

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of
Alan and Wendy Houtz against Rocky
Mountain Power

DOCKET NO. 17-035-05
ORDER ON MOTION TO DISMISS

ISSUED: March 24, 2017

I. Procedural history and parties' positions.

On January 25, 2017, Alan and Wendy Houtz (the Houtzes) filed a formal complaint against Rocky Mountain Power, a public utility. The Houtzes alleged that, in order to obtain power for new construction on their property, Rocky Mountain Power improperly required them to pay the full cost of a transformer that has the potential to serve additional customers.

On February 24, 2017, Rocky Mountain Power answered the complaint and filed a motion to dismiss it. In its response, Rocky Mountain Power argued that Regulation 12, Section 2(a) of its tariff governs how costs for a customer-requested line extension are assessed. The tariff states:

2. RESIDENTIAL EXTENSIONS

(a) Extension Allowances

The Extension Allowance for permanent single residential applications is \$1100. The Extension Allowance for a residential application in a planned development where secondary voltage service is available at the lot line is \$350. The Applicant must advance the costs exceeding the Extension Allowance prior to the start of construction.

Rocky Mountain Power considers that this tariff provision applies to the line extension requested by the Houtzes and argues that the Houtzes have not alleged that Rocky Mountain Power violated its tariff.

On March 13, 2017, the Houtzes filed a response to Rocky Mountain Power's motion to dismiss. In their response, the Houtzes acknowledge that "... Rocky Mountain Power may have followed Commission rules and Company tariffs." Nevertheless, they continue to challenge the line extension charges as "unjust." The Houtzes have not set forth any rule of law or legal theory to support their contention that the charges are unjust.

On March 23, 2017, Rocky Mountain Power filed a final reply in support of its motion to dismiss. In its reply, Rocky Mountain Power reiterated that the charges to the Houtzes are required under the utility's tariff and that there is no evidence that Rocky Mountain Power has violated any applicable law, rule, or regulation.

II. Analysis.

Rocky Mountain Power's tariff has been found by the PSC in prior proceedings to be just, reasonable, and in the public interest. In order for the PSC to revisit that finding, a complainant must set forth a legal basis from which to challenge the tariff as illegal or against the public interest. Dissatisfaction with a policy contained in the tariff—or a generalized sense of unfairness—is insufficient.

The evidence of record demonstrates that Rocky Mountain Power has complied with its tariff, the provisions of which have been found by the PSC to be fair. There is no evidence to demonstrate that Rocky Mountain Power has violated any law, rule, or regulation that would allow the PSC to take action on the Houtzes' complaint. Therefore, the PSC concludes that there is no relief available to the Houtzes in this matter. Utah R. Civ. Pro. 12(b)(6).

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ORDER

The January 25, 2017 complaint filed by Alan and Wendy Houtz against Rocky Mountain Power is dismissed. Dismissal is with prejudice.

DATED at Salt Lake City, Utah, March 24, 2017.

/s/ Jennie T. Jonsson
Administrative Law Judge

Approved and confirmed March 24, 2017 as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#292468

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on March 24, 2017, a true and correct copy of the foregoing was served upon the following as indicated below:

By U.S. Mail:

Alan and Wendy Houtz
686 E. Maple Street
Mapleton, UT 84664

By Electronic-Mail:

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