

Midway City Council
19 November 2019
Regular Meeting

Rocky Mountain Power /
Conditional Use Permit for
Transmission Line



CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING: November 19, 2019

NAME OF PROJECT: Transmission Line Rebuild along 970 South, Stringtown Road, and Wards Lane

NAME OF APPLICANT: Rocky Mountain Power and Heber Light and Power

AGENDA ITEM: Conditional Use Permit

LOCATION OF ITEM: 970 South, Stringtown Road, and Wards Lane

ZONING DESIGNATION: R-1-15 & R-1-22

ITEM: 10

Rocky Mountain Power and Heber Light and Power are requesting a Conditional Use Permit to rebuild an existing Heber Light and Power transmission line and install a 138kV line for Rocky Mountain Power that will be located on the Heber Light and Power poles. Heber Light and Power would also have a 46 – 138 KV line on the same pole. The proposal will establish a second transmission interconnection which will strengthen service reliability and increase capacity in Midway and the surrounding area. It also creates a “loop” for RMP increasing their capacity to deliver power to a larger area. The portion in Midway is about one mile in length and will follow the existing transmission line along Wards Lane, Stringtown Road, and 970 South. The proposed poles range in height from 65’-85’ above ground.

BACKGROUND:

This request for a Conditional Use Permit (CUP) by Rocky Mountain Power and Heber Light and Power to rebuild the existing transmission line and install a 138kV line for Rocky Mountain Power that will be located on the Heber Light and Power poles. As part of the proposal, the distribution, and potentially, the communication lines that currently

are located on the transmission line poles will be buried along the route. The proposal will establish a second transmission interconnection which will strengthen service reliability and increase capacity in Midway and the surrounding area. The portion in Midway is about one mile in length and will follow the existing transmission line along Wards Lane, Stringtown Road, and 970 South. The proposed poles range in height from 65'-85' above ground.

The plan is to use many of the existing easements, which include prescriptive easements, through property in the city limits. The prescriptive easements are not wide enough for the proposed transmission lines so additional easements will need to be acquired to accommodate the wider easements necessary for the new lines. The proposed poles will be taller than the existing poles along the route in question and will carry considerably more power than what the current transmission lines carry. Heber Light and Power has stated that the main reason for this proposal is to have a second source of power into the Heber Valley. Another reason for the proposal is to increase power capacity for the Heber Valley that is needed because of development and growth. Rocky Mountain Power is an applicant for the conditional use permit because they would like a transmission to connect their areas of service in Summit County and Utah County. Rocky Mountain Power will pay 80% of the cost of the proposed line which will in turn save Heber Light and Power rate payers the cost that would have been required if Heber Light Power were to fix the aforementioned issues on its own. Heber Light and Power rate payers may see an increase in rates though based on the 20% of the transmission line cost that Heber Light and Power is paying for the transmission lines.

Midway residents are concerned about how this upgraded and larger line will impact them. Staff has received comments that range from aesthetics, health concerns, property value concerns, and lack of additional options.

The City recently adopted a transmission line code on January 15, 2019 to regulate the processing and requirements regarding new transmission lines and the rebuilding of existing transmission lines. This code is Section 16.13.47 in the Midway City Municipal Code (please see attached to this report).

The applicant has submitted the following studies and reports to the City. All studies are all available at the Planning Office and on the City's website.

- Underground Transmission Cost/Feasibility Study
- Transmission Lines and Property Values: Review of the Research
- EMF Electric and Magnetic Fields Associated with the Use of Electric Power
- Powering Our Future: Summit Wasatch Electrical Plan Local Planning Handbook

Section 16.13.47 Transmission Line Code Requirements and Comments

Section 16.13.47 (D)(1) prefers that transmission lines follow routes where transmission lines are currently located. The proposal does follow the current location of transmission lines along 970 South, Stringtown Road, and Wards Lane.

Section 16.13.47 (D)(2) prefers the shortest poles allowed by industry standards though all options should be considered for aesthetics and for harmonizing with the vision of Midway City as described in the General Plan. Generally, taller poles will reduce the number of poles and shorter poles will increase the number poles. The proposal is to replace the existing poles that are 55' – 65' in length (includes the buried portion of the poles) with new poles that are 65'-85' above ground. Wood poles may be taller than metal poles even though the same amount of power are carried by both. Wood poles may be preferred though because currently, there are wood poles along this route and second because they don't feel as industrial as metal poles. The height and number of poles is an item the Planning Commission and City Council can determine.

Section 16.13.47 (D)(3) limits the types of poles that are allowed and focusses on the visual impact of the poles and lines. No galvanized poles, or poles with other reflective material can be used. Pole color and material shall be focused on minimizing the visual impact of the transmission line. The City may consider wood poles or metal poles. If metal poles are used, then the City can determine the color that will minimize the visual impact on the community.

Section 16.13.47 (D)(4) allows the City to impose any reasonable restrictions on the conditional use.

Section 16.13.47 (E) allows the City to require the burial of transmission lines and distribution lines that share a transmission line pole. The applicant has stated that distribution will be buried, and communication lines may be buried in conduit the power companies will install. The cost of burying the distribution lines will be paid for by the Heber Light and Power rate payers. The applicants and City will need to work with the communication line companies to have the communication lines buried. Heber Light and Power has offered to install conduit for the communication companies when the conduit for the distribution lines is installed.

The City may, after consideration of cost, require the transmission lines to be buried. Burying the transmission lines will have a positive visual impact on the community by eliminating all current lines and future transmission lines along this specific route. Financially, the difference in cost of above ground lines and buried lines would need to be paid by the City or some other funding source by private individuals. The amount required would need to be paid within 30 days of when construction begins. The limited time allowed to pay for the difference in cost creates complications that would need to be considered.

The Planning Commission first reviewed this item and held a public hearing on May 14, 2019. The following motion was made that night:

Motion: Commissioner Streeter: I move that we continue the application for the transmission line rebuild on 970 South, Stringtown Road and Wards Lane as per our ordinance and accept staff reports. The following conditions are that Rocky Mountain Power provide alternative route study, Rocky Mountain Power and Heber Valley Light and Power to provide cost and size of easements, easement locations, clearly marked, above and below ground with the visual aspects, more clarification as to the number of poles, heights and property line locations and talk to the two large land owners.

Seconded: Commissioner O'Toole

Chairman Kohler: Any discussion on the motion?

Commissioner

Chairman Kohler: All in favor.

Ayes: Commissioners Streeter, Payne, O'Toole, Nicholas, Bouwhuis (Alternates Whitney and McKeon-no vote needed)

Nays: None

Motion: Passed

The applicant provided additional information, which is included with this staff report, and has addressed the items listed in the motion which are the following:

- Alternative route study

The City code prefers that transmission lines follow routes where transmission lines are currently located. The proposal does follow the current location of transmission lines along 970 South, Stringtown Road, and Wards Lane.

- Provide cost and size of easements

The applicant has provided a series of 12 maps (please see maps included with this report) that describes the amount of easements that must be obtained for three potential scenarios. The first set is titled "Option A (short spans)" and shows the developer would need to acquire easements beyond the current prescriptive easement to a total of 13,123 sq. ft. The estimated of value of the easement is \$22,594.70 (please see included excel spreadsheet) for this option. The second set is "Option B (long spans)" and shows the developer would need to acquire more easements beyond the current prescriptive easement to a total of 14,952 sq. ft. The estimated of value of the easement is \$25,743.80 for this option. The third set is "Option C (Underground)" and shows the developer would need to acquire more easements beyond the current prescriptive easement to a total of 2,574 sq. ft. The estimated of value of the easement is \$4,431.82 for this option.

- Easement locations

The previously described series of 12 maps identifies the location of the current prescriptive easement and the proposed easements based on the potential three scenarios of short spans, long spans, or underground. As mentioned in the previous point, the number of easements that will need to be acquired above the current prescriptive easement is the following: short spans – 13,123 sq. ft., long spans – 14,952 sq. ft., and underground – 2,574 sq. ft.

- Visual impacts

The applicant has provided some updated photo simulations for a section of the transmission line route (please see included photos). The photos show the area along Wards Lane with poles with short spans and poles with long spans. The short span wood poles are 65' tall above grade and the long span poles are 75' above grade. The applicant has also provided series of photos titled "46 kV-138kV Rights-of-Way with Vegetation" that show different types poles and examples of vegetation that is appropriate in the transmission line easement (please see included photos). Some poles are wood, and some are metal that are painted or finished with different colors. If metal poles are approved, then the City may decide what color of poles will be used.

- Number and height of poles

Two maps have been provided that illustrate two potential scenarios. The first is titled "Typical Span Lengths Proposal" and the second is titled "Reduced Pole Height Proposal". The typical span lengths proposal includes 16 poles that range in height from 70' to 85'. There are six steel poles included and there are ten wood poles. The reduced pole height proposal includes 21 poles that range in height from 65' to 83'. There are six steel poles included and 15 wood poles.

- Property lines

The previously described series of 12 maps identifies the property lines along the route in relation to the prescriptive easement and the potential easements that will be required based on the three different scenarios.

An alternate option for long spans has been submitted to the City. This alternate shows some of the poles moved from the prescriptive location to areas that may create a better alignment for the poles along the 970 S corridor. All the changes are relatively minor in nature. The three maps that illustrate this alignment are the last maps included on this packet and two for the maps are titled "Jordanelle - Midway: Planning Commission Requested Alternate Siting 970 South (SR113 – 250 W)

ANALYSIS:

The comments in italicized represent Planning Staff's comments pertaining to compliance or lack of compliance with the findings. The Planning Commission must make in considering this request. Section 16.26.120 requires specifically the Planning Commission to find that:

1. The proposed use is conditionally permitted within the Land Use Title, and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all of the applicable provisions of this Code; *planning staff believes that the proposal will have an impact on the properties along the route and on the entire community. There will be a visual impact that will be greater with the new proposal than the existing lines. In one way the impact will be diminished, and this is because of the removal of the distribution and communication lines. This will help the area feel less busy. Some of the other impacts may be on property values and depending on which study is considered, health.*
2. The proposed use is consistent with the General Plan; *the proposed use will create a greater visual presence for the transmission line because of the increased height. The General Plan describes the surrounding zones as an area of relatively large lots in an agricultural setting. The proposed lines will not be in harmony with this description though lines do currently exist along this route and have for several decades.*
3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations; *the proposal is required to comply with all federal, state and local requirements and staff has not identified any noncompliant issues at this point.*
4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored; *the City may require and environmental impact study for the proposed conditional use per Section 16.13.47 (C)(4). This is a report the City may require if deemed necessary.*
5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses with the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City; *the proposed use will supply power to the Heber Valley which is important to all residents. The proposal will also provide redundancy to the power supply so if a fire or some other natural disaster disrupts one of the sources of power to the valley there will be another route for power supply. Regarding health, there are studies*

that argue that transmission lines have a negative impact on the health of those that live nearby and there are studies that argue that there is no negative health impact on surrounding neighbors. The City may want to consult experts regarding this issue.

6. The subject site is physically suitable for the type and density/intensity of the proposed use; *the proposed location has had transmission lines for decades. It is debatable if increasing the transmission lines will create an intensity that is unsuitable for the subject site. The City may require additional studies, including an environmental impact study, to help answer this question.*
7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to insure that the proposed use would not be detrimental to public health and safety; *The debate of the effects of EMF (electromagnetic field) are strong on both sides. However, the proposal will create more access to power and create a redundancy that will benefit the community which should have a positive impact on the community as a whole.*

PLANNING COMMISSION RECOMMENDATION:

Motion: Commissioner Bouwhuis: I make a motion to recommend approval to City Council for Rocky Mountain Power and Heber Light and Power for a Conditional Use Permit to rebuild the existing Heber Light and Power transmission line and install a 138kV line for Rocky Mountain Power that will be located on the Heber Light and Power poles, accept staff findings with the following conditions. That Rocky Mountain Power and Heber Light and Power work with the City Engineer to ensure that the pole placement will be located outside of the right of way and including the widening of 970 South and address the impact of the sight triangles. Recommend the long span option, and before going to City Council have staff compile a narrow look at a local special assessment.

Seconded: Commissioner Nicholas

Kohler: Any discussion the motion?

There was none

Chairman Kohler: All in favor.

Ayes: Commissioners: Ream, Nicholas, O'Toole, Bouwhuis

Nays: Payne

Inaudible: Streeter

Motion: Passed

POSSIBLE FINDINGS:

- The proposal is an administrative review and approval
- The proposed use is a conditional use and the city may impose reasonable conditions to mitigate identified issues
- The proposal includes taller poles that will be visible to the residents of Midway, visitors of Midway, and the surrounding residents of Wasatch County
- The distribution and communication lines will be buried to help declutter the current transmission line situation, and reduce the weight being carried by the poles, thus reducing poles in the area
- The proposal will create a second point of power access that will benefit the residents of the valley
- The proposal will allow more power to enter the valley that will benefit the entire community by meeting community needs

ALTERNATIVE ACTIONS:

1. Approval (conditional). This action can be taken if the City Council finds the application complies with the requirements of the code and any conditions will mitigate identified issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Place condition(s)
2. Continuance. This action can be taken if the City Council finds that there are unresolved issues.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again
3. Denial. This action can be taken if the City Council finds that the request does not meet the intent of the ordinance.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

Section 16.13.47 Transmission Lines

A. Transmission Lines are a conditional use in all zones.

B. The purpose of this section is to regulate all electric transmission lines that exceed 55 feet in pole height above grade. It is not the intent of this section to regulate the replacement or maintenance of existing transmission lines that exceed 55 feet in pole height. Existing transmission poles that currently exist within City boundaries, so long as they are replaced with a pole of identical height, diameter, and material, no permit nor approval shall be required. A proposal to alter the height, diameter, or material of existing transmission lines that exceed 55 feet shall require a conditional use permit under this section.

C. Prior to beginning construction on any new or proposed power transmission line that exceeds 55 feet in pole height above grade within any portion of the Midway City boundaries, a power company shall:

1. Apply for and receive approval of a conditional use permit as set forth in this title.

2. In addition to the information required in the application process as set forth in this title, the applicant shall also provide all information, design criteria, and studies deemed necessary by the City Planner, including, but not limited to:

1) the cost and pole height of standard transmission poles with height included for distribution lines; 2) the cost difference and pole height difference of burying just the distribution lines; 3) the cost difference of burying both the transmission and distribution lines; and 4) alternate routes for the transmission line (if not proposed within an existing and historical easement), including cost differential and studies on which route has the least impact on surrounding areas. Any requested studies shall be thorough and may include environmental impact studies, studies to determine costs of different options, and studies to determine the visual and aesthetic impact of the proposed transmission line project. At the City's sole discretion, the City may require outside third-party providers to conduct some or all of the studies, do independent studies, or to review the studies prepared by the applicant and verify the information contained therein. All reasonable costs incurred by third party studies shall be borne by the applicant.

3. Notice requirements shall comply with Section 16 of the Midway City Code and shall include notice to all property owners within 600' of the proposed route of the transmission line.

D. Preferred Conditions on any above ground transmission power lines located within the boundaries of Midway City:

1. Existing Easement Restrictions: New lines shall be preferred in corridors where existing 46kv lines are already in place.

2. Height and Span Restrictions: There shall be a preference for the shortest poles allowed by industry standards, considering the impact a shorter or longer span between poles may have on the view corridor. All options will be considered for aesthetics and for harmonizing with the vision of Midway City

as described in the General Plan.

3. Aesthetic Restrictions: No galvanized poles, or poles with other reflective materials shall be used. Pole color and material shall be focused on minimizing the visual impact of the transmission line. Wood poles will also be considered.

4. Other restrictions as reasonably imposed by the City.

E. City's option to require burial of transmission lines, or distribution lines that share the transmission line pole.

1. It is Midway City's objective to minimize the visual and aesthetic impact of above ground transmission lines within Midway City.

2. Midway City Council shall have the option of requiring transmission power lines approved under this section to be buried within the Midway City limits. Midway City Council shall also have the option of requiring just the distribution lines that commonly share the poles of transmission lines to be buried, if such a requirement would lower the overall height of the transmission poles.

3. As set forth above, to aid Midway City Council in making its determination, Applicant shall be required to submit studies that establish:

- a) the cost and pole height of standard transmission poles with height included for distribution lines;
- b) the cost difference and pole height difference of burying just the distribution lines;
- c) the cost difference of burying both the transmission and distribution lines; and
- d) alternate routes for the transmission line (if not proposed within an existing and historical easement), including cost differential and studies on which route has the least impact on surrounding areas.

4. Prior to making any decision, the City shall carefully review the different costs associated with each option.

5. Any requirements imposed by the City to bury some or all of either the transmission lines or distribution lines shall be subject to then existing law that may require the City to cover some or all of the costs.

6. In making the decision to bury some or all of the transmission or distribution lines, Midway City Council shall be allowed to consider all reasonable information available to it and shall not be limited to just an analysis of cost as the determining factor.

Mayor of Midway City
Midway City Planner
Midway City Council

Thursday, November 14, 2019

Dear City Officials,

As you know, VOLT (Valley Wide Opposition to Large Transmission Lines) was started as a nonprofit in early 2018 by citizens in opposition to a then-little-known project called the Jordan Elle-Midway Transmission Line Project. This project was being built by Rocky Mountain Power (RMP) and Heber Light and Power (HLP). The plan was to rebuild a small locally owned powerline into a large Regional Transmission Line. Recently, both Wasatch County and Heber City, which have minimal residential impact, have approved the line as currently proposed – Above ground, and through the middle of the beautiful Heber Valley. Currently, VOLT is focused on supporting Midway City and its residents. As the Jordanelle-Midway Transmission Line Project's name implies, Midway is particularly affected by this project.

Volt has had many influences upon this project over the last 2 years. In addition to bringing this issue to the forefront of public discussion, our efforts have led to the rethinking and rerouting of parts of this line. One item in particular - the under-build Distribution portion of this line, will now be buried. This is good.

But there is still bad. Midway takes the full brunt of this above ground project. The only way for all parties to win, is to BURY THE TRANSMISSION LINE IN MIDWAY. Midway city has recently adopted a code text amendment that allows the city to bury transmission lines if they elect to – at the residents' cost. A citywide survey will soon be conducted by both phone and mail to see how the residents wish to proceed. Considering the recent Open Space Bond, we expect Midway residents will want to bury this line.

Some will say burying is too expensive. We say the alternative to Midway is much costlier.

As a rural resort town dependent on tourism dollars, this project will blast taller, wider, and exponentially more powerful Transmission Lines through view sheds, recreational areas, and more importantly, through established neighborhoods and those that are currently being built or planned to be built soon. This Regional Transmission Line will come within 30ft of some homes and rooms where children sleep. The Midway that Utahans voted as Utah's best small town, will now be compelled to give up things we hold most valuable. However, THIS ISSUE DISSAPPEARS, IF WE BURY THE LINE.

Some will say that this project is for us and our growth. This is a less-than-half-truth. Yes, we will get a second point of interconnect in exchange for the line, but we will become an electrical

Highway for regions beyond our borders. Further to this point, through the Midway section, we will ONLY receive the same amount of electricity that we currently receive, so when we say it for our growth, please consider this point. However, THIS ISSUE DISSAPPEARS, IF WE BURY THE LINE.

Some will say that they are using historical routes. This would be true for a small local 46kv powerline for HLP. But HLP will be required to convey or give up those assets and prescriptive easements to another entity – RMP, therefore expanding the original intent and nature of their original purpose and unduly burdening the owners of those properties where the current lines lie. Where there was one city-owned utility company, there will now be another private-for-profit utility. In the future, three or four? However, THIS ISSUE DISSAPPEARS, IF WE BURY THE LINE.

Some will say burying is too expensive. Midway residents know the alternative is much costlier.

CONSTRUCTION COSTS. We should challenge the construction estimates to bury the line. We need true costs, including bids from multiple contractors to be included and presented before the City Council. This is what the CUP application requires. It is the only way to for a City Council to make a proper and informed decision. Now that they will be burying distribution lines, is there an economy to be applied to burying the transmission line? Anything less than these and other details from the applicants would imply that they do not want the line to be buried as it would create a precedence for other cities to push back on their plans by portraying inflated costs to scare challengers to give up and acquiesce to their demands. We need partners that respect us and our values. I believe that these utility companies can do this.

EASEMENT COSTS. RMP and HLP state that they are already have easements with widths required of a 21st century dual circuit 138KV Transmission line. THIS IS NOT TRUE. Our Attorneys have continuously asked for RMP and HLP to provide evidence of this claim – but has gone unanswered. FACT: There are no recorded easements for the current local line which was built in the mid 1970's with smaller requirements. They are prescriptive in nature, and would encompass the line as it currently stands, not bigger, not wider, not more powerful and not for an additional utility company. The easements will need to be enlarged and will cost money which needs to be considered. RMP is interested in one thing - the bottom line. They are pros at this craft. Mayor Celeste Johnson at the last City Council point blank asked HLP and RMP to answer this question quickly and accurately. We are still waiting.

TOTAL TRUE COSTS AND OFFSETS. VOLT has engaged appraisers and attorneys to demonstrate the additional financial impacts to homes and properties along the line in addition to expanded easements. These are citizens of our city. These are those that we need to protect. We have worked to collectively join these owners to FORGO damages which will be entitled to them per Utah Law (Utah Code § 78B-6-511 (1)(b)) and use them to counter and offset the cost of burying the line in Midway. The report, shows damages over 2.5 million dollars. Their collective voice is represented in the ongoing report that will be delivered to the city today with this letter.

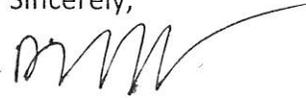
SOMETHINGS ARE WORTH PROTECTING. Midway is a natural gem – one of kind. Midway will not be more of a gem with these lines. Although we will still have our wonderful neighbors and friends, our surroundings that add to that wonder will begin to be tarnished and decimated.

Once what makes Midway special is gone, it's gone - forever.

We trust that you will hold HLP and RMP to full requirements of the CUP, and will look to know and follow the will of the citizens of Midway to bury this Regional Transmission Line. This can be a win-win for everyone.

It's the right way for Midway.

Sincerely,

A handwritten signature in black ink, appearing to be 'B Jonsson', with a long, sweeping flourish extending to the right.

B Jonsson
VOLT president

Snell & Wilmer

LLP.

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November 13, 2019

Corbin B. Gordon
City Attorney
Midway City
345 West 600 South, Suite 108
Heber City, UT 84032
cgordon@gordonlawgroup Utah.com

Re: Pending CUP Application for Overhead Transmission Lines

Dear Corbin:

Although you have refused to respond to my prior correspondence, I write again to make a very clear record of our inquiries and positions, and to again give you an opportunity to respond to the citizens of Midway whose taxes go towards your compensation, and whose interests as citizens you are obligated to protect. As you know I represent the Valley-Wide Opposition to Large Transmission Lines (“VOLT”). To date, I have not received any response to my previous correspondence dated August 13, 2019, and October 15, 2019. Those letters, and this letter, repeat VOLT’s concerns regarding easement acquisition costs and property value impacts of overhead transmission line siting costs presented to the City Council in the matter of the Conditional Use Permit (“CUP”) application submitted Heber Light & Power (“HLP”) and Rocky Mountain Power (“RMP”). This letter also repeats my request for information regarding the scope of your engagement as an attorney advising HLP and whether or not that engagement is ongoing. We will reasonably infer from your refusal to respond that you continue to have an attorney-client relationship with HLP.

VOLT disputes Planning Commission Staff’s report citing easement acquisition costs prepared by RMP and HLP that are estimated to be between \$22,595 and \$25,743. Enclosed as Attachment 1, please find a report prepared by VOLT that puts these costs at \$2,546,975. VOLT’s report is based on certified appraisals of more than eighty properties along the overhead transmission line route.

The City Council cannot approve the CUP application based on the record before it. Easement costs cited in the Staff report do not include square footage required for wider easements. Further, Staff report costs do not consider severance damages. VOLT’s appraisals consider the size of easement expansion, market value of the property and severance damages that are owed to

Snell & Wilmer

L.L.P.

Corbin B. Gordon

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private property owners under Utah law. The City Council should also be aware that estimated easement costs included in the Staff Report for underground transmission line siting do not consider or take into account property owners' offers to grant express easements to PacifiCorp at no cost, if all transmission facilities are sited underground. To that end, I am submitting a draft letter of intent that we anticipate will be signed by these property owners memorializing their offer.

On behalf of VOLT, I urge you to carefully consider the report prepared by VOLT that identifies actual overhead line construction costs. The City Council must consider and address this information as part of the record before it. The City Council's failure to address actual easement costs of overhead construction submitted by VOLT will render any CUP decision "arbitrary and capricious" and subject to a challenge in court. We trust you know this and will advise the City Council and Mayor of these facts and law.

Sincerely yours,

Snell & Wilmer



Mark O. Morris

MOM:mkm