
In the Matter of Moon Lake Electric
Association, Inc.'s Proposed Tariff Revisions

DOCKET NO. 17-030-T01
ORDER TO FILE TARIFF AND
DEMONSTRATE COMPLIANCE WITH
APPLICABLE LAW

ISSUED: February 16, 2021

The Public Service Commission orders Moon Lake Electric Association, Inc. to submit a report, on or before March 24, 2021, as explained in this Order.

1. Procedural Background

- a. The PSC Opened this Docket after Moon Lake Submitted Several Changes to Its Tariff in 2017.

Moon Lake Electric Association, Inc. (“Moon Lake”) prompted the Public Service Commission (PSC) to open this docket when it submitted tariff revisions on July 3, 2017 (“2017 Filing”), including changes to its Electric Service Schedule NM-3 for certain net metering customers (“2017 NM Change”) and to its line extension policy (“2017 Regulation 17 Change”). With respect to the 2017 NM Change, Moon Lake represented that it calculated “Large Power” net metering customers’ bills by applying the lower of (i) the demand reading multiplied by \$12.00 per kW, or (ii) \$0.07 multiplied by kWh usage. The 2017 Filing proposed to eliminate the alternative calculation and simply charge the demand reading multiplied by \$12.00 per kW. The 2017 Regulation 17 Change “made changes to [Moon Lake’s] line extension policy, specifically in the area[] of service upgrades.”¹

After the PSC asked the Division of Public Utilities (DPU) to investigate and provide input on the 2017 Filing, the DPU submitted comments on July 12, 2017, recommending the

¹ Division of Public Utilities’ Comments filed July 12, 2017 at 2.

PSC decline to acknowledge the revisions because Moon Lake had failed to comply with Utah Code Ann. § 54-7-12. The DPU explained: “While the changes have minimal impacts on ratepayers and were approved by the Board of Directors, the Utah Code is clear and specific about the process for rate increases ... which [Moon Lake] failed to comply with.” Specifically, the DPU noted that Moon Lake had not sent out notices and held a public meeting as the law requires. *See* Utah Code Ann. 54-7-12(7)(c). The DPU argued the revisions in the 2017 Filing “could be viewed as a potential rate increase” and were subject to this requirement.

b. The PSC Declined to Acknowledge Moon Lake’s 2017 Filing.

Having reviewed the DPU’s comments, the PSC sent a letter to Moon Lake on July 20, 2017 (“PSC’s 2017 Letter”), providing:

The PSC concurs with the DPU’s observations regarding the tariff change requirements an electric cooperative must meet under Utah law. Regardless of whether customers are impacted by a tariff change, for rate increases Utah law requires that ‘the cooperative has held a public meeting for all its customers and members. The cooperative shall mail a notice of the meeting to all of [its] customers and members not less than 10 days prior to the date that the meeting is held.’ Utah Code Ann. § 54-7-12(7)(c). The PSC does not have the authority or power to waive this requirement.

The PSC further made clear “[t]he PSC interprets Moon Lake’s [2017 NM Change] as a rate increase” and requested Moon Lake “clarify the effect of its proposed tariff changes and provide all required documentation including the correct effective date(s) of the changes on the revised tariff sheets.”

With respect to Moon Lake’s revision to Regulation 17, the PSC additionally explained it was “unclear whether the changes to Regulation No. 17 constitute a rate change” because the redline copy Moon Lake submitted did not comport with its description of the changes. To

clarify the ambiguity, the PSC directed Moon Lake to “refile its proposed tariff change” regardless of whether it would result in a rate change. Accordingly, the PSC determined that it could not acknowledge any of Moon Lake’s revisions in the 2017 Filing “until the relevant requirements of the Utah Code have been satisfied or Moon Lake provides supplemental clarifying information.”

Additionally, the PSC observed that “when Moon Lake adopted its Tariff No. 6 in 2016, which cancelled all previous electric service schedules and regulations, it did not file a complete tariff with the PSC (*i.e.*, rate schedules and regulations). Rather, it filed only the rate schedule portion of the tariff.” Therefore, the PSC requested Moon Lake “file its complete tariff with the PSC as soon as practicable.”

The PSC has no record of Moon Lake supplementing its 2017 Filing or otherwise responding to the PSC’s 2017 Letter.

- c. Though Moon Lake Did Not Cure the Issues that Prompted the PSC to Decline to Acknowledge the 2017 Filing, Moon Lake Submitted Correspondence Requesting an Additional Change in November 2020.

On November 10, 2020, Moon Lake submitted correspondence (“2020 Filing”) to the PSC, attaching an “updated Electric Service Regulation . . . that was effective on July 1, 2019” and providing an illustrative table (“Table”) Moon Lake intends to add to Regulation 17 to assist customers in understanding the provision based on the size of their service amp. Moon Lake inquires whether it may file the Table as an addendum rather than undertake a “full filing process” given that the illustration does not “materially chang[e]” the associated costs for its ratepayers.

On November 13, 2020, the PSC issued an Action Request to the DPU, requesting it provide analysis and a recommendation regarding the 2020 Filing. On November 30, 2020, the DPU submitted its response concerning the 2020 Filing. With respect to the Table, the DPU notes the iteration of Regulation 17 that Moon Lake is using already employs similar tables. The DPU concludes the Table would “be in line with past practice and should be allowed” because such illustrations “make the tariff easier to understand [for] utility customers.” However, referencing the PSC’s 2017 Letter, the DPU observes the PSC has not acknowledged the version of Regulation 17 that Moon Lake is presently using, *i.e.*, the version Moon Lake seeks to amend by adding the Table.

2. Moon Lake Must Bring Its Tariff into Compliance with the Law

The PSC is “vested with power and jurisdiction to supervise and regulate every public utility in this state, and to supervise all of the business of every such public utility in this state, and to do all things ... necessary or convenient in the exercise of such power and jurisdiction.” Utah Code Ann. § 54-4-1. Under Utah law, distribution electrical cooperatives, such as Moon Lake, are public utilities over which the PSC has jurisdiction. *See id.* at § 54-2-1(22).

Section 54-7-12 governs the process that utilities and the PSC must typically follow when a utility seeks to change its rates, including certain filing requirements, statutory deadlines, and ultimately “hold[ing] a hearing to determine whether the proposed rate increase or decrease ... is just and reasonable.” *Id.* at § 54-7-12(2)(d). However, electrical cooperatives are statutorily exempt from this process provided they satisfy all of four enumerated requirements: (a) the cooperative is organized for the purpose of distributing electricity to its members at cost; (b) the cooperative’s board of directors (and any necessary federal agency) have approved the “rate

change and all necessary tariff revisions reflecting the ... rate change”; (c) “[b]efore implementing any rate increases, the cooperative has held a public meeting for all its customers and members” and has “mail[ed] a notice of the meeting to all of the cooperative’s customers and members not less than 10 days prior to the date that the meeting is held”; and (d) “[t]he cooperative has filed its tariff revisions reflecting the rate increase or other rate change with the [PSC],” which must “make the tariffs available for public inspection.” *Id.* at § 54-7-12(7).

Given that Moon Lake did not supplement its 2017 Filing or otherwise comply with the PSC’s 2017 Letter, significant questions exist as to whether Moon Lake has implemented changes to its tariff and rates in a manner consistent with the law. For example, in its 2020 Filing, Moon Lake attaches a copy of its Regulation 17, Line Extension Policy, that purports to have been effective since July 1, 2019. Yet, the PSC has no record of Moon Lake submitting a revised schedule in 2019. Moreover, the 2019 version appears to include revisions Moon Lake submitted in its 2017 Filing that the PSC expressly declined to acknowledge or approve because of Moon Lake’s apparent failure to comply with Utah Code Ann. § 54-7-12(7).

The PSC is also concerned that Moon Lake appears to have failed to provide a full copy of its tariff as the PSC’s 2017 Letter directed.

3. Order

The PSC is charged with seeing the laws governing public utilities “are enforced and obeyed.” *Id.* at § 54-7-21. To empower it to do so, the PSC has authority to impose penalties on utilities that fail to comply with applicable statutes, rules, or orders. *Id.* at § 54-7-25. The PSC may also commence an action in court to seek injunctive relief where necessary to obtain compliance. *Id.* at § 54-7-29.

The PSC appreciates that rural electrical cooperatives, such as Moon Lake, do not necessarily have the resources to devote to regulatory compliance that larger utilities might possess. Nevertheless, the Legislature has imposed certain regulatory obligations on electrical cooperatives and charged the PSC with enforcing them, including the requirements to hold a public meeting before increasing rates and to maintain a current copy of the tariff on file with the PSC.

In light of the foregoing, the PSC orders Moon Lake to file a Report (“Report”) with the PSC no later than **Wednesday, March 24, 2021**. The Report must contain, at minimum, the following:

1. A complete copy of Moon Lake’s currently effective tariff;
2. A record of all changes or revisions to Moon Lake’s tariff since January 1, 2016;
3. A record of the actions Moon Lake’s board of directors has taken to approve any changes or revisions to the tariff since January 1, 2016;
4. A record of all public meetings, and corresponding public notices, Moon Lake has held since January 1, 2016 pursuant to Utah Code Ann. § 54-7-12(7)(c); and
5. To the extent Moon Lake’s currently effective tariff contains revisions that were made effective without meeting all statutory requirements, Moon Lake’s plan for rectifying the deficiency or deficiencies, including but not necessarily limited to any public meetings Moon Lake intends to hold.

DOCKET NO. 17-030-T01

- 7 -

DATED at Salt Lake City, Utah, February 16, 2021.

/s/ Michael J. Hammer
Presiding Officer

Approved and confirmed February 16, 2021 as the Order of the Public Service
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#317381

Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this written Order by filing a written request with the PSC within 30 days after the issuance of this Order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC does not grant a request for review or rehearing within 30 days after the filing of the request, it is deemed denied. Judicial review of the PSC'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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on February 16, 2021, a true and correct copy of the foregoing was delivered upon the following as indicated below:

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