

Daniel E. Solander (11467)  
Rocky Mountain Power  
1407 West North Temple, Suite 320  
Salt Lake City, Utah 84116  
Telephone: (801) 220-4014  
Fax: (801) 220-3299  
[daniel.solander@pacificorp.com](mailto:daniel.solander@pacificorp.com)

*Attorney for Rocky Mountain Power*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of Frank Drews,	:
	:
Complainant,	: Docket No. 16-035-32
	:
vs.	:
	: <b>ROCKY MOUNTAIN POWER’S</b>
Rocky Mountain Power,	: <b>ANSWER AND</b>
	: <b>MOTION TO DISMISS</b>
Respondent.	:
	:
	:

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Rocky Mountain Power, a division of PacifiCorp (the “Company”), pursuant to Utah Code Ann. §§ 63G-4-204(1) and Utah Admin. Code R746-100-3 and -4, provides its Answer to the complaint filed by Frank Drews (“Complaint”). In addition, the Company moves that the Complaint be dismissed in its entirety, with prejudice, because Rocky Mountain Power has not violated any provision of law, Commission order or rule, or Company tariff.

**I. PRELIMINARY MATTERS**

Communications regarding this Docket should be addressed to:

By e-mail (preferred): [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)  
[bob.lively@pacificorp.com](mailto:bob.lively@pacificorp.com)  
[daniel.solander@pacificorp.com](mailto:daniel.solander@pacificorp.com)

By mail: Data Request Response Center  
Rocky Mountain Power  
825 NE Multnomah St., Suite 800  
Portland, OR 97232

Robert C. Lively  
Rocky Mountain Power  
1407 West North Temple  
Salt Lake City, UT 84116  
Telephone: (801) 220-4052

Daniel Solander  
Rocky Mountain Power  
1407 West North Temple  
Salt Lake City, UT 84116  
Telephone: (801) 220-4014

## II. BACKGROUND

1. Mr. Drews resides at [REDACTED] and has been the customer of record at the location since July 2003.

2. The service wire providing electric service to Mr. Drew's residence crosses the back yard of Mr. Drews' next door neighbor ("Neighbor"). A picture of Mr. Drews' service wire crossing the neighboring property is attached as **Confidential Exhibit A**.

3. On April 25, 2016, Mr. Drews' neighbor contacted the Company and advised they would be building an addition onto their home, and Mr. Drews' service line is located where the addition will be built. The Neighbor requested the Company relocate Mr. Drews' service wire.

4. Rocky Mountain Power's Rule 12 Section 6 and Section 6(a) states in part:

**6. RELOCATIONS AND CONVERSION OF FACILITIES**

"If requested by an Applicant or Customer, and performance of the request is feasible, the Company will: relocate distribution voltage facilities on to, or adjacent to, the Customer's premises; and/or, replace existing overhead distribution facilities with comparable underground (overhead to underground conversion). ..."

**6(a). RELOCATIONS**

"For relocations the Applicant or Customer must advance the following:

- (1) The estimated installed cost of the new facilities plus the estimated removal expense of the existing facilities, less
- (2) The estimated salvage value of the removed facilities."

5. The Neighbor is willing to pay the costs to relocate Mr. Drews' service wire, and the Company deemed the performance of the Neighbor's request feasible.

6. The Company proposed installing an additional power pole in the Public Utility Easement ("PUE") located along Mr. Drews' back lot line and then relocating Mr. Drews service wire from the neighboring yard onto his property, running parallel to the property line.

7. A copy of the County Surveyor's Certificate is attached as **Confidential Exhibit B**. Mr. Drews' residence is listed as lot number 50 and a five foot PUE exists along his back lot line.

8. On June 9, 2016 Mr. Drews escalated his concerns to the Utah Division of Public Utilities ("DPU"). The DPU provided the Company with Mr. Drews' informal complaint, and the informal complaint was assigned to a Rocky Mountain Power regulatory analyst. In his complaint, Mr. Drews advised: 1) if the service line is moved onto his property, the proximity of the service line from his tree could be a safety hazard; and 2) the installation of a new power pole will obstruct his view.

9. The current proximity of the service line to the tree will be similar if the service line is moved to the opposite side of the tree. The Company determined no safety hazard would exist and no further trimming of the tree would be required.

10. The installation of the proposed power pole will be within the PUE, which by law grants the Company the right to install electric equipment within the easement.

11. Although Mr. Drews has indicated he would like to pursue underground options, the Company has advised Mr. Drews this could likely result in the loss of the tree due to damage to the roots. Because of the location of the meter base on Mr. Drews' home and the trenching required for underground electric service, along with the number of allowable bends in the conduit, this would place the underground facilities directly through the tree's root system and could more than likely result in the loss of the tree.

12. On June 28, 2016, the Company's regulatory analyst provided Mr. Drews a written response which summarized the reasons for the relocation of facilities, and reaffirmed the Company's position that per the Company's tariff, Mr. Drews' Neighbor is able to make this request, the request is feasible, and the Neighbor is willing to pay the costs for the relocation.

13. On August 9, 2016, a regulatory analyst and distribution department manager met with Mr. Drews at his property to discuss additional options, including moving the meter base to the other side of his house to avoid placing the pole in the PUE where it would obstruct his views. The Company has continued to work with Mr. Drews on an accommodation, but an agreement has not been reached as of the filing of this Response.

### **III. MOTION TO DISMISS**

14. The Company moves under Utah Rules of Civil Procedure, Rule 12(b)(6) for an Order dismissing the Complaint. In support of this motion, the Company states the Complainant fails to establish the Company violated Commission rules, Company tariffs or that its actions are unjust.

15. The Complainant alleges that (1) a safety issue will exist if the service wire is relocated to his property. This is not the case, and the Company will ensure adequate clearances are met if the line is moved, and based on the Company's estimates, the removal or pruning of the tree will not be required.

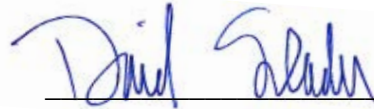
16. The Complainant alleges that (2) the installation of the power pole will affect his view. The Company sympathizes with the Complainant; however, we reaffirm the installation of the power pole would be within the PUE. Although the Company has the legal authority to place the pole within the PUE, and would move the service line in accordance with Rule 12, the Company will continue to work with Mr. Drews for possible relocation alternatives.

### **CONCLUSION**

WHEREFORE having fully answered Complainant's complaint and finding no violation of law, Commission rules, or Company tariffs to base an award of the relief requested, the Company prays for the dismissal of the Complaint with prejudice.

Dated this 11<sup>th</sup> day of August 2016.

Respectfully submitted,



Daniel E. Solander

*Attorney for Rocky Mountain Power*