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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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**In the Matter of the Formal Complaint of  
Marian Seamons against Ticaboo Utility  
Improvement District**

**TICABOO UTILITY IMPROVEMENT  
DISTRICT'S RESPONSE TO  
COMPLAINANT'S OBJECTION TO  
TUID'S POST HEARING BRIEF**

Docket No. 15-2508-01

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Ticaboo Utility Improvement District (“**TUID**” or the “**District**”), pursuant to Utah Code Ann. § 63G-4-204(1) and Utah Admin. Code R746-100-3 and 4, hereby files its response to Complainant’s Objection to TUID’s Post Hearing Brief (the “**Objection**”) as filed with the Public Service Commission of Utah (“**Commission**”) on August 30, 2016.<sup>1</sup>

Complainant’s Objection is unfounded and not based in fact or law. Ms. Seamons claims that the signed declarations submitted as attachments to TUID’s post-hearing brief are not relevant because they do not speak to “whether or not Complainant received written notice.”<sup>2</sup> Ms. Seamons

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<sup>1</sup> TUID notes that, according to the certificate of service filed with the Objection, Ms. Seamons has not complied with the Commission’s filing requirements which require paper and electronic versions. Even after TUID stipulated to allow Ms. Seamons to file her post-hearing brief after the Commission’s submission deadline, she apparently continues to disregard the applicable filing requirements. TUID asks that the Commission remind Ms. Seamons and her counsel about the filing requirements as listed here, highlighted in yellow and in large font:  
<http://www.psc.state.ut.us/filingrequirements.html>

<sup>2</sup> Objection at 3.

also claims—in direct contradiction of the Commission’s Order dated July 27, 2016—that “the only relevant facts [*sic*] is whether Complainant received any written notice.”<sup>3</sup> The Commission’s July 27<sup>th</sup> order explicitly asks, “[i]f a public meeting was held, was written notice of the meeting sent by mail to all customers at least 10 days prior to the meeting?” As the Commission is aware, TUID was required to *send* mailed notice of the public meetings in question to all customers at least 10 days in advance of the meeting pursuant to Utah Code § 17B-2a-406(6)(a). No statute or Commission rule requires that TUID ensure that such notices are actually received or read by its customers nor is such an interpretation of that statute justified in any way. Ms. Seamons’ blatant misinterpretation of that statute and disregard of the Commission’s Order can only serve to mislead the Commission and should be disregarded.

TUID has provided relevant evidence, in the form of Mr. Shortreed’s testimony and the signed declarations from Mr. Shortreed and Ms. Jones, to the Commission that notices of the public meetings in question were indeed timely sent to *all* customers. Mr. Shortreed and Ms. Jones are the only people with firsthand knowledge of the mailing of those notices and are thus the only source of direct evidence of the mailing of the notices in question. To further bolster the evidence that those notices were mailed, TUID provided signed statements from multiple TUID customers who actually received those notices at least 10 days in advance of the meeting.

Further, as described in TUID’s post-hearing brief, the burden of proof rests fully with Ms. Seamons to prove her claims that notices were not mailed as required by Utah Code § 17B-2a-406(6)(a). She has failed to meet that burden. She has provided limited testimony of questionable evidentiary value that she does not recall receiving the notices in question, but has wholly failed to support her claim that the notices were not mailed.

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<sup>3</sup> *Id.*

The Objection must be disregarded as being without basis in law or fact. TUID has indeed demonstrated through the statements included with its post-hearing brief and through other relevant evidence that Ms. Seamons *was* sent notices of the public meetings held on August 29, 2013 and on January 15, 2015. TUID submitted evidence from multiple people to the Commission that those notices were sent to *all customers* and bolstered that evidence with statements signed under the penalty of perjury from multiple customers that, in fact, received those notices. Ms. Seamons has not presented any evidence to the contrary. TUID again respectfully requests that the Commission issue an order affirming the enforceability of TUID's tariffs, clarifying that Ms. Seamons is indeed required to pay the standby and other fees imposed by TUID, and dismissing the Complaint.

DATED this 1<sup>st</sup> day of September, 2016.

RESPECTFULLY SUBMITTED,

**TICABOO UTILITY IMPROVEMENT  
DISTRICT**

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/s/ Adam S. Long  
J. Craig Smith  
Adam S. Long  
*Attorneys for Ticaboo Utility Improvement  
District*

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing TICABOO UTILITY IMPROVEMENT DISTRICT'S RESPONSE TO COMPLAINANT'S OBJECTION TO TUID'S POST HEARING BRIEF was served as indicated on the following on September 1, 2016:

By email and hand delivery:

UTAH PUBLIC SERVICE COMMISSION  
c/o Gary Widerburg, Commission Secretary  
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/s/ Adam S. Long