

**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

_____)	
Utah Board of Water Resources)	Project No. P-12966-004
)	Docket No. EL18-56-000
Lake Powell Pipeline Project)	
)	Motion to Intervene
)	

**UTAH CHAPTER OF THE SIERRA CLUB MOTION TO INTERVENE IN THE
ORIGINAL LICENSING FOR THE LAKE POWELL PIPELINE PROJECT**

Pursuant to 18 C.F.R. §§ 385.212, 385.214 (2017) Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), and the “Notice of Application Accepted for Filing, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions,” eLibrary no. 20171211-3022 (Dec. 11, 2017), as modified by the “Notice Suspending Procedural Schedule,” eLibrary no. 20180111-3085 (Jan. 11, 2018) the Utah Chapter of the Sierra Club hereby moves to intervene in the above-captioned proceeding. The Utah Chapter of the Sierra Club intends to submit comments and recommendations relevant to the Federal Energy Regulatory Commission’s and Cooperating Agencies’ environmental analysis at a later date.

In support of its Motion to Intervene, the Utah Chapter of the Sierra Club states the following:

I. COMMUNICATIONS

All communications, correspondence, and documents concerning this request should be

directed to the following persons:

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II. BACKGROUND

The Utah Board of Water Resources (“UBWR”) submitted an application for a license under the Federal Power Act for the Lake Powell Pipeline Project (“Pipeline”), Federal Energy Regulatory Commission Project No. 12966, on April 30, 2016. The proposed Pipeline would be located in Washington and Kane Counties, Utah, and in Coconino and Mohave Counties, Arizona. Although the Pipeline, if approved, would be licensed to and constructed and operated by UBWR, the water delivered by the Pipeline would be used by the Washington County Water Conservancy District (“WCWCD”) and the Kane County Water Conservancy District (“KCWCD”) (collectively, the “Water Districts”) for municipal and industrial water supply. Under the State of Utah’s Lake Powell Pipeline Development Act, the State of Utah is the direct sponsor of the Pipeline. However, the Water Districts are the ultimate beneficiaries of the Pipeline and would be required to reimburse the State for the costs of developing the Pipeline.

The 140-mile proposed Pipeline would deliver water from Lake Powell, a federal reservoir in Arizona operated by the Bureau of Reclamation, to Sand Hollow Reservoir, near St.

George, Utah for eventual distribution to the Water Districts' municipal and industrial water customers. To help cover the cover the costs of conveying this water, the Pipeline proposes to include a series of hydroelectric turbines placed along the 89-mile downhill side of the Pipeline.¹ To this end, the Pipeline also proposes to include a pumped storage development in Washington County, Utah. Much of the proposed Pipeline would be located on public lands managed by the Bureau of Land Management.² UBWR plans to sell electricity generated by the Pipeline to regional transmission operators as an incidental purpose of the Pipeline.³

On December 11, 2017 the Federal Energy Regulatory Commission issued its Notice of Application Accepted for Filing, Soliciting Motion to Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions (“NREA”).⁴ On December 27, 2017, UBWR petitioned the Commission urging the Commission to declare that the water delivery pipelines are part of the hydropower project and subject the Commission’s jurisdiction under the Federal Power Act.⁵ It concurrently moved for “the Commission to suspend the licensing proceeding immediately, and act expeditiously[.]”⁶

On January 10, 2018 the Commission issued its Notice of Petition for Declaratory Order,

¹ Application for Original License, Integrated Licensing Proposal (Public Filing) The Lake Powell Pipeline Project, FERC Project No. P-12966 at A-1 to -2 (April 30, 2016), eLibrary 20160502-5386.

² *Id.*, Draft Plan of Development – Pipeline and Hydro Facilities at 1-4 (describing proposed facilities that would be on land administered by the Bureau of Land Management).

³ *See* Application at ES-7.

⁴ eLibrary 20171211-3022.

⁵ UBWR, “Petition for Declaratory Order on Jurisdiction, Motion for Expedited Action, and Motion for Suspension of Procedural Schedule,” eLibrary no. 20171227-5166 (Dec. 27, 2017), p. 1 (Petition).

⁶ *Id.* at 2.

and therein provided all interested parties to make comments and motions or petitions to intervene on or before February 12, 2018. On January 11, 2018 the Commission issued its Notice Suspending Procedural Schedule on the license application until after the Commission issues its decision on UWBR's Petition for Declaratory Order. 12966-005.⁷

On September 20, 2018 the Commission issued its Order Denying Petition on Declaratory Order for Jurisdiction.⁸ In that Order, the Commission held that it would license only the hydroelectric generation facilities (“i.e., the generating facilities, primary transmission lines, and any necessary appurtenant structures, such as dams”⁹) contemplated as part of the proposed Lake Powell Pipeline project, but not the water conveyance system. The Commission also held that it “will not act as the ultimate decision maker for approving any portion of the overall project beyond the discrete hydropower facilities. In addition, the Commission will not be responsible for determining which alternative route for the water delivery pipeline should be chosen.”¹⁰ Finally, the Commission reinstated the comment and filing deadlines as they relate to the Commission's licensing of the discrete hydroelectric facilities as contained in the Commission's December 11, 2017 NREA.¹¹

III. THE UTAH CHAPTER OF THE SIERRA CLUB'S MOTION TO INTERVENE IS APPROPRIATE AND IN THE PUBLIC INTEREST

The Utah Chapter of the Sierra Club hereby moves to intervene in the above-captioned

⁷ eLibrary No. 20180212-5235.

⁸ Federal Energy Regulatory commission “Order Denying Petition for Declaratory Order on Jurisdiction”, eLibrary No. 20180920-3043 (September 20, 2018).

⁹ *Id.* at ¶ 68.

¹⁰ *Id.* at ¶ 70.

¹¹ *Id.* at 71.

docket.¹² The Utah Chapter of the Sierra Club works to protect Utah's wild places, wildlife and waters and the people and communities who depend on them. Our advocacy and activism are well established and grounded on our strong grassroots networks and citizen based leadership in concert with the guidance and skillsets of professional staff support.

Allowing the Utah Chapter of the Sierra Club to intervene in this docket on behalf of our more than 5,500 members would be in the public interest pursuant to 18 C.F.R. § 385.214(b)(2)(iii) (2017).

As a Chapter in good standing of the oldest and largest environmental organization in the United States, the Sierra Club, the Utah Chapter stands in a unique, singular position. Not only does the Chapter collaborate and share expertise with partner organizations across Utah and the region on issues of mutual interest, our position as a Sierra Club Chapter provides opportunities for communication, resource sharing and activist coordination across multiple Chapters and states to include the six Colorado River Basin states in addition to Utah. This ability to identify and coordinate large-scale resources within and outside our geographic boundaries significantly increases our capacity to create and manage effective conservation campaigns. During a time of extended drought when the effects of climate change are rapidly increasing, the Utah Chapter has a special interest in preserving and protecting the Colorado River and its tributaries, the primary water source for millions of Lower Basin residents.

A primary objective of the Utah Chapter's water conservation campaign is to create sustainable solutions that preserve and protect our natural resources well into the future while

¹² Although the instant Motion only seeks intervention in the proceeding at this time, it reserves the right to submit comments and recommendations relevant to the Federal Energy Regulatory Commission's and Cooperating Agencies' environmental analysis at a later date.

providing effective alternatives to damaging, unnecessary diversion projects that may not be sustainable.

The Utah Chapter's broad expertise in preserving and protecting diminishing water resources by means of conservation, reuse, and water sharing with agriculture, as well as our prior application and efforts related to the proposed Lake Powell Pipeline, provides the Utah Chapter of the Sierra Club with valuable expertise and a vested interest in the preservation of water resources within the State of Utah.

IV. CONCLUSION

The Utah Chapter of the Sierra Club respectfully requests that its Motion to Intervene in this proceeding be granted.

Respectfully submitted,



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DECLARATION OF SERVICE

Utah Department of Water Resources, Division of Water Resources,
Lake Powell Pipeline Project (P-12966)

I, Katherine Davis, hereby certify that on this 16th day of November, 2018, I have served a copy of the forgoing **Utah Chapter of the Sierra Club's Motion to Intervene** electronically, or if no email address is provided, by first-class mail per Commission direction upon each person designated on the official Service List.



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