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September 25, 2019

***VIA ELECTRONIC FILING***

Public Service Commission of Utah  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84114

Attention: Gary Widerburg  
Commission Administrator

**RE: Docket No. 19-035-34 – In the Matter of the Formal Complaint of Anne Francis  
against Rocky Mountain Power**

Dear Mr. Widerburg:

Rocky Mountain Power (“Company”) hereby submits for filing its Answer and Motion to Dismiss in the above referenced matter. The Company respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): [datareq@pacificorp.com](mailto:datareq@pacificorp.com)  
[jana.saba@pacificorp.com](mailto:jana.saba@pacificorp.com)

By regular mail: Data Request Response Center  
PacifiCorp  
825 NE Multnomah, Suite 2000  
Portland, OR 97232

Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,

A handwritten signature in blue ink that reads "Daniel E. Solander".

Daniel E. Solander  
Senior Attorney

Enclosures

Cc: Service List (w/ enclosures)

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*Attorney for Rocky Mountain Power*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of Anne Francis	:	
	:	
Complainant,	:	Docket No. 19-035-34
	:	
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 (“RMP” or the “Company”), pursuant to Utah Code Ann. §§ 63G-4-204(1) and Utah Admin. Code R746-1-203, R746-1-206, and R746-1-301, provides its Answer to the formal complaint (“Complaint”) filed by Anne Francis (“Complainant”) with the Public Service Commission of Utah (the “Commission”). 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)  
[jana.saba@pacificorp.com](mailto:jana.saba@pacificorp.com)  
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By mail: Data Request Response Center  
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## II. BACKGROUND

1. On August 5, 2019, Rocky Mountain Power residential customer Ms. Anne Francis filed an informal complaint regarding line clearances at her home in River Heights, Utah. Ms. Francis stated the power line was in close proximity to her roof, and that other utilities' lines were laying on her roof. She requested that the power line be rerouted so that it does not cross her roof and a pole moved to her neighbor's yard.

2. On August 9, 2019, Rocky Mountain Power provided a response to the informal complaint. The Company's response stated that: (1) the distribution line on Ms.

Francis' property has been in place since the 1950s; (2) Ms. Francis had previously been provided a cost estimate to move the facilities crossing her property; and (3) the measurement from the peak of her roof to the conductor is 61 inches, which is well within NESC clearance requirements.

3. On August 26, 2019, Ms. Francis filed the formal Complaint with the Commission. Ms. Francis' Complaint makes a number of statements related to Rocky Mountain Power's easements on her property, and states that she was never provided the citation to the NESC clearance requirements.

4. The Complaint does not allege that Rocky Mountain Power has violated any provision of law, Commission Order or Rule, or Company tariff. The Complaint does not request any relief other than the relocation of facilities (including those not owned by Rocky Mountain Power), and states that the Complainant would like to know that all of the power and utilities lines on her property are in compliance with safety codes.

### **III. ANSWER AND MOTION TO DISMISS**

5. The Company moves under Utah Rules of Civil Procedure, Rule 12(b)(6) for an Order dismissing the Complaint. As noted above, the Complaint does not include any allegations that Rocky Mountain Power has violated any provision of law, Commission Order or Rule, or Company tariff.

6. The current NESC requirements for Service Drops and Drip Loops, 750 Bolts and Below, was provided in the Company's response to Ms. Francis' informal complaint, and is 42 inches of clearance from a building for service drops not attached to the building. This information is contained in Table 234-1 of the 2017 NESC handbook.

As noted in the Company's response to Ms. Francis' formal complaint, Mr. Francis was present when the measurements were taken confirming the clearance distance as 61 inches.

7. With respect to Ms. Francis' allegations regarding the sufficiency of the Company's easements and the location of its facilities on Ms. Francis' property, these complaints are not within the jurisdiction of the Commission. Although the Commission has broad jurisdiction, granted to it by Utah Code Ann. §54-4-1 "to supervise and regulate every public utility in this state and to supervise all of the business of every such public utility" the Utah Supreme Court has stated that "the primary purpose of the Commission is to fix the rates that a public utility may charge its customers."<sup>1</sup>

8. The test for whether a utility activity is Commission-jurisdictional is "whether the activity the Commission is attempting to regulate is closely connected to its supervision of the utility's rates and whether the manner of the regulation is reasonably related to the legitimate legislative purpose of rate control for the protection of the consumer."<sup>2</sup> In this case, the question of whether the Company's easements and construction standards are adequate do not meet this standard. In addition, the Commission has previously noted that property disputes, such as this one, are properly initiated in the District Court.<sup>3</sup>

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<sup>1</sup> *Bear Hollow Restoration, LLC v. Pub. Serv. Comm'n of Utah*, 2012 UT 18 (Utah 2012), citing *Kearns-Tribune Corp. v. Pub. Serv. Comm'n*, 682 P. 2d 858, 859 (Utah 1984).

<sup>2</sup> *Id.* at ¶ 32.

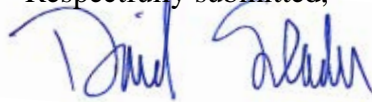
<sup>3</sup> See, e.g., Formal Complaint of Brent E. Hill against Rocky Mountain Power, Order Dismissing Complaint, Docket No. 17-035-49, issued February 14, 2018.

#### IV. 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 25<sup>th</sup> day of September 2019.

Respectfully submitted,



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Daniel E. Solander

*Attorney for Rocky Mountain Power*

**CERTIFICATE OF SERVICE**

Docket No. 19-035-34

I hereby certify that on September 25, 2019, a true and correct copy of the foregoing was served by electronic mail to the following:

Anne Francis [annefrancis82@gmail.com](mailto:annefrancis82@gmail.com)  
**Utah Office of Consumer Services**

Cheryl Murray [cmurray@utah.gov](mailto:cmurray@utah.gov)

Michele Beck [mbeck@utah.gov](mailto:mbeck@utah.gov)

**Division of Public Utilities**

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**Rocky Mountain Power**

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Mary Penfield  
Adviser, Regulatory Operations