

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Formal Complaint of W. Michael Sessions
against Rocky Mountain Power

DOCKET NO. 19-035-31

ORDER DENYING MOTION FOR
SUMMARY JUDGMENT AND
NOTICE OF HEARING

ISSUED: October 18, 2019

On August 12, 2019, W. Michael Sessions filed a formal complaint with the Public Service Commission of Utah (PSC) against Rocky Mountain Power (RMP). Sessions alleges that upon the 2018 completion of a remodel to his home that included the addition of a second meter, RMP wrongly required Sessions to pay for a transformer upgrade before reconnecting electric service to his home. On September 11, 2019, RMP filed an answer and a motion for summary judgment stating “[t]he added load of the multi-family residence required a transformer upgrade” and that RMP complied with Electric Service Regulation No. 12 – Line Extensions (“Extension Tariff”). RMP also argued that the PSC should not consider claims related to breach of contract or duress. Sessions responded on September 17, 2019, asserting that the addition of a second meter should not have been dispositive to whether a transformer upgrade was necessary, and stating his intent to prove that the upgrade in fact was not necessary. RMP did not file a reply to Sessions’ response.

In considering RMP’s motion for summary judgment, we must evaluate whether a genuine dispute to any material fact exists. While RMP cited generally to the Extension Tariff, RMP did not indicate which specific provisions of that tariff applied to Sessions’ complaint or provide specific factual assertions related to the manner in which RMP complied with them. Therefore, as we have conducted our own review of the Extension Tariff, it appears the crucial

DOCKET NO. 19-035-31

- 2 -

inquiry for this complaint relates to language on Sheet No. 12R.6 creating procedures RMP must follow if a customer “adds load . . . and the cumulative loads exceed the existing transformer’s . . . rated design capacity.”

Sessions has asserted in his complaint and response that his construction work and additional meter did not require a transformer upgrade. Alternatively, RMP asserts that the construction “required an upgrade of existing electrical equipment, including the purchase of a higher capacity transformer.”

We conclude that those conflicting assertions constitute a genuine dispute of material fact. Therefore, we deny RMP’s motion for summary judgment and are affording both Sessions and RMP an opportunity to present evidence at hearing relating to whether the transformer upgrade was necessary, and whether RMP otherwise complied with the requirements of the Extension Tariff in connection with Sessions’ construction project.

We decline to conclude at this time whether we have jurisdiction to consider other claims such as breach of contract or duress. If necessary, we will address those issues following the hearing.

NOTICE OF HEARING

The PSC’s designated Presiding Officer will conduct a hearing in this docket on **Tuesday, November 19, 2019, beginning at 9:00 a.m.** The hearing will be held in the **Fourth Floor Hearing Room 451**, Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah. All parties must have their witnesses in attendance and prepared to testify.

DOCKET NO. 19-035-31

- 3 -

Individuals wishing to participate in the hearing by telephone must contact the PSC two days in advance by calling (801) 530-6716 or (toll free) 1-866-PSC-UTAH (1-866-772-8824) to receive a bridge number and participant passcode. Participants attending by telephone should then call the bridge number five minutes prior to the hearing, entering the passcode followed by the # sign to ensure participation.

In accordance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the hearing should notify the PSC at 160 East 300 South, Salt Lake City, Utah 84111, (801) 530-6716, at least three working days prior to the hearing.

DATED at Salt Lake City, Utah, October 18, 2019.

/s/ Michael J. Hammer
Presiding Officer

Approved and confirmed October 18, 2019 by the PSC.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#310374

CERTIFICATE OF SERVICE

I CERTIFY that on October 18, 2019, a true and correct copy of the foregoing was served upon the following as indicated below:

By Email:

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