



Administration

April 21, 2010

Utility Facility Review Board of Utah  
Attention: Julie Orchard  
Public Service Commission Secretary  
160 East 300 South, 4<sup>th</sup> Floor  
P.O. Box 45585  
Salt Lake City, UT 84145-0585  
E-Mail: [psccal@utah.gov](mailto:psccal@utah.gov)

RE: Docket No. 10-035-39 Public Comment

Dear Board Members:

This letter constitutes a public comment in the proceedings of the Utility Facility Review Board of Utah, Docket No. 10-035-39, and is submitted pursuant to the instructions in the Notice of Procedural Schedule issued April 20, 2010.

Tooele City Corporation ("Tooele") has formally lodged its protests against a portion of the Mona-Oquirrh high voltage transmission line (the "Power Line"), which portion is commonly referred to as the Southeast Bench Route: in writing to the Utah Public Service Commission on October 9, 2009; in writing to the Tooele County Planning Commission on January 20, 2010; and, verbally to the Tooele County Planning Commission on February 3 and March 3, 2010. This public comment incorporates in their entirety the former protests (true and correct copies of Tooele's prior written protests are enclosed herewith) and will not repeat their merits.

Tooele, a municipality of about 32,000 residents, owns approximately 2,000 acres of property (the "Property") in unincorporated Tooele County that lie in the path of the Power Line along the Southeast Bench Route. Tooele has spent millions of dollars acquiring the Property, and has appropriated the Property to public uses which Tooele believes are necessary to protect the health, safety, and general welfare of Tooele's residents and businesses. The necessary public uses for which Tooele has appropriated the Property include watershed protection, watershed protection (springs, surface drainages, and subsurface flows), wildlife protection, geologic hazard protection, sensitive lands protection, non-motorized recreation, and open lands conservation.

Tooele City Hall  
90 North Main Street  
Tooele, Utah 84074-2191

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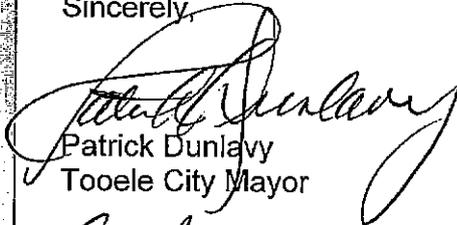
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Utah Code §78B-6-503(3) provides that property that has already been appropriated to public use "may not be taken [by the power of eminent domain] unless for a more necessary public use than that to which it has already been appropriated." The determination of which of several competing uses is the more necessary is a judicial one. Litigation over that question would no doubt be time consuming and expensive for all parties involved. Moreover, the Property would not be available for the proposed Power Line until that litigation were fully and finally resolved.

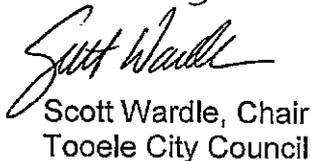
Tooele will not sell or otherwise convey any portion of or interest in the Property for the Power Line along the Southeast Bench Route. Should any party attempt to condemn any portion of or interest in the Property for the Power Line, Tooele will respond by filing a lawsuit that will allow the courts to determine the relative necessity of the competing public uses. Should the trial court determine, after discovery and a trial, that Rocky Mountain Power's proposed use is the more necessary, Tooele will seek a review of this determination by the Utah Supreme Court. For all the reasons stated in the incorporated protests, Tooele believes that the public uses for which Tooele has appropriated the Property are more necessary than the Power Line, particularly given that Rocky Mountain Power has reasonable alternatives for routing the Power Line. In short, the Power Line can be relocated away from the Southeast Bench Route, while the Property and Tooele's public uses for the Property cannot.

To conclude, Tooele urges the Board to order Rocky Mountain Power to establish a route for the Power Line, other than the Southeast Bench Route, that will not traverse Tooele's Property and that will provide both "the greatest public benefit and the least private injury" (U.C.A. §78A-6-503(5)).

Sincerely,



Patrick Dunlavy  
Tooele City Mayor



Scott Wardle, Chair  
Tooele City Council

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