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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE COMPLAINT OF MENLOVE-JOHNSON, INC. AGAINST ROCKY MOUNTAIN POWER FOR REFUND	DOCKET NO. 11-035-_____ COMPLAINT
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Pursuant to Utah Code § 54-7-20, Commission Rule R746-310-9 and Rocky Mountain Power (“RMP”) Electric Service Regulations 8, §9 and 3, §4 , Menlove-Johnson, Inc. (“Menlove”) hereby complains of RMP and seeks a refund for rates collected in excess of tariff rates, for an incorrect service classification, and for overbilling. In support of this Complaint, Menlove represents as follows:

1. Menlove is a Utah corporation that began operating a car dealership in Bountiful in 1964. In 2007, Menlove demolished and rebuilt its Bountiful Toyota dealership. Engineering consultants working for Menlove contacted RMP to arrange for appropriate electric service at the site. At RMP’s request, Menlove’s consultants prepared and submitted to RMP a

Commercial/Industrial Information Sheet (“Information Sheet”) and a one-line diagram (“One-Line Diagram”), copies of which are attached hereto as Exhibits “1” and “2”.

2. The low voltage system at the site was specifically designed to use three separate meters, in part so that nighttime outdoor lighting loads could be separately metered and charged based on the appropriate service classification and electric service schedule. Menlove’s engineering consultants had previously designed several other car dealerships in Utah with similar designs, with the intent and effect that outdoor nighttime lighting loads were billed based on the appropriate service classification and electric service schedule. The Information Sheet and the One-Line Diagram specified that three separate meters would be used, two for building loads and one for site lighting loads.

3. On or about January 11, 2008, Menlove signed a General Service Contract prepared and requested by RMP (“GSC”), a copy of which is attached as Exhibit “3”. The “Contract Minimum Billing” section of the GSC references “Rate Schedule 06 and superseding schedules.” The GSC is otherwise silent as to the applicable service classification or the rates or charges to be assessed.

4. Beginning in or around January 2008, RMP erroneously and improperly billed Menlove’s separately metered nighttime outdoor lighting loads based on RMP’s Electric Service Schedule No. 6, when those loads should have been billed based on an Electric Service Schedule designed for metered outdoor nighttime lighting.

5. Commission Rule R746-310-9 and RMP’s Electric Service Regulation No. 8, Section 9(a)(3), define overbilling to include the results of an “incorrect service classification,” assuming information supplied by the customer was not “erroneous or deficient.” Menlove did not provide

erroneous or deficient information to RMP, yet RMP improperly assigned Menlove's metered outdoor nighttime lighting load an incorrect service classification.

6. RMP's Electric Service Regulation No. 3, Section 4, provides that RMP will, upon request, assist a customer in the selection of the most favorable Electric Service Schedule, and provides that RMP will not be liable in selecting an improper rate schedule to the extent the mistake results from erroneous information supplied by the customer. Menlove relied upon and requested assistance from RMP in determining the appropriate rate schedules and service classifications for its loads, and provided accurate information to RMP, yet RMP improperly billed Menlove's metered outdoor nighttime lighting load based on an improper service classification and inapplicable rate schedule.

7. Utah Code Section 54-7-20 authorizes this Commission to order reparations for utility charges in excess of applicable tariff charges or for charges that are unjust, unreasonable or discriminatory, plus interest.

8. RMP's error in assigning an incorrect service classification and billing Menlove's metered outdoor nighttime lighting load based on the wrong electric service schedule resulted in an overbilling. It also resulted in unjust and unreasonable rates, and in rates that were unduly discriminatory compared to other similarly situated car dealerships. Menlove is entitled to an order from this Commission requiring RMP to refund to Menlove the amount of charges for nighttime outdoor lighting at the site in excess of applicable rates specified in RMP's Electric Service Schedule for metered nighttime outdoor lighting, currently Schedule 15.

9. Menlove estimates that RMP's erroneous and excessive billing from December 2008 through January 2011 is approximately \$55,000.

10. Menlove pursued informal resolution of this dispute through the Division of Public Utilities, but RMP continues to refuse to refund the improper, unlawful and discriminatory amounts that it collected from Menlove.

WHEREFORE, Menlove requests that this Commission order RMP to refund and pay to Menlove all amounts collected by RMP from Menlove for metered nighttime outdoor lighting loads in excess of appropriate charges under the applicable Electric Service Schedule for outdoor nighttime lighting, together with interest and such other and further relief as the Commission may determine to be appropriate under the circumstances.

DATED this 6th day of October, 2011.

HATCH, JAMES & DODGE

/s/ _____
Gary A. Dodge
Attorneys for Menlove

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent by email this 6th day of October, 2011, to the following:

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/s/ _____