

February 12,2007

Official Complaint

Public Service Commission
Heber M. Wells State Office Building
160 E. 300 South, Fourth Floor
Box 45585
Salt Lake City, Utah 84145

1. Name of Complainants: Richard E. Drake and numerous neighbors and associates living in the Mill Creek Area of Utah County. (See attached petitions and photos)

Address: 2134 E. Lambourne Avenue, Salt Lake City, UT 84109

Telephone No.: (801) 484-5130

Utility being complained against: Rocky Mountain Power (Formerly Utah Power, Scottish Power and PacifiCorp).

2. What has the Utility done which is illegal, unjust, or improper?

Utah Power has violated State statutes and laws specific to the National Electric Safety Code (N.E.S.C.) As a result, on the weekend of February 11 & 12, there were over 3000 blackouts, let alone the other hazards of failed insulator pins. Arching of electricity and flash overs can be heard almost every night, especially when weather conditions are damp.

Hazardous conditions exist around our schools and churches, all because the electrical **utility fails to provide up to standard, safe electrical insulators.**

For example, sampling a small number of utility poles on January 25,2007 (29 to 30 in the Millcreek area over an approximate 6 square block area) there were 58 failed insulator pins (squatters) which were identified and photographed. *See attached 29 photos!* The National Electric Safety Code (N.E.S.C. - Section 35) clearly outlines the minimum safe strength and clearance requirement for insulator supports. If not corrected, this results in an outage and the possibility of an energized wire falling to the ground. **When a failed wood pin drops the insulator to the cross-arm, critical insulation and flash-over rating are seriously compromised.** With enough time, this results in pole and cross-arm fires, insulator flash overs with outages from rain snow and lightning. These flash-overs can cause wires to burn down. Table 235-6, page 135 (2002 edition) is specific in requiring a minimum safe vertical clearance for an energized 12.5 kV (12,500 volts) wire above a cross arm. The minimum safe clearance per code is 94 mm (3 5/8"). A failed insulator support pin reduces the clearance to between 2" and 3" and shorts out up to two-thirds of the insulator depending on the actual insulator design.

Utah Power (to also mean Pacificorp, Scottish and Rocky Mountain Power) clearly agreed in their contract with the State of Utah to be in full compliance with the N.E.S.C. They

clearly are not. The **Mill-creek area has experienced numerous power outages, downed wires, flash over problems and pole fires. School children have been unnecessarily exposed to these safety hazards** as has church goers, many of whom are senior citizens. Executive Douglas Bennion of PacifiCorp and Mrs. Rhea Peterson of the Utility Department personally promised me and members of the community attending a public meeting held at the Mill Creek Library in 2005 that the described electrical standard violations would be quickly corrected. Two years have elapsed with nothing being done to rectify the above described hazards.

See attached the poles photographed depicting the insulation violations. With such a small sampling of poles in the valley, one can imagine that in reality there are thousands upon thousands

of poles in violation of National Electric Standards. How has this happened? The State of Utah statutes (the Public Utility Statutes 54 - 7 - 25 requires the Public Service Commission along with their watchdog Committees (refer to page 61 of the State Statutes titled Violation by utilities - Penalties) to implement the following:

- I. Any public utility that violates or fails to comply with this title or any rule or order issue under this title, in a case in which a penalty is not otherwise provided for that utility, **is subject to a penalty of not less than \$500 nor more then \$2000 for each offense.**
- II. **Any violation of this title or any rule or order of the Commission (PSC) by any corporate person is a separate and distinct offense. In the case of a a continuing violation each day's continuance of the violation shall be a separate and distinct offense.**
- III. . . . the act, or, omission, or failure of any officer, agent, or employee of any public utility acting within the scope of his official duties or employment shall in each case be deemed o be the act, omission, or failure of the public utility.

3. Why do you (the complainant) think these activities are illegal, unjust or improper?

Obviously **the PSC and the Watchdog Committees have not taken seriously their mandate under State Statute and National Code to hold Utah Power's feet to the fire.** They have allowed multiple violations of State Statutes, and National Safety Standards. Why is it that the Oregon Public Service Commission is committed to enforce the standards in Oregon? Is it because they respect their constituents? Does the Utah based PSC and their so-called "oversight" committees take for granted the utility consumer? Are they playing out the mantra (stereotype) that Utahns are gullible, un-educated, and quick to assume that monopoly corporations are inherently moral? Shame on them if such is the case. Action speaks much louder than words.

Because the PSC, and the Division of Public Utilities have chosen not to enforce State statutes, when they have known there are specific safety standard violations, **they have engaged in will-full neglect; a willful dereliction of their duty. By so doing they become personally**

responsible and liable for any damage or fatality deriving from their dereliction. The Department of Commerce and the Governor's office all fall under this same umbrella. **They do not have the option of choosing not to enforce required State statutes.** Being personally derelict removes the legal protection provided by the State which provides legal protection for their actions when acting within the law. Outside the law their actions make them personally accountable (liable) and open to full legal process and the full arm of the law.

4. What relief does the Complainant request?

We expect that the National Safety Codes be complied with immediately, and that the PSC, along with the other "oversight committees" implement the State statutes as called for on pages 61 and 62 of The Utah Statutes, governing Public Utilities, Section 54 - 7 - 25, *Violation by Utilities - Penalties*. With the Public Service Commission leveling fines, as called for in State statutes, a large pool of money could accrue which could be used to conduct research, to hire auditing by independent utility experts, and to pay the salaries of the Public Service Commission, the Division of Public Utilities, and the Committee for Consumer Services. To think these over-view committees can be objective and responsible to the rate-payer of Utah while being paid by the Utilities, is out-moded and clearly creates a conflict of interest that in no way properly serves the citizens of Utah.

When I see the chair of the PSC plead with PacifiCorp to comply with the agreement to keep their line crews and other essential support personnel crews in Utah, at a level commensurate with Utah's demand for power, rather than to order PacifiCorp to comply with their agreement, I can't help but wonder how leadership could become so distorted; how statutory mandates can be ignored leading to the failure of the Chairman of the PSC to exercise power, fortitude and responsibility in representing Mr. Jo-Blow Utah. Mr. Campbell needs to read Eloise Bell's book, "When Nice Isn't Being Nice." There is no place for wimpy behavior when dealing with huge monopoly corporations with all their lobby groups and their seduction of State Leaders who would so inappropriately ask a large utility to fund a National Legislative Conference to be held in Salt Lake, or to fund some other so-called "community service" at the expense of rate payers, many of whom are eating hand to mouth. Such behavior uncannily leads PSC and others to throw aside their mandated duties, acting instead in the interest of monopoly corporate utilities, rather than in the direct interest of the rate payers of Utah.

Despite the above difficulties I believe there are true professionals functioning at all levels of the Utility Over-sight Committees who will stand up and responsibly rectify the above cited problems.

5. Signature of complainant _____

Dated: _____

cc: Governor Huntsman