

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of Kelly Margetts against Rocky Mountain Power	<u>DOCKET NO. 15-035-19</u>
In the Matter of the Formal Complaint of Kelly Margetts against CenturyLink	<u>DOCKET NO. 15-049-04</u> <u>ORDER DENYING REQUEST FOR AGENCY REVIEW</u>

ISSUED: July 7, 2015

BACKGROUND

On June 8, 2015, the Commission issued an order dismissing Kelly Margetts's formal complaint against Rocky Mountain Power, a division of PacifiCorp (RMP), and CenturyLink (CenturyLink).¹ The Commission's order set forth the procedure for agency review or rehearing should a party wish to challenge the Commission's order.²

On June 19, 2015, Kelly Margetts (Mr. Margetts) filed a motion,³ which we interpret and treat as a request for agency review under Utah Code Ann. § 63G-4-301 and Utah Admin. Code R746-100-11(F). Mr. Margetts raises several issues, which we outline as follows: (1) that he was prevented from accessing his utility service; (2) that he was prevented from communicating with representatives of CenturyLink and Rocky Mountain Power at the informal complaint level before this matter came to the Commission as a formal complaint; and (3) that, based on an alleged administrative error, this proceeding should be removed from the public record because it may or may not have been necessary.⁴

¹ See Order Dismissing Complaint, issued June 8, 2015.

² See *id.* at 12.

³ See Motion for Mistrial/Agency Review; Administrative Error; and Expungement from Public Record, filed June 19, 2015.

⁴ See *id.* at 1-3.

Mr. Margetts served his motion on the Division of Public Utilities (Division), but he did not serve RMP or CenturyLink.⁵ The Division filed no response.

DISCUSSION

I. THE COMMISSION LACKS JURISDICTION TO ADJUDICATE CLAIMS REGARDING INTERFERENCE WITH ACCESS TO A RESIDENCE THAT MAY IN TURN PREVENT A HOMEOWNER'S UTILIZATION OF ELECTRIC SERVICE

Mr. Margetts alleges that RMP and CenturyLink interfered with his ability to use Grace Court, a public road, between the dates of January 15 and February 3, 2015. In essence, Mr. Margetts claims that as a result of RMP and CenturyLink's alleged action, he was prevented from accessing his residence and was therefore prevented from utilizing his electric service.

The Commission has jurisdiction over RMP's provision of "electric service." Pursuant to Utah Admin Code R746-310-1(B)(9), "[e]lectric service' means the availability of electric power and energy at the customer's point of delivery at the approximate voltage and for the purposes specified in the application for electric service, electric service agreement or contract, irrespective of whether electric power and energy is actually used."⁶ The Commission, however, lacks jurisdiction to adjudicate claims, like the one presented in this docket, regarding alleged interference with access to residences that may in turn prevent a homeowner's utilization of electric service. Although we understand that construction impacting roadways can be

⁵ See *id.* at 6.

⁶ This Commission rule is consistent with RMP's Electric Service Regulation No. 2, which provides: "[e]lectric [s]ervice" is defined as "[t]he availability of electric power and energy at the Customer's point of delivery, irrespective of whether electric power and energy is actually used." RMP's Electric Service Regulation No. 2, ¶ 14, available at: https://www.rockymountainpower.net/content/dam/rocky_mountain_power/doc/About_Us/Rates_and_Regulation/Utah/Approved_Tariffs/Rules/General_Definitions.pdf.

inconvenient at times and we sympathize with Mr. Margetts over this issue, the Commission has no authority to adjudicate Mr. Margetts's claim.

II. THE FOCUS OF THIS DOCKET IS MR. MARGETTS'S FORMAL COMPLAINT RATHER THAN EVALUATION OF THE UNSUCCESSFUL INFORMAL DISPUTE RESOLUTION PROCESS

The Commission's rules provide parties an opportunity to attempt to resolve disputes with utilities by first seeking informal review by the Division.⁷ If the dispute is not resolved through the informal process with the Division, parties have the right to make a formal complaint with the Commission. In this instance, the Division was not able to assist the parties in reaching a mutually accepted resolution of the informal dispute and informed Mr. Margetts of his right to petition the Commission for a review of the dispute. To that end, Mr. Margetts filed a formal complaint with the Commission on February 20, 2015, which initiated this docket. While we encourage informal dispute resolution among parties, once a formal complaint is made, the Commission's focus and charge is to address the formal complaint rather than evaluation of an unsuccessful informal dispute resolution process.

III. NO PROVISION UNDER UTAH LAW OR RULE PROVIDES FOR EXPUNGEMENT OF COMMISSION PROCEEDINGS

In addition, Mr. Margetts requests the Commission to expunge this proceeding from the public record due to an alleged administrative error. We note that the concept of expungement under Utah law typically is reserved for criminal records. We find no provision under Utah law or rule that provides for expungement of Commission proceedings and, therefore, we deny Mr. Margetts's request to expunge this proceeding.

⁷ See Utah Admin. Code R746-200-8.

Lastly, the Commission recognizes that Mr. Margetts failed to serve RMP and CenturyLink, as required by Utah Code Ann. § 63-G-301(1)(b)(iv). Ordinarily, the Commission would require those parties in interest to be served to allow them the opportunity to respond.⁸ In light of our order denying Mr. Margetts's motion, however, we do not believe that requiring service on those parties and an extension of the schedule for responding is necessary.

ORDER

For the foregoing reasons, Mr. Margetts's request for agency review is denied.

This is a final order.

DATED at Salt Lake City, Utah, this 7th day of July, 2015.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#267336

⁸ See Utah Code Ann. § 63-G-301(1)(b)(iv). See also *id.* § 63-G-301(2)(a).

Notice of Opportunity for Agency Review or Rehearing

Judicial review of the Commission's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on the 7th day of July, 2015, a true and correct copy of the foregoing was served upon the following as indicated below:

By U.S. Mail:

Kelly Margetts
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By E-Mail:

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Administrative Assistant