

Richard E. Drake & 50 Petitioners
Concerned Ratepayers of Millcreek Township
2134 E. Lambourne Avenue
Salt Lake City, UT 84109
(801) 484-5130
Docket No. 07-035-08

June 14, 2007

Public Service Commission
Heber M. Wells State Office Building
160 E. 300 S. - 4th Floor
Salt Lake City, UT 84145

Subject: **Response to Rocky Mtn. Power's June 8th documents addressing the above cited complaint.**

Dear Public Service Commission:

The two responses from Rocky Mountain Power to the formal consumer complaint misstate the facts and are nothing more than an attack on personalities. The formal complaint must be decided on its merits.

In Rocky Mountain Power's responses there are 29 inappropriate, spurious, irrelevant, defaming innuendos made in an attempt to influence and prejudice the proceedings. The responses are not based in fact and would not be admissible in court. The two written responses from Mr R. Jeff Richards will be forwarded to the Utah Bar Association as part of a formal complaint for attorney misconduct.

In an effort to allow the proceedings to concentrate on the issues made in the complaint, that cut-backs in maintenance and field personal have allowed the Rocky Mountain Power distribution system to fall into disrepair exposing residents of the Lambourne Avenue Area, and the same circuit that delivers power to other residents, to suffer unnecessary outages and safety hazards, this response will address in detail only the issues relevant to the petition and will only touch on the three most egregious misstatements made within Rocky Mountain Power's document. All other inappropriate, spurious, irrelevant, defaming innuendos will be addressed in separate filings with the Utah State Bar Association so as to not detract from the merits of the complaint filed in Docket #07-035-08, before the PSC.

MOTION TO DISMISS BASED ON RULE R746-100-3.F.1

All references to the complainant not following formal complaint procedures are false. At the public meeting held April 28, 2004, at the East Millcreek Library, I raised the issue of why the Kempner Road residences were receiving special treatment. I specifically asked Ms. Rhea Peterson that question and asked for the power company to address the five day outages in the Lambourne Avenue area along with numerous other outages. Her reply was "Oh yes, that is possible." The Power company confirms they received the complaint in their June 8, 2007 response (the 33 page response is without page numbers or other reference numbers. The Power company's statement is in the third paragraph prior to the CONCLUSION.)

After an energized 7,200 kV wire was blown down on 20th East and the protective circuit breaker failed allowing the wire to remain hot until the substation main protective fuse blew, blacking out all the customers served from that substation, I filed a second complaint, this time in writing. I again received no response. Later on the area served by Millcreek Substation was again blacked out when another protective circuit breaker failed when a car hit a pole by Olympus High School. Again there was a area blackout. Again a written complaint was filed. When no response was received, I called Ms. Rhea Peterson twice. The first time she was on vacation, but I was assured she would get my message. I heard nothing. Later I again called and talked to Ms Peterson and was assured the matter was being looked into. It has now been more than two years since I was told "Oh yes, that is possible," all the while observing that the safety and distribution system were continuing to degrade. In all fairness to Rhea Peterson I don't believe she purposely ignored my requests. Shortly after Governor Huntsman was elected, I wrote him about the problem. He had the Executive Director of Commerce, Mr. Skowsen, personally notify me and the Division, assuring me that "My concerns will be addressed." Again after months there was no visible or communicated action or response from the Power company or Division. At this point I asked Mr. David Ward how Kempner Road residents were able to get action. I was told, I needed to have a petition signed by neighbors. At that point I personally, and without any involvement of Mr. Ward, secured the signatures of petitioners, photographed what I believed were hazards, and filed the petition with the PSC. Mr. Ward had no involvement, outside of his sharing what Mr. Knight and his neighbors did to obtain action related to the concerns of the Kempner Road residents.

The petition was filed as a last resort after more than four years of trying to resolve my concerns working with the Power company and Division. The motion that the petition be dismissed because I had not tried to resolve the matter before petitioning is completely without merit. I believe that with more than twenty-five petitioners the PSC is required to hear the complaint.

Motion to Dismiss Because It Is The Same As Two Other Complaints

The Lambourne Avenue complaint may cover many of the same issues raised in two other complaints, but none of the complainants in the Lambourne Avenue petition have been part of

any other past complaint. The complaint filed by the Kempner Road Area residents is a different area and different complaint. The only relevant information from the Kempner Road complaint is that the circuit was similar to other circuits in East Millcreek and Holladay Area and it took years for any corrective maintenance to be completed. Everything else is irrelevant to the Lambourne Avenue complaint..

Not one of the complainants involved in the Lambourne Area Petition was involved in or signed the Stipulation, specific to Docket No. 04-035-70. It is true that Mr. David Ward was approached about joining the action and providing technical input. Mr. Ward and Mr. Irvine decided that he should not be a complainant, because it might complicate his position in providing periodic technical input. Mr. David Ward, did not know any of the plaintiffs in this matter, except for his spouse, prior to their signing the complaint. Mr David Ward did not sign, was not required to sign, or agree with any of the elements of the Stipulation. Prior to May 5, 2006, Mr. Ward had not signed any documents, agreements or was restrained by Mr. David Irvine's law firm. Mr. Ward was not under any restrictions as to what he did with public information. THE STIPULATION HAS NO RELEVANCE TO THIS COMPLAINT. Due to the power company's inappropriate, spurious, irrelevant, defaming and libelous innuendos, a ruling is now in order that nullifies Mr. David Ward's non disclosure agreement specific to PSC Stipulation Docket No. 04-035-70.

Motion to Dismiss Based upon PacifiCorp's Storm Response Report:

None of the petitioners in this complaint were involved with the preparation and acceptance of The Storm Response Report. This report is public information. By entering it into the record on this petition, and by using portions of the Stipulation in Docket No. 04-035-70 Mr. David Ward is free to discuss and point out relevant information to me in this report. Up to this time he has been unwilling or unable to discuss anything in the Storm Report. In February, March and April of 2006, Mr David Ward gave me a copy of the Williams Report, PacifiCorp's Storm Report, information of the Kempner Road Committee Requests and some of his correspondence. Since that time I have had to research the data myself. Allowing him to freely participate allows the Lambourne Avenue Petition to progress more quickly.

I know of no customer input into the *Service Quality Task Force*. It is a fact that the Division has no technical staff. For these reasons the petitioners support the requirement that you carefully and critically examine the *Service Quality Task Force* recommendations. For example the explanation of A, B, & C conditions are problematic. Under category A, to accept the "given" that an imminent hazard can be corrected over the course of 4 months is ludicrous, especially when one considers the definition of imminent. The fact that two 7.2 kV wires are not secured in any way to an insulator and are in danger of falling and electrocuting (x) number of Utahns, at what point is a 4 month waiting period acceptable? It isn't. You will note that PacifiCorp's B condition is ill-defined and meaningless in terms of correcting the hazard. Condition C is not even addressed. I don't care how many task forces have been formed as it relates to Condition A. It is a no-brainer that an imminent hazard be treated as if the patient can be resuscitated within 4

months of a cardiac arrest. Who in their right mind would accept that as an acceptable standard for medical practitioners. Again, what specificity has been developed for each category, how is each category determined, and what is the conflict which exists between Utah State Law and the safety issues that must be addressed? For all that is known about the task force, one could assume that the information about Category A, B, and C conditions was written by the Power company and rubber stamped by an accountant at the Division. It is not reasonable or responsible to grant a motion on this pleading without a meaningful investigation.

Matters Referred to Utah Bar Association as part of a formal complaint of misconduct:

In the responses by Rocky Mountain Power and R. Jeff Richards filed with the PSC on June 8, 2007, and published to the world, multiple egregious, defaming/libelous innuendos were made in an attempt to influence and prejudice the proceedings. This response will only address three of those multiple behaviors. All of the defaming innuendos will be part of a complaint of misconduct to be filed with the Utah State Bar Association:

1. The use of the term "since his employment with the Company was terminated." Mr. Ward was offered but was not required to accept Special Severance Benefits, Health Benefits, and Special Early Retirement. This offer was in a settlement of Utah Anti-Discrimination Division Suit Case Number #96-0431. That case was about continued and pervasive harassment by Portland management of a protected class employee. It also involved the payment of a Workers Compensation suit. The offer was signed by Paul Lorenzini, Senior Vice President and was accepted on August 1, 1997. Details are available from the Utah Anti-Discrimination Division and Industrial Commission. This was an offer made only to Mr. David Ward. The implication that Mr. Ward was fired is malicious, slanderous, libelous, and will adversely affect Mr. Ward's ability to advise future clients. This egregious conduct of R. J. Richards and Company will not stand.
2. It is stated that "During the removal of the cross arm. . . at 3003 East Craig Drive, Mr. Ward was repeatedly asked by Rocky Mountain Power crews to stay clear. . ." IT NEVER HAPPENED! During the entire process Mr. Ward was standing well back standing with me and two power company engineers, Paul Hansen and Joshua Jones, during the removal process.
3. The most egregious, malicious, and defaming charges concern an outage the power company cites as happening on March 3, 2007. I and my mini-van never put in an appearance at the alleged outage site on March 3,2007. We believe the power company is referring to an accident and outage on May 3, 2007. On May 3, 2007, I was in Pocatello, Idaho and my wife's mini-van was parked in our drive way throughout the evening and night.

On May 3, 2007, Mr. Ward arrived with one of his neighbors, Taylor Ward (no relation to Mr. David Ward) in Taylor's tan colored Accord trying to determine why the power was

out throughout the entire neighborhood. When Mr. Ward arrived at the outage on Millcreek Road, two spans of one wire were down in the road. It was dark. The roadway had no sidewalk. The downed wire was not on the shoulder but was in the roadway. At night with only car head lights, the downed wire looked like a white piece of clothes line or small white rope and not a wire. The auto accident was over 150 feet (estimate) ahead on the north side of the road. Bystanders were walking up the road to see the accident and were walking on the downed wire without knowing it was a wire. Mr. Ward had previously verified that three single-phase line sectionalizers were open. Sectionalizers are not reclosers. The line re-closer, referred to in the Power company's motion, had to be elsewhere on some other circuit. Fortunately, every wire for blocks and blocks had been de-energized by the three line sectionalizers. This allowed Mr. Ward to inspect the wire (without touching or getting too close). In a length of wire near and where it had been tied onto the insulator, the wire and tie wire had flat "wear" marks (the round surface of the wire was worn flat). Both ends of the downed wire had melted at a slight angle. Both ends of the wire were burned and appeared to have been once molten. This is an indicator that the high voltage wire fell onto the a low voltage cable, grounded messenger wire. The low voltage service wire was still in the air and not available for inspection. If the high voltage wire had broken under tension or impact, ONLY the source side end of the wire could show melting. This melting would have occurred only if it arced or flashed when striking something. If the wire had broken, the non source side would have a characteristic cone shape with a small crater or inward dimple at the very top of the cone. The amount of melting on this end would be minimal. Mr. Ward did not use a flash camera. He instead described and showed Taylor Ward the shape of the wire and the burnt ends. The wear on the high voltage wire, tie wire, the equally molten two wire ends, the lack of the characteristics of a tension break, and the fact that there were TWO separate and distinct explosive flashes is evidence that the **worn or stretched tie wires holding the wire to the insulator were loose, allowing the high voltage wire to fall from the cross arm onto the low voltage secondary cable** serving homes. The wire then short circuited and the smaller size, high voltage wire burned in two. It is reasonable to believe a loose, worn tie was the reason the wire had fallen after a car hit the service pole on the other side of the street. If the tie wire was not worn and was in good shape the wire would not have fallen onto the low voltage service cable. The sky would not have lit up TWICE, as the substation circuit breaker tripped, then later re-closed, re-energizing the circuit a second time and then tripping a second time. If the wire had been properly attached to the insulator it is rational to assume that there would have been no outage to a large part of East Millcreek, and bystanders would not have been at risk.

An incident did occur approximately at 10:20 p.m. Mr. Ward was standing on the north side of the street talking with others residents and waiting to talk with the trouble man. When the lone trouble man on site returned to his truck. Mr. Ward approached the trouble man, well away from the fallen conductor, and asked that the end of the wire be saved. The Company employee turned and motioned to a fireman to get the deputy sheriff who was on site. The trouble man then asked the deputy to arrest Mr. Ward for interfering. The trouble man was fully aware Mr. Ward was on site to collect evidence. The deputy investigated;

everyone, in the on looking group, verified that Mr. Ward was just standing with the group and had only asked for the pieces of wire to be saved, the deputy took no action. No one was arrested or escorted from the outage scene, and there was no Power company crew or crews on site as stated. Due to lack of manpower, crews did not arrive until near or after midnight. THE FOREGOING DEMONSTRATES THE GESTAPO TACTICS REFERRED TO IN MY PREVIOUS LETTER, and the well exercised script of demonizing responsible rate-payers (consumers).

Loose tie wires can be caused by a previous broken wire in the area. Whenever there is a broken wire due to something falling or hitting a high voltage wire, tie wires on the next couple of poles in either direction must be inspected for damage. Mr. Ward believes an inspection of company records for the last year, will show this same wire had been broken near the outage site. Mr. Ward also believes that if the poles near that break were not inspected for loose tie wires, there is most likely another worn or broken tie wire supporting an energized wire on the wire. The Power company needs to be asked under oath if they inspected the tie wires on two poles either side of the earlier break caused by something hitting the high voltage wire. Mr. Ward knows a large tree fell on the wires tearing them down and breaking a pole. In fact the stub of the broken poles can be seen at 3162 Millcreek Road and another loose and broken tie wire on the same high voltage wire that fell is visible at 3112 Millcreek Road. The accident occurred on May 3, 2007, at 3059 Millcreek Road. Is an inspection of tie wires after a wire breaks normal protocol? Is under staffing, as charged in the complaint, not allowing crews to preform adequate inspection and repairs?

Conclusion

The Lambourne Avenue Petition must be decided on its merits. To do this the PSC needs discovery and expert testimony. Rocky Mountain Power no longer has engineering staff equal with the knowledge and experience of Mr. Ward. This has been shown during the last technical conference and in other settings. The Power company has resorted to innuendo and defamation in an attempt to counter Mr. Ward. The only viable answer for the PSC, is to take action similar to what the complainant has already suggested. The PSC or Division needs to use an outside, independent company to query all existing and other journeymen linemen that were actual employees of Rocky Mountain Power in the State of Utah over the last four years. These journey men are the real experts and historians. The Power company must issue a statement to the linemen that no retaliation will take place and that their identity will not be revealed by the independent querying firm nor in anyway will their testimony be held against them. Anonymity must be guaranteed. The results need to be evaluated independent of the Power company, PSC, Division, Committee, and the Petitioners. The independent company then will present their findings to the Commission.

I, Dr. Richard Drake have talked with numerous journeyman lineman who openly state that the Power Company did no maintenance for years, after PacifiCorp became the master. They also express deep dissatisfaction with the current neglect of maintenance stating that it falls far short of what it should be - that they don't get the job satisfaction that comes with doing the kind of job they know needs to be done. One stated that they had been ordered not to say anything about the maintenance problems facing the Company or they would be fired.

The alternative to discovery and the questionnaires or interviews is to invite more of what happened on May 3, 2007, except next time all the electric lines in the area may not be completely de-energized and someone will die. A fatality will certainly be an unnecessary outcome, but is believed certain to occur if Rocky Mountain Power continues to ignore the need for responsible and timely inspection and maintenance of a very dated delivery system. From what happened on Millcreek canyon road on May 3, 2007, it is clear that two trouble men trucks need to be available. A lone trouble shooter is in a no win stressful situation. The scene of a downed line was too large for one trouble shooter to secure. In the outage on May 3, 2007, he did not put out warning cones or flag off an area with warning tape. He was only able to ask the firemen on the scene to help. A lone trouble man is required to stay at the site, so no one was available to open up line jumpers and isolate the outage so power could be restored to the majority of customers whose lines were up and safe. If two journeymen were available the outage affecting a large group of consumers would have been approximately one hour instead of four. The site of the downed wires would have been cordoned off and bystanders would not unknowingly be walking on downed power lines. The foregoing is Electrical Distribution 101. It is not gold-plated. It is basic procedural conduct.

The last two Rocky Mountain Power responses must be retracted with a notice of retraction posted under Docket #07-035-08. After the Power company investigates to verify the facts, they will discover that their assumptions are without merit, and that none of their defaming innuendos holds water. Due to their malicious disregard for the truth all future responses sought from PacifiCorp/Rocky Mountain Power needs to occur under oath, and accurately recorded. If this is not possible in a technical conference, it is time to move to a formal hearing with regard to the Lambourne Petitioners and Richard Drake.

Review of the Remedies:

The relief requested by the Petitioners is as follows:

- 1) An immediate inspection be made of all circuits within the Millcreek area, listing all required maintenance and repairs.
- 2) Complete all repairs and maintenance by December 31, 2007.
- 3) Levy fines for each safety violation until corrected (Utah Public Utility Statute 54-7-25).

- 4) Issue a mandate that Rocky Mountain Power no longer be subordinate to PacifiCorp, but report directly to Mid-America.
- 5) Mandate that a reasonable percentage of their revenue be directly applied to maintenance and repair of the electrical distribution system.
- 6) With regard to Reliability and Maintenance of electrical distribution, implement the recommendations made by Williams Consulting Inc. in their *Report to the Division of Public Utilities* (page 5 of 51, section 3) wherein they call for 8 different actions that would substantially upgrade PacifiCorp's operation.

To the best of my knowledge I hereby certify that all of the above statements are true and accurate.
I expect all correspondence and responses from Rocky Mountain Power to be accurate and true.

With all sincerity,

Dr. Richard E. Drake
Having standing as the Representative of 50+ petitioners in Millcreek Township