



**SUPPLEMENT TO APPLICATION FOR CONDITIONAL USE PERMIT**

*South Jordan to Draper Transmission Upgrade  
Conditional Use Permit Application # PLCUP201800742*

To: City of South Jordan  
Applicant: Rocky Mountain Power  
Date: October 23, 2018

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This supplemental information is provided in response to the Development Services Department and Planning Department’s request for additional information dated October 1, 2018, regarding the South Jordan to Draper Transmission Upgrade Conditional Use Permit Application (#PLCUP201800742). For convenience, the City’s requests are restated, followed by Rocky Mountain Power’s response to each:

**Request 1(a):**

***1. Regarding the power corridor easement:***

- a. Provide a legal opinion that explains the extent and scope of the “centerline” easement for power lines and poles proposed for upgrade, including a response to claims from several property owners that the easement is not recorded on their property.***

Generally, when an easement document does not specify a width, the easement is as wide as is reasonably convenient and necessary to accomplish the purpose of the easement. See, for example<sup>1</sup>:

- Restatement 2d of Property § 4.10:
  - “Except as limited by the terms of the servitude..., the holder of an easement or profit ... is entitled to use the servient estate in a manner that is reasonably necessary for the convenient enjoyment of the servitude. The manner, frequency, and intensity of the use may change over time to take advantage of developments

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<sup>1</sup> Rocky Mountain Power provides these citations as a courtesy to aid the City’s research; the Commission and Staff should rely on the legal opinion of South Jordan’s City Attorney in making its determination.

in technology and to accommodate normal development of the dominant estate or enterprise benefited by the servitude.”

- *Edgcomb v. Lower Valley Power & Light, Inc.*, 922 P.2d 850, 856, 857 (Wyo. 1996):
  - “[T]he dimensions of this easement are limited by what is reasonably convenient and necessary to provide a distribution and transmission line for electrification or telephone purposes.”
  - Holding that the grantor’s decision not to specify the width “evidence[d] an intent to provide no specific limit to the width or dimensions of the easement.”
- *Patterson v. Duke Power Co.*, 183 S.E.2d 122, 125 (So.Car. 1971):
  - “When no dimensions of a way are expressed, but the object is expressed, the dimensions must be inferred to be such as are reasonably sufficient for the accomplishment of that object.”
- *Texas Power & Light Co. v. Casey*, 138 S.W.2d 594, 599 (Tex.Civ.App. 1940) (upholding power company’s right to select a right-of-way width “as was reasonably necessary for the purpose of maintaining [the company’s] transmission lines”).
- *Minnkota Power Co-op v. Lake Sure Properties*, 295 N.W.2d 122 (N.D. 1980) (holding that change from 220kV line to 345kV line was within the scope of the original easements).

The original easements for this line were recorded in the 1950s and are still of record in the Salt Lake County Recorder’s office. Since that time the properties have been subdivided; the act of subdividing property does not extinguish pre-existing easements. The visibility of the existing power line also gives property owners actual notice that the owner of the power line holds or claims a right-of-way for the power line. Rocky Mountain Power doesn’t know why property owners may not have found the easements in the County records, but a title search should take into account the real property descriptions as they existed before the property was subdivided.

**Request 1(b):**

- b. Include a legal description of the easement and a survey drawing (stamped by a professional land surveyor) showing the legal description of the easement together with the GPS location of the poles and other equipment that is affected by the upgrade project.*

Attached is a map that addresses this request, which was produced by a professional land surveyor to show the locations of the easements and the proposed new facilities.

**Request 2:**

- 2. More fully explain how the proposed expansion project, including its location and proximity to residential properties, does not violate any State or Federal laws. In other words, explain Rocky Mountain Power’s right and responsibility to provide electrical power to consumers using the method chosen for this proposed expansion project.*

In response to the first sentence of this request, the proposed expansion project, including its location and proximity to residential properties, does not violate any State or Federal laws. Electrical codes provide distances from structures, which will be met or exceeded for the new power line. The proximity of residential properties to the power line happened as a result of residential subdivisions that were approved and constructed by developers after the power line had been in place for decades. Nevertheless, Rocky Mountain Power has taken these structures into account in engineering and designing the new power line, which meets all applicable codes and laws.

In response to the second sentence, Rocky Mountain Power is a “public utility” as defined in Utah Code, Title 54, Chapter 2. As a public utility, Rocky Mountain Power is required to provide safe, reliable, efficient, and adequate service to its customers. The Commission can refer to Utah Code, Title 54 for the other duties, powers, and responsibilities of Rocky Mountain Power and other public utilities in the State of Utah.

This project has been designed in accordance with Rocky Mountain Power’s standard practices and Utah Code § 54-14-103(9)(b), which establishes overhead lines as the “standard cost” method of construction for transmission lines: “With respect to a transmission line, ‘standard cost’ is the cost of any overhead line constructed in accordance with the public utility's normal practices.”

**Request 3:**

3. *During public meetings with impacted residents and the South Jordan City Council, residents have raised concerns about electromagnetic fields (“EMF”) and stray voltage. Please provide a written response to these concerns that:*
  - a. *Addresses these [concerns] generally.*
  - b. *Explains whether EMFs and stray voltage are for this conditional use permit “reasonably anticipated detrimental effects” to surrounding properties and residents. (See South Jordan City Municipal Code §17.84.060.)*
    - i. *If Rocky Mountain Power concludes that EMFs or stray voltage are reasonably anticipated detrimental effects, please also explain:*
      1. *how the project will mitigate the detrimental effects; and*
      2. *what conditions RMP believes the Planning Commission can require as part of the conditional use permit.*

**Response to part (a):**

When addressing concerns regarding EMF, Rocky Mountain Power relies on the findings of scientists and public health specialists who can best evaluate the information. In the past several years numerous studies have been conducted on this subject. The prevailing view of most scientists and public health officials is that no conclusive and consistent evidence shows that exposure to electromagnetic fields is a human-health hazard. Cellular and animal laboratory studies have not yielded any conclusive evidence of risk to human health from magnetic fields caused by power lines.

The National Institute of Environmental Health Sciences has published booklet that is available for download. The booklet provides a very comprehensive overview and can be downloaded at:

<https://www.niehs.nih.gov/health/topics/agents/emf/>.

Another good information source is the National Cancer Institute website: <http://www.cancer.gov/cancertopics/factsheet/Risk/magnetic-fields>.

Additional information on EMFs can be found on the Rocky Mountain Power website at the following address: <https://www.rockymountainpower.net/ed/esi/EMF.html>.

Response to part (b):

Rocky Mountain Power has attached general information on stray voltage to this response. The transmission system does not have a neutral (Rocky Mountain Power’s transmission system, like most alternating current transmission systems, is a “delta” configuration that does not require a neutral, whereas a “wye” configuration would require a neutral). Since the transmission system doesn’t have a neutral, the proposed upgrade has no effect on stray voltage.

Rocky Mountain Power does not believe there are any “reasonably anticipated detrimental effects” to surrounding properties and residents from either electromagnetic fields or stray voltage. Latest science doesn’t justify an interpretation that there are “detrimental effects” related to the concerns mentioned, therefore Rocky Mountain Power does not propose any mitigation or conditions to address effects that are not expected to occur.

**Request 4:**

- 4. As you offered, please provide the mailing list Rocky Mountain Power used for its public open house notification.***

Attached is an Excel spreadsheet containing names and addresses for landowners within 325 lineal feet of the power line for the City’s use in providing notice of the public hearing on this application (the City code requires 300 lineal feet, but Rocky Mountain Power expanded the spreadsheet to ensure that all interested property owners are listed). Rocky Mountain Power obtained updated data from Salt Lake County as of October 3, 2018,<sup>2</sup> as the source for this data. (Note: The County data has an issue where the addresses are correct but some owner names were not included. The “Current Property Owner” has been added in those fields.)

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<sup>2</sup> If the City would like a copy of the list that Rocky Mountain Power actually used for its notice of the public open house, please let us know and it will be provided.