ACTION BY UTAH DEPARTMENT OF
	:	TRANSPORTATION
	:	

Utah Transit Authority (“UTA”) answers the Petition for Relief as follows:

1. UTA is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 1, and therefore denies the same.
2. Admits.
3. Admits, except to the extent the Petitioners have failed to exhaust their administrative remedies and lack standing.
4. The Order of the Commission dated February 7, 2011 speaks for itself.

5. Admits that UDOT conducted a Surveillance Review on February 22, 2011. The report based upon the Surveillance Review speaks for itself. UTA denies the remaining allegations contained in paragraph 5.

6. Denies the allegations in paragraph 6.

7. Denies the allegations in paragraph 7.

8. Admits that UDOT ordered the Crossing to be temporarily closed because the Crossing is unsafe. UTA denies the remaining allegations in paragraph 8.

9. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UTA denies the remaining allegations in paragraph 9.

10. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UTA denies the remaining allegations in paragraph 10.

11. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UTA denies the remaining allegations in paragraph 11.

12. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UTA denies the remaining allegations in paragraph 12.

13. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UTA denies the remaining allegations in paragraph 13.

14. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UTA denies the remaining allegations in paragraph 14.

15. The Surveillance Review and Report dated February 28, 2011 speaks for itself. UTA denies the remaining allegations in paragraph 15.

16. The Surveillance Review and Report dated February 28, 2011 speaks for itself.

UTA denies the remaining allegations in paragraph 16.

17. Denies the allegations in paragraph 17.

18. Denies the allegations in paragraph 18.

19. Because the allegations contained in paragraph 19 constitute legal conclusions or argument and not fact, an admission or denial is not required. To the extent a response is required, UTA denies the remaining allegations in paragraph 19.

20. UTA affirmatively asserts that UDOT complied with the Order of the Public Service Commission and followed the applicable rule concerning the closure of the Crossing. UTA denies the remaining allegations contained in paragraph 20.

FIRST AFFIRMATIVE DEFENSE

Petitioners fail to state a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Petitioners' claims are barred by the doctrines of collateral estoppel, issue preclusion and waiver.

THIRD AFFIRMATIVE DEFENSE

If not raised before the administrative hearing officer or completed the administrative process, the claims are untimely, are barred by the applicable statutes of limitation, and deprive the Public Service Commission of subject matter jurisdiction due to Petitioners' failure to exhaust administrative remedies with UDOT or allow the administrative process to be completed.

FOURTH AFFIRMATIVE DEFENSE

Petitioners lack standing to bring this Petition for Relief.

WHEREFORE, UTA requests the following relief:

1. For the Commission to deny the Petition for Relief.
2. For such other relief as may be deemed appropriate by the Commission.

Dated this 25th 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 PROPOSED ANSWER TO PETITION FOR RELIEF AGAINST UNLAWFUL ACTION BY UTAH DEPARTMENT OF TRANSPORTATION**, postage prepaid, this ____th day of May, 2011, to the following:

Dennis M. Astill
Dennis M. Astill, PC
9533 South 700 East, Suite 103
Sandy, Utah 84070

David L. Church
Blaisdell and Church
5995 South Redwood Road
Salt Lake City, Utah 84123

Renee Spooner, Assistant Attorney General
4501 South 2700 West
Box 148455
Salt Lake City, Utah 84114

Reha Kamas
Union Pacific Railroad
280 South 400 West, Suite 250
Salt Lake City, Utah 84101
