



GARY HERBERT.
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State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI
Executive Director

THAD LEVAR
Deputy Director

PHILIP J. POWLICK
Director, Division of Public Utilities

MEMORANDUM

DATE: July 21, 2010

TO: Public Service Commission

FROM: Division of Public Utilities
Phil Powlick, Director
Rea Petersen, Manager Customer Service
Connie Hendricks, Office Specialist

RE: Uranium One Ticaboo Inc. against Ticaboo Electric Improvement District
Docket No. 10-2508-01

Recommendation: Hold a scheduling conference to establish a process to hear the complaint

Summary of Uranium One Informal Complaint

Uranium One's informal complaint was presented orally to the Division. The following is a summary of that informal complaint.

Mr. Norman Schwab filed an informal complaint with the Division of Public Utilities on behalf of Uranium One Ticaboo Inc. (Uranium One) on June 15, 2010.

He stated that Uranium One is disputing the new rates established by Ticaboo Electric Service District. Mr. Schwab provided the following information:

Uranium One has been running the town of Ticaboo for two and a half years. They own the commercial properties and have the ability to expand the town. They have been subsidizing the town. They were told in the middle of last year they were not allowed to provide power to the town and that a special district needed to be set up to do that. Uranium One thought it was going to go well, but since January when the special district started, things are not going as planned.

Mr. Schwab stated that Ticaboo Electric Service District has implemented a new set of rates without following the rules they set up. He said these new rates would make them pay ten times what they had been paying in the past. He said that they are paying the uncontested part of the bill which is the same amount as the old rate. They are not paying the amount equal to the new rates. He said the old rates are what they understand and believe should be paid. He said the new rates aren't in agreement with what they agreed to.

He said that the power was shut off two weeks ago without any given notice. He said that the District's rules state a 10 day notice and an explanation of the problem is required. Power was disconnected to the lodge that accommodates tourists. He said Uranium One is a mining company but they look after the tourists on the side. He says they have now received another shut off notice for Wednesday, June 16, 2010.

Mr. Schwab said that his company has had 2 conference calls with Ticaboo Electric Service District that he thought that had gone well. However, after the calls, everything went back to the way it was. He also mentioned that, at one point, the District agreed they needed to change the rates.

He said that he wants proper rates established that make sense and Uranium One wants to be part of deciding the rates. He said that Uranium One could have increased the rates before (when they owned the electric facilities), but they didn't.

He said that Uranium One is being extorted through power threats. He stated that the way to resolve this is to put someone else in charge. He also said that his company handed over equipment worth one million dollars for free and got nothing in return.

At the time the informal complaint was taken, Mr. Schwab was given the opportunity to send his complaint by email or fax so he could include any additional documentation or facts and he declined, saying that he felt he had provided all necessary information.

This complaint was forwarded to Chuck Birrenbach, District Manager of Ticaboo Electric Service District on June 15, 2010 for a response. Mr. Birrenbach provided a written response to the Division and Uranium One on June 15, 2010.

Summary of Ticaboo Electric Service District Response

The following is a summary of the response received from Mr. Birrenbach.

Ticaboo reported that after the company read the meters to produce the monthly bills for Uranium One's properties on May 31, it noticed that Uranium One had turned on a meter at the lodge location without authorization. The service had been shut off in February 2010 at the request of Uranium One. The County Commissioner and County Attorney tried repeatedly to get in touch with Uranium One to discuss the unauthorized usage with no success, therefore service was terminated.

Uranium One sent a check to Ticaboo in the amount of \$1,459.64 with a restrictive endorsement as Full Payment of the April invoice. At that time the amount owing, according to Ticaboo was \$20,643.24. The check was returned to Uranium One.

On June 4, 2010 there was a conference call between Uranium One and the board of trustees of Ticaboo. During the call, Uranium One agreed to make a payment and Ticaboo agreed to turn the power back on. The power was restored but the payment was not made. Ticaboo reported that on June 10, 2010 it held a public meeting and that the community wanted the board of trustees to take a stand by putting a deadline on Uranium One's payment. The board passed a motion giving Uranium One until Wednesday (June 16, 2010) at noon to make at least a partial payment. The payment was not made.

Ticaboo claims that Uranium One has disputed every bill since January, which included bills at the previous rates and the meter accuracy. Ticaboo had Garkane Energy test Uranium One's meters and claim that they were within the Commission's approved standards. Uranium One continued to dispute the accuracy of the meters even after the meters were tested.

Ticaboo stated that they set the new rate structure in a regularly scheduled meeting and because their financial stability was an issue they deemed changing the rates an emergency.

DPU Informal Complaint Analysis

The Division reviewed the current tariff on file for Ticaboo Electric Service District and verified that the rates being charged to Uranium One during the time period they are disputing were in effect starting on April 1, 2010. The Public Service Commission reviewed and acknowledged the tariff.

Copies of bills were received from Ticaboo for all properties of Uranium One. The Division calculated the bills with usage shown on the bill using the new rate and determined the amounts billed were calculated correctly.

Ticaboo Electric claims that the service was discontinued for unauthorized use of service at the Lodge location. Public Service Commission rule R746-200-7 F allows a utility company to terminate service without notice when there is unauthorized use or diversion of residential utility service. Understanding that Uranium One is not a residential service, the Division found no violation of Commission rules for the company for terminating the service without notice due to the claimed unauthorized service by Uranium one.

Based on the information provided by both parties in the informal complaint, the Division's review of the tariff and PSC rules, the customer was advised the Division did not find the company to be in violation of PSC rules, statutes or company tariffs. At that time Uranium One was advised that if they wished to continue to dispute the rate, they could file a formal complaint with the Public Service Commission and formal papers were e mailed to Mr. Schwab.

Formal Complaint

Uranium One filed a formal complaint with the Public Service Commission on or about June 29, 2010. The Public Service Commission issued an Action Request to the Division for investigation of the Formal Complaint. The Division has conducted a limited review of the facts of the formal complaint. If a hearing is found to be necessary, more review will be required. Below is the DPU' s response to the formal complaint and an explanation of the Division's understanding of events that have occurred subsequent to the formal complaint being filed with the Commission.

Paragraph 1-5: Requires no response.

Paragraph 6: Uranium One's complaint stated that it entered into a binding Memorandum of Understanding (MOU) under which Uranium One agreed to donate to the District the power assets, valued at over \$500,000.00, on condition that the district agree, among other things, to supply electric service to customers within the Ticaboo town site at a uniform price to all customers for such service. Uranium One also stated the MOU was accepted and recognized by the Commission in granting Ticaboo a Certificate of Public Convenience and Necessity and in reliance on the District's promise to charge a uniform price to all customers.

Division Response: The Division's initial understanding is that the MOU was between the two parties. At the time that Ticaboo filed for its Certificate, it was intended that the MOU was going to be converted into a formal contract. The Division is not aware that a contract was ever executed. The Commission's order in docket No. 09-2508-01 ordered Ticaboo to follow the rules and regulations and their tariff. There was no mention that Ticaboo would be required to follow the rates in the MOU. The Division believes that the obligation to charge uniform rates is an issue between the District and

Uranium One and the proper enforcement of the MOU does not lie with the Commission.

Paragraph 7-10: Requires no response.

Paragraph 11: Uranium One claims it received an invoice dated January 31, 2010 in the amount of \$16,977.43, the first invoice from the District for charges for electric service. Uranium One claims that its facilities were closed for the entire month of January but that the invoice included a charge for usage of 19,347 kWh's. Uranium One's claims that its historical usage during January and other off-season months has averaged approximately 2,000 kWh's.

Ticaboo Response: Ticaboo claims that Uranium One gave them the beginning meter readings and the meters were read for the first time on January 31, 2010. Ticaboo claims that it repeatedly requested history of the power system, however, the only data provided was for all the paying customers without any data for the Uranium One controlled commercial properties. Ticaboo did not have any history to compare to, therefore the starting points were with the readings Uranium One provided. Ticaboo had the meters tested by Garkane Energy and the meters tested within the Commission- approved limits. According to Ticaboo, Uranium One continued to protest their bills.

Division Response: The Division reviewed the meter test results to verify that all meters were working within the limits provided in PSC rule R746-200-3 B 1. The Division also computed various bills sent to Uranium One using the rate schedules on file and did not find inaccuracies.

Paragraph 12: See response for Paragraph 11.

Paragraph 13-15: Uranium One alleged that Ticaboo did not follow the Public Meeting and Notice requirements according to Section 17B-2a-406 6(a)(iii) and (iv) of the Utah Code Annotated and Section 10.1.2 of the Tariff because they adopted rates in violation of the statute and tariff.

Ticaboo Response: Ticaboo claims that its tariffs, rules and regulations allow them to hold emergency meetings which it claims it did when they changed their rates.

Division Response: Ticaboo clearly did not follow the statute that created the district however they claim they had the authority to change the rates under the emergency provisions of their rules and regulations. Subsequent to the adoption of new rates on an emergency bases Ticaboo has indicated that on June 15, 2010 it sent out a Notice to all customers of a public meeting that would be held on July 20, 2010 to consider rate structures for the District. The Notice and Agenda of that meeting are attached (Attachment 1-3). It is the Division's understanding that comments can be made or

submitted by the public and an additional public meeting will be held at some time in the near future. The issue raised by Ticaboo's failure to follow the process for rate changes outlined in the District's enabling statute, but rather changing rates using its emergency powers outlined in their rules, is an issue that may need to be addressed by the Commission at a hearing. The inapplicability of 54-7-12 to rate changes made by the District apply only if the District follows the procedures outlined in 17b-2a-406. The district, subsequent to the adoption of new rates on an emergency bases appears to be in the process of giving notice pursuant to the statute and holding public meetings to receive public input.

Paragraph 16: Refer to response for Paragraph 6.

Paragraph 17: Refer to response for Paragraphs 13-15.

Paragraph 18: Uranium One states that it made a payment under protest. Ticaboo acknowledges payments were received in the amount of \$16,977.43 on April 15, 2010; \$6,979.01 on May 14, 2010. A payment of \$1,459.64 with a restrictive endorsement was received at the end of May; this payment was returned to Uranium One.

Division Response: The Division has been informed that the Fourth District Court has entered a preliminary injunction against the District from terminating service to Uranium One under the condition that certain immediate and regular payments are made to the District until the disputes can be resolved by appropriate forums. An Order to memorialize the Courts Order is being prepared.

Paragraph 19-20: Uranium One claims that it discussed the new rate schedule with Ticaboo and proposed that the base fees be eliminated and that the per kWh rates be increased uniformly for all users.

Ticaboo Response: Ticaboo represented that it would re-examine the new rate schedule.

Division Response: The Public Meeting scheduled for July 20, 2010 and the Notice sent out by the District is apparently the meeting to consider new electric rate schedules that might substitute the rate schedules put in place by the District on an emergency basis.

Paragraph 21: Requires no response.

Paragraph 22: Refer to response in paragraph 6.

Paragraph 23: Refer to response in paragraph 19-20.

Paragraph 24-25: Requires no response. Refer to Paragraph 18.

Paragraph 26: Requires no response.

Paragraph 27-28: Uranium One claims that service to its commercial facilities was disconnected on June 3, 2010 without notice. Uranium One claims that it tried to contact the Ticaboo Manager but that he was unavailable. Uranium One also claims that it contacted the Garfield County Attorney to have service restored immediately and, that in their discussion, neither the County Attorney nor the Garfield County Commission authorized the disconnection of service.

Ticaboo Response: Ticaboo responded that on May 31 it was noticed that Uranium One had turned on a meter without authorization. The meter was shut off at the request of Jon Mackay of Uranium One in a February 10, 2010 e mail. Uranium One did not ask that the service be restored. County Attorney Garry Huntington was contacted by Ticaboo personnel regarding the purported unauthorized, illegal theft of services. Uranium One scheduled a conference call with Garry Huntington, the Garfield County Commissioners, and county Planner but never made the call. Ticaboo claims that County Commissioner Dodd and Mr. Huntington tried repeatedly to contact Uranium One regarding the alleged illegal use of electric services. No contact could be made and Ticaboo was advised to shut off the service. Ticaboo shut the service off on June 3, 2010. The county attorney apparently reported it to the Garfield County Sheriff for investigation. Witness statements were signed. Ticaboo claims they attempted to set up a conference call with Norman Schwab and Jon McKay of Uranium One on June 4. In that call Ticaboo agreed to restore service and Uranium One agreed to make a payment within a day or so. The service was restored within 15 minutes. Uranium One did not expedite a payment.

Division Response: PSC Rule R746-200-7 F allows for a public utility to terminate service without notice when there is unauthorized use or diversion of residential utility service or tampering with wires, pipes, meters, or other equipment owned by the utility. The rule requires the utility to try to notify the customer of the termination of service and the reasons thereof. It is not clear that Notice was given to Uranium One prior to disconnection of service. As was stated previously, service has now been reconnected. It is not clear at this point whether this issue still needs resolution by the Commission, particularly since a Court Order will now govern payments by Uranium One and disconnections, at least for non-payment by the District. However, if there was an unauthorized use or diversion of service, disconnection of service without notice under the Commission's rules would be authorized.

Paragraph 29: Uranium One states that it is disputing the new rate, however they made a payment dated May 31, 2010 in the amount of \$27,346.35 and a payment of \$4,120.91 on June 14, 2010.

Ticaboo Response: Ticaboo claims the above payments were not received as stated.

Division Response: There remains a dispute as to whether the payments were made. However, it is the Division's understanding that a Court Order will be in place that will govern payments to be made by Uranium One in the interim until these disputes can be resolved.

Paragraph 30-31: Requires no response.

Paragraph 32: Uranium One's informal complaint, Ticaboo's response and the Division of Public Utilities analysis is provided above. The Division responded to the information provided.

Paragraph 33-34: Uranium One is seeking either mediation or PSC review.

Response: PSC should schedule a hearing in this matter.

Paragraph 35: Requires no response.

Paragraph 36-40: Refer to response to paragraph 13-15.

Paragraph 41-45: Refer to response to paragraph 13-15

Paragraph 46-49: Refer to response to paragraph 6.

Division Recommendation

The Commission should schedule a scheduling conference to establish a process to resolve the Complaint and to determine what authority the Commission may have over the rates of the District.

Attachments: Ticaboo Notice of Public Meeting
Agenda for Public Meeting

Cc: Craig Smith
Kyle Fielding
Douglas Perry
Office of Consumer Services
Chuck Birrenbach