

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the matter of the complaint of: DONNIE)
SWEGZEY,)
Complainant,)
vs.)
UTAH POWER AND LIGHT,)
Respondent)

DOCKET NO. 02-035-08
REPORT AND ORDER

ISSUED: January 8, 2003

SYNOPSIS

Complainant having failed to show any violation of Respondent's published tariffs or of the applicable statutes and Commission rules, we dismiss.

By The Commission:

PROCEDURAL HISTORY

Complainant Donnie Swegzey filed his complaint on August 16, 2002. On September 13, 2002, Respondent, Utah Power and Light, filed, by letter, a response and request for dismissal of the complaint. The Division of Public Utilities also filed, on September 16, 2002, a memorandum containing the results of its investigation, and a recommendation that the complaint be dismissed. Customer complaints being designated informal proceedings under Commission rules, and there appearing to be no disputed factual issue necessary to the resolution of this matter, we deem it ripe for disposition without hearing or submission of further evidence. The Administrative Law Judge, having been fully advised in the premises, now enters the following Report, containing proposed Findings of Fact, Conclusions of Law, and the Order based thereon.

FINDINGS OF FACT

1. Complainant is a residential customer of Respondent, an electrical corporation under the jurisdiction of this Commission.
2. Complainant alleges that Respondent improperly applied two deposits previously paid to Respondent. Complainant seeks reinstatement of at least one deposit and a refund of overpaid security deposits.
3. In its answer, Respondent stated that Complainant had twice filed for bankruptcy, and each time the deposit previously made by Complainant was applied to the pre-petition amount owing by Complainant. Respondent further asserts that it is entitled to request a deposit from this customer, and any other customer, that is seeking relief from debt owed under bankruptcy law.

CONCLUSIONS OF LAW

The Commission has party and subject-matter jurisdiction. Complainant has failed to allege facts which would entitle him to relief. The facts alleged by Complainant do not indicate any violation by Respondent of its tariff, or other statutory or administrative requirements. When a customer files for bankruptcy, Respondent is entitled to use deposits paid to offset pre-petition debt unless otherwise prohibited by the Bankruptcy Court. The purpose of deposits is to

provide some protection to Respondent, and ultimately Respondent's other ratepayers, from bad debt. Respondent is also entitled to, again subject to Bankruptcy Court requirements, to request an additional deposit from a customer that is seeking relief from debt under bankruptcy law. The complaint must be dismissed.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

- The complaint of DONNIE SWEGZEY against UTAH POWER AND LIGHT is dismissed.
- If Complainant wishes to proceed further, he may file a written petition for review within 20 days of the date of this Order. Failure so to do will forfeit the right to appeal.

DATED at Salt Lake City, Utah, this 8th day of January, 2003.

/s/ Douglas C. Tingey
Administrative Law Judge

Approved and Confirmed this 8th day of January, 2003, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#32038