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Governor
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State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI
Executive Director

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Director, Division of Public Utilities

MEMORANDUM

TO: All Parties Seeking Further Resolution After Exhausting the Informal Complaint Process.

FROM: The Division of Public Utilities

As a consumer / complainant that has filed an informal complaint against a utility and remain dissatisfied with the utility's response, the Division of Public Utilities is obligated to advise the complaining party to consider alternatives to seek further remedy and resolution, through mediation or a formal proceeding before a hearing officer of the Commission.

Pursuant to Public Service Commission Administrative Rules R746-200-7 and R746-240-7, (see rules on reverse side) the Division extends the offer to the parties to mediate the dispute in seeking a satisfactory remedy.

THE MEDIATION PROCESS

Mediation is a process that is less formal than litigation. It is a good faith exercise wherein the parties to a conflict come together and attempt to find a mutually acceptable or satisfactory solution to a dispute or conflict. This is accomplished with the assistance of a third party neutral or mediator and of course the willingness of the parties. A mediator is not a judge. The mediator has no authority and should have no preconceived biases. The mediator shall not favor one party over another; he or she does not take sides or make assumptions, and draws no conclusions. The process establishes no right or wrong and does not establish blame or fault.

The parties' good faith participation is entirely and strictly voluntary. If resolution or settlement is reached it is because of the parties' 'good faith' efforts and compromises. A contractual agreement as a result of settlement efforts is usually drafted listing the details and specifics but will be binding only to the extent of all parties good faith and determination.

The mediator, assigned by the Division shall regard all discussion, measures, procedures, and processes in the mediation process as strictly confidential and shall be maintained that way. Confidentiality by the conflicting parties is self-mandated. The mediators' notes and records will be destroyed at the conclusion of the process, regardless of whether or not a satisfactory resolution or agreement is reached. Mediators are protected by the law; they

cannot be deposed, subpoenaed, or ordered to testify, for any reason, at any time, for either party for any matter related to the proceeding.

Any of the parties, including the mediator, has the right to abandon the process at any time for any reason. Participation in mediation does not compromise the complainant's right to request a formal review of the dispute by the Commission in the event the mediation process is unsuccessful.

The mediator has no rules; the agenda belongs to the parties.

After reviewing the above mediation process, if you would like to try the mediation approach to dispute resolution please contact the Division at (801) 530-7622 with your request. The Division will then contact the other party advising them of your request to mediate the dispute and attempt to establish a time that is convenient to all parties. The Division may request additional information from the parties and conduct a review of the facts prior to the scheduled mediation date and time.

Please keep in mind that disputed issues and items that can be mediated are only those subject to the Commission's jurisdiction and covered by State Statute, or Rule, or those covered by the utility's tariff or price list. Also, monetary damages for harm suffered due to a utility's action or inaction cannot be considered in the conflict or dispute, nor will any consideration for the utility to provide service for free be entertained.

R746-200-8. Informal Review.

A. A person who is unable to resolve a dispute with the utility concerning a matter subject to Public Service Commission jurisdiction may obtain informal review of the dispute by a designated employee within the Division of Public Utilities. This employee shall investigate the dispute, try to resolve it, and inform both the utility and the consumer of his findings within five business days from receipt of the informal review request. Upon receipt of a request for informal review, the Division employee shall, within one business day, notify the utility that an informal complaint has been filed. Absent unusual circumstances, the utility shall attempt to resolve the complaint within five business days. In no circumstances shall the utility fail to respond to the informal complaint within five business days. The response shall advise the complainant and the Division employee regarding the results of the utility's investigation and a proposed solution to the dispute or provide a timetable to complete any investigation and propose a solution. The utility shall make reasonable efforts to complete any investigation and resolve the dispute within 30 calendar days. A proposed solution may be that the utility request that the informal complaint be dismissed if, in good faith, it believes the complaint is without merit. The utility shall inform the Division employee of the utility's response to the complaint, the proposed solution and the complainant's acceptance or rejection of the proposed solution and shall keep the Division employee informed as to the progress made with respect to the resolution and final disposition of the informal complaint. If, after 30 calendar days from the receipt of a request for informal review, the Division employee has received no information that the complainant has accepted a proposed solution or otherwise completely resolved the complaint with the utility, the complaint shall be presumed to be unresolved.

B. Mediation - If the utility or the complainant determines that they cannot resolve the dispute by themselves, either of them may request that the Division attempt to mediate the dispute. When a mediation request is made, the Division employee shall inform the other party within five business days of the mediation request. The other party shall either accept or reject the mediation request within ten business days after the date of the mediation request, and so advise the mediation-requesting party and the Division employee. If mediation is accepted by both parties or the complaint continues to be unresolved 30 calendar days after receipt, the Division employee shall further investigate and evaluate the dispute, considering both the customer's complaint and the utility's response, their past efforts to resolve the dispute, and try to mediate a resolution between the

complainant and the utility. Mediation efforts may continue for 30 days or until the Division employee informs the parties that the Division has determined that mediation is not likely to result in a mutually acceptable resolution, whichever is shorter.

C. Division Access to Information during Informal Review or Mediation - The utility and the complainant shall provide documents, data or other information requested by the Division, to evaluate the complaint, within five business days of the Division's request, if reasonably possible or as expeditiously as possible, if they cannot be provided within five business days.

D. Commission Review - If the utility has proposed that the complaint be dismissed from informal review for lack of merit and the Division concurs in the disposition, if either party has rejected mediation or if mediation efforts are unsuccessful and the Division has not been able to assist the parties in reaching a mutually accepted resolution of the informal dispute, or the dispute is otherwise unresolved between the parties, the Division in all cases shall inform the complainant of the right to petition the Commission for a review of the dispute, and shall make available to the complainant a standardized complaint form with instructions approved by the Commission. The Division itself may petition the Commission for review of a dispute in any case which the Division determines appropriate. While a complainant is proceeding with an informal or a formal review or mediation by the Division or a Commission review of a dispute, no termination of service shall be permitted, if any amounts not disputed are paid when due, subject to the utility's right to terminate service pursuant to R746-200-7(F), Termination of Service Without Notice.

R746-200-9. Formal Agency Proceedings Based Upon Complaint Review.

The Commission, upon its own motion or upon the petition of any person, may initiate formal or investigative proceedings upon matters arising out of informal complaints.

R746-240-7. Review and Resolution of Disputes.

A. Informal Review - A person who is unable to resolve a dispute with a telecommunications corporation concerning a matter subject to Public Service Commission jurisdiction may obtain informal review of the dispute by a designated employee within the Division of Public Utilities. Upon receipt of a request for informal review, the Division employee shall, within one business day, notify the telecommunications corporation that an informal complaint has been filed. Absent unusual circumstances, the telecommunications corporation shall attempt to resolve the complaint within five business days. In no circumstance shall the telecommunications corporation fail to respond to the informal complaint within five business days. The response shall advise the complainant and the Division employee regarding the results of the telecommunications corporation's investigation and a proposed solution to the dispute or provide a timetable to complete any investigation and propose a solution. The telecommunications corporation shall make reasonable efforts to complete any investigation and resolve the dispute within 30 calendar days. A proposed solution may be that the telecommunications corporation requests that the informal complaint be dismissed if, in good faith, it believes the complaint is without merit. The telecommunications corporation shall inform the Division employee of the telecommunications corporation's response to the complaint, the proposed solution and the complainant's acceptance or rejection of the proposed solution and shall keep the Division employee informed as to the progress made with respect to the resolution and final disposition of the informal complaint. If, after 30 calendar days from the receipt of a request for informal review, the Division employee has received no information that the complainant has accepted a proposed solution or otherwise completely resolved the complaint with the telecommunications corporations, the complaint shall be presumed to be unresolved.

B. Mediation - If the telecommunications corporation or the complainant determines that they cannot resolve the dispute by themselves, either of them may request that the Division attempt to mediate the dispute. When a mediation request is made, the Division employee shall inform the other party within five business days of the mediation request. The other party shall either accept or reject the mediation request within ten business days after the date of the mediation request, and so advise the mediation requesting party and the Division employee. If mediation is accepted by both parties or the complaint continues to be unresolved 30 calendar days after receipt, the Division employee shall further investigate and evaluate the dispute, considering both the customer's complaint and the telecommunications corporation's response, their past efforts to resolve the

dispute, and try to mediate a resolution between the complainant and the telecommunications corporation. Mediation efforts may continue for 30 days or until the Division employee informs the parties that the Division has determined that mediation is not likely to result in a mutually acceptable resolution, whichever is shorter.

C. Division Access to Information During Informal Review or Mediation-The telecommunications corporation and the complainant shall provide documents, data or other information requested by the Division, to evaluate the complaint within five business days of the Division's request, if reasonably possible or as expeditiously as possible if they cannot be provided within five business days.

D. Commission Review - If the telecommunications corporation has proposed that the complaint be dismissed from informal review for lack of merit and the Division concurs in the disposition, if either party has rejected mediation or if mediation efforts are unsuccessful and the Division has not been able to assist the parties in reaching a mutually accepted resolution of the informal dispute, or the dispute is otherwise unresolved between the parties, the Division in all cases shall inform the complainant of the right to petition the Commission for a review of the dispute, and shall make available to the complainant a standardized complaint form with instructions approved by the Commission. The Division itself may petition the Commission for review of a dispute in any case which the Division determines appropriate. While a complainant is proceeding with an informal review or mediation by the Division or a Commission review of a dispute, no termination of telecommunications service shall be permitted, if amounts not disputed are paid when due, subject to the telecommunications corporation's right to terminate service pursuant to R746-240-6(D), Termination Without Notice.

R746-240-8. Formal Agency Proceedings Based Upon Complaint Review.

The Commission, upon its own motion, the petition of the Division of Public Utilities, or any person, may initiate formal hearings or investigative proceedings upon a matter arising out of an informal complaint.

FORMAL COMPLAINT INSTRUCTIONS

PUBLIC SERVICE COMMISSION OF UTAH

The Public Service Commission Rules of Practice and Procedure, Section R746-3(A), (B), (C) & (F) require any person wishing to have a hearing before the Commission on a complaint against a utility to file the formal complaint in writing (8 ½ x 11 paper). Attached is a sample form which you may follow. The Commission will take no formal action on oral complaints.

You may either fill in the blanks on the attached form, or you may write your own complaint, but the same information must be included in your complaint. Complaints which are incomplete or illegible will be returned.

Please state your complaint in simple, straightforward, non-technical language. Decide what you want to accomplish in complaining. Do you just want to vent your frustration about high rates? Do you want your telephone fixed? Do you want to make sure you're being charged the proper rate? Be specific in stating your complaint.

The utility involved has thirty days within which to answer your complaint. Your complaint will be reviewed by the Commission to determine whether it has jurisdiction to hear your complaint. If a hearing is scheduled, the Commission will send a notice indicating the hearing date and time. All parties have the right to cross examine witnesses. As the complainant, you have the burden to prove your case.

Utility companies are represented by their lawyers. You may also have a lawyer, if you wish. If you come without your lawyer, you will be held to have given up your right to legal

representation. If you fail to attend a hearing, and have not alerted the Commission, your complaint will be dismissed.

Formal complaints are the last resort in the complaint process. The Commission will not permit a customer to file a formal complaint unless it seems unlikely that a settlement can be reached through the informal process.

The State Legislature has granted the Commission limited authority over utilities regarding customer complaints. The Commission may order a utility to: a) correct service problems; and b) refund incorrect billings.

The Commission has no authority to correct property damage from maintenance operations or sales of defective telephone equipment, nor rudeness on the part of the utility representative to name three examples.

Your rights and responsibilities are contained in Utah Law (Title 54 Chapter 1) and PSC rules and regulations.

Please refer to the PSC Filing Requirements in filing a Formal Complaint at <https://psc.utah.gov/psc-filing-requirements/>

(Please note: Complaints elevated to formal complaints and filed with the Commission are public documents and will be published on the Commission's website.)

**FORMAL COMPLAINT FORM
PUBLIC SERVICE COMMISSION
Heber M. Wells State Office Building
160 East 300 South, Fourth Floor
P.O. Box 45585
Salt Lake City, Utah 84114**

**Complaints are public documents and are maintained on the Public Service Commission website.
Further information on formal complaints is available at: <https://psc.utah.gov/complaint-process/>**

1. Name of Complainant: Robert Ducey

Address: HC63 Box 270030, Fruitland UT 84027

Telephone No.: 4356594563

Email Address: Bob@WesternCabinKits.com

Preferred method of contact: Email or U.S. Mail

If represented by counsel, list:

Name: _____

Address: _____

Telephone No.: _____ Email Address: _____

2. The utility being complained against is: Moon Lake Electric

3. What did the utility do which you (the Complainant) think is illegal, unjust, or improper?
Include exact dates, times, locations and persons involved, as closely as you can.

~~Moon Lake asked for \$619.02 and after a few smaller offers, on 3/11 I told them I would pay \$619.02. I'm 80 years old and my only source of income is social security. I receive it on the 3rd Wednesday of every month (March 20). I expected the Consumer Accounting Supervisor, DUSTIN T. McGEE would agree. This was his reply: "if we did not receive your payment before today at 8am (3/12), your power would be shut-off" Why would anyone shut off power in the winter. My wife passed away in December and the home is now up for sale. We are in the mountains (6,700). Pipes will burst, electric bills will skyrocket, reconnect charges, all because Dustin could not wait for my social security. Doesn't not make any sense to an 80 year old?~~

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

All of the above

5. What relief does the Complainant request?
Keep the power on until they have proof I paid \$619.02 on March 20th

6. Signature of Complainant Bob Ducey

Date: 3/12/2019

NOTE: Submit complaint by email or U.S. mail. (<https://psc.utah.gov/psc-filing-requirements/>)