



Fred Nass &lt;fnass@utah.gov&gt;

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**Fwd: FW: Brent Hill Answer to Rocky Mountain Power (RMP) Answers and motion to Dismiss**

1 message

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**Gary Widerburg** <gwiderburg@utah.gov>  
To: Fred Nass <fnass@utah.gov>

Wed, Feb 7, 2018 at 9:59 AM

----- Forwarded message -----

From: **Braithwaite, Autumn** <Autumn.Braithwaite@pacificcorp.com>

Date: Tue, Dec 12, 2017 at 4:50 PM

Subject: FW: Brent Hill Answer to Rocky Mountain Power (RMP) Answers and motion to Dismiss

To: "Gary Widerburg (gwiderburg@utah.gov)" &lt;gwiderburg@utah.gov&gt;

Good afternoon Gary,

It appears Mr. Hill did not include the Utah Public Service Commission regarding his reply to Rocky Mountain Power's Answer and Motion to Dismiss for Docket No. 17-035-49.

With the Commission issuing an Order earlier today to dismiss the case, will Mr. Hill need to appeal the decision or will the Commission redact their Order?

Thank you,

Autumn Braithwaite

Regulatory Analyst

(801) 955-2434

**From:** [mylenderllc@gmail.com](mailto:mylenderllc@gmail.com) [mailto:[mylenderllc@gmail.com](mailto:mylenderllc@gmail.com)] **On Behalf Of** Brent Hill**Sent:** Wednesday, December 06, 2017 12:04 PM**To:** Utility Complaints; Data Request Response Center; Schmid, Patricia E. (UT DPU); [etedder@utah.gov](mailto:etedder@utah.gov)**Subject:** [INTERNET] Brent Hill Answer to Rocky Mountain Power (RMP) Answers and motion to Dismiss

In the Matter of Brent Hill,

Complainant,

vs. Rocky Mountain Power,

Respondent. Docket No. 17-035-49

**Brent Hill's Answer** to ROCKY MOUNTAIN POWER'S ANSWER AND MOTION TO DISMISS

**Answer: NOTE You will find many answers as they may relate specifically to each statement 1-16 given by Rocky Mountain Power RMP**

Rocky Mountain Power, a division of PacifiCorp (the "Company"), pursuant to Utah Code Ann. §§ 63G-4-204(1) and Utah Admin. Code R746-1-203, R746-1-206, and R746-1-301, provides its Answer to the formal complaint filed by Brent Hill ("Complaint"). In addition, the Company moves that the Complaint be dismissed in its entirety, with prejudice, because Rocky Mountain Power has not violated any provision of law, Commission order or rule, or Company tariff, and further, Mr. Hill has not demonstrated, pursuant to Utah Admin. Code R746-1-201(2), that the Division of Public Utilities (the "Division") has reviewed the complaint and determined that Commission action is warranted.

**Answer: Please do not dismiss this matter, and definitely do not dismiss this with prejudice.**

I. PRELIMINARY MATTERS Communications regarding this Docket should be addressed to:

By e-mail (preferred): [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)

[bob.lively@pacificorp.com](mailto:bob.lively@pacificorp.com)

[daniel.solander@pacificorp.com](mailto:daniel.solander@pacificorp.com)

By mail: Data Request Response Center

Rocky Mountain Power

825 NE Multnomah St., Suite 800

Portland, OR 97232

Robert C. Lively

Rocky Mountain Power

1407 West North Temple

Salt Lake City, UT 84116

Telephone: [\(801\) 220-4052](tel:(801)220-4052)

Daniel Solander

Rocky Mountain Power

1407 West North Temple

Salt Lake City, UT 84116

Telephone: [\(801\) 220-4014](tel:(801)220-4014)

## II. BACKGROUND

1. Mr. Hill is requesting electric service to a vacant lot located at or near 300 Highland Drive in Riverdale, Utah ("vacant lot").

***Answer: This is not just a "vacant lot", this is an improved subdivision building lot with utility easements that were established. "Highland View Subdivision" was approved and recorded at Weber County Utah June 13, 1946 Book 9 of Plats Page 52. Furthermore, these improved lots were accepted by the power company and electricity was serviced to the homes as they were built. Also the Power Company agreed to improve and bring electric services to "Highland View Subdivision".***

2. Mr. Hill contacted Rocky Mountain Power on January 26, 2011, to request electric service for his vacant lot as he would be building a single residence. On January 28, 2011, Mr. Curtis Galvez (Estimator, Rocky Mountain Power) visited the vacant lot with Mr. Hill to provide options in getting electric service for the home he intended to build.

***Answer: This meeting was with my Brothers and different prospective buyers, I Brent Hill, showed up late and most conversations were concluded by time I was there***

3. The surrounding neighborhood to this vacant lot was developed and had electric service installed for the homes in the 1950's. For Mr. Hill's lot, no electric equipment has been installed on his property and Rocky Mountain Power was unable to locate a request to install any electrical infrastructure for this particular vacant lot.

***Answer: My Lot has a power pole with a City Street Light that crosses the road on the North side. There are also other power poles around or near the property but only one (in the rear of Daneens Dance studio lot). This pole is South West of my property, and is the only one that Mr. Galvez said is sufficient to bring power to the property.***

4. Mr. Hill's request is a standard line extension request. In response to the 2011 request for service, Mr. Hill was provided a ballpark estimate and advised he would need to secure a right of way from an adjacent property in order to install electricity for his lot. At that time, Mr. Hill expressed his displeasure with the costs associated with his line extension request, and did not pursue the request further.

***Answer: No prices or "Ball-park" amounts were given to me. Before I arranged to build, My Brother(s) were trying to sell the property and that must have been the Mr. Hill they gave amounts to, but not to me. In 2011 I had no agreement to buy the land, and the first time I was in control was when I contacted RMP in 2016.***

5. On April 7, 2016, Mr. Hill again contacted Rocky Mountain Power to install electric service for his vacant lot. On April 12, 2016, Mr. Curtis Galvez (Estimator, Rocky Mountain Power) and Mr. Karl Sewell (Distribution Manager, Rocky Mountain Power) met Mr. Hill at the vacant lot to review options in bringing electric service to this lot. Mr.

Hill's request was again treated as a standard line extension request. Mr. Hill advised the original developer paid Rocky Mountain Power back in the 1950's to bring electric service to his vacant lot, and he should be able to obtain electric service at no cost to him. The company has not been able to locate any requests prior to Mr. Hill to bring power to this vacant lot. Mr. Hill advised he would be filing a complaint.

***Answer: I received a Bill for \$600.00 to see what expense would be from RMP to go under ground in conduit from the pole in the on Daneenes Dance studio on the Sout West lot behind my building. This was the only thing I received but it had no prices or quotes from RMP. Verbally they said I waold need to pay again if I wanted to know the costs for overhead power lines.***

6. On April 19, 2016, Mr. Hill escalated his concerns to the Division of Public Utilities. In his complaint, Mr. Hill requested the Company supply power to his lot per the previous agreement with the builder in the 1950's, and for the Company to obtain the easements.

***Answer: After meeting with Mr Valdez and Mr. Sewell, they made it clear to me that RMP felt no responsibility to bring power to the approved utility easement lines. And that a new easement(s) had to be obtained at my own expense. And that all new power lines needed to be inside these new easements. That I needed to obtain and create these new easements, even though the easements that were orginally in place before these neighboring homes were even built had seemingly been ignored by RMP or Utah power since almost none of the power lines and poles were inside the existing easements that were established in 1946. These original easements were in place before power was brought to the homes in the accepted development.***

7. On April 22, 2016, the Company responded to Mr. Hill and the Utah Division of Public Utilities reaffirming the existing subdivision was developed roughly 60 years ago and that the Company provided electric service to the lots for which electric service was requested. Because of the amount of time that has passed since the initial development, the Company was unable to verify with any certainty why the existing infrastructure was placed in its current location; however, the developer would have agreed to the location of where the electrical infrastructure was placed. The Company has not received any complaints nor requests in over sixty years regarding the configuration of the infrastructure. Furthermore, Rocky Mountain Power has prescriptive rights for the current location of the electric infrastructure.

8. Mr. Hill was also provided Rocky Mountain Power's Regulation No. 12 section 1 (1) which states:

Routes, Easements and Rights-of-Way -- The Company will select the route of an Extension in cooperation with the Applicant. The Applicant will acquire and pay all costs of obtaining complete unencumbered rights-of-way, easements, or licenses to use land, and will pay all costs for any preparation or clearing of land

the Company may require. ***Any required easements will be prepared on Company-provided forms. If requested by the Applicant, the Company will assist in obtaining rights-of-way, easements or licenses as described above at the Applicant's expense.***

9. On April 22, 2016, Mr. Hill requested to escalate his concerns to a formal complaint. On April 25, 2016, the Division of Public Utilities provided Mr. Hill with the instructions and documents needed to file his complaint. Mr. Hill did not take further action at that time.

***Answer: This is true; because of the clarity in meeting with "MR. Sewell and Mr. Galvez of RMP practically making the property useless and undevelopable, until the neighbors agreed to sell or grant an easement encumbering there land. I had more work to accomplish before I could move ahead. And then of course I had to justify the financial Feasability to bear all the expenses to bring the lines in or just abandon the whole project.***

10. On August 24, 2017, Mr. Hill again contacted the Division of Public Utilities requesting to file a complaint. The Division of Public Utilities advised since his complaint is for the same issue as before, he would need to file a formal complaint. Mr. Hill advised he would be interested in having mediation with Rocky Mountain Power.

***Answer: RMP refused to have any form of Mediation. And even though I Brent Hill requested mediation they refused so at that time, so I escalated the complaint to a formal complaint.***

***Answer: At this time I resolved that RMP had rendered the property unbuildable and had virtually condemned the approved building lot to remain vacant. Unless they were willing to help bring power to the property as they agreed to in 1946 . They (RMP) had doomed the property to stay "as is". At this point the owners (My dad since 1970's) and I have paid county property taxes on an improved building lot that isn't even buildable. The prospective buyers have all walked away when they learned of the problems bringing in power lines and the unwillingness of RMP to alleviate this problem.***

***The powerline in the front North Side of the property is the only Power Pole inside the easement on my lot. This is the obvious way to bring power to the property but Mr Galvez said this is not possible.***

11. On August 25, 2017, Rocky Mountain Power responded to the Division of Public Utilities that we would be willing to join Mr. Hill for mediation.

12. On August 28, 2017, the Division of Public Utilities reviewed the information and determined Mr. Hill's complaint was non-jurisdictional, and closed his informal complaint.

***Answer: RMP told Stephanie of the Public Service Commission (PSC) and she told me at the at first they would have mediation, but then said they would not do a mediation. Then I elevated my complaint to a formal complaint.***

13. On September 5, 2017, Mr. Hill escalated his concerns and the formal

complaint was docketed.

Answer: Unfortunately I did not receive any more communication until the letter was sent to my residence about the stating the new deadlines to answer.

### III. MOTION TO DISMISS

14. The Company moves under Utah Rules of Civil Procedure, Rule 12(b)(6)

for an Order dismissing the Complaint. In support of this motion, the Company states Mr. Hill fails to establish the Company violated Commission rules, Company tariffs or that its actions are unjust. Mr. Hill has also failed to demonstrate, pursuant to Utah Admin. Code R746-1-201(2), that the Division has reviewed the complaint and determined that Commission action is warranted.

***Answer: I am not an attorney and have not studied all the rules and statures sufficiently to know if any of The actions of RMP are contrary to these rules or statures; But I can most deffinately state that their actions are unjust And this complaint should not be dismissed.***

***The US constitution demands that if a property is taken away that "Just Compensation" be given. Rendering this property without Electricity effectively condemns this land away from its designated use as a residential building lot that has been charged taxes as such for the last 60 years. It cannot even be grazing land or agriculture land because of its designation and has little value without being able to be finished as it was designated. This is not just some piece of "Vacant Land" in some remote location; this is an approved building lot with easements for all utility services. And since RMP predecessors provided electric services, cut down trees and replaced or repaired poles and overhead or downed lines in this subdivision, as was needed, I can believe they "have had no complaints" filed with the division for over the last 60 years as they stated. I am asking that power be brought to my lot, preferably inside an approved utility easement area as they agreed to do in 1946. There was an easement set aside for them to do this, and luckily for us all there is an existing power pole on one of my utility easement right in North front of my land on Highland Drive. I will work with them to do this but do not feel it is my responsibility to upgrade all their infrastructure to complete an obligation they made in 1946. I intend to meet with the State Ombudsman to further clarify any rights I may have,***

***A. Before we take the time and energies of the commission I am willing to have a mediation with RMP to possibly come to some agreement; But demand that it happen soon, (within the 30 days, or some other reasonable time frame)***

***B. I am also willing to sit with Karl Sewell, or other from RMP emplyee that are in authority, to reach an agreement on what if anything can be resolved. In this meeting I need valuable information that may include:***

***a. Determining which route is most financially feasible.***

***i. Costs of going overhead with powerlines  
Vs. costs of going underground vs. costs of bringing power to the pole  
on my lot's North front side adjacent Highland drive.***

***b. Determine if RMP is liable to pay or at least participate in the costs to bring power to this improved lot.***

***C. If RMP is again unwilling to mediation or to have a sit down conversation as stated in B above with me the complaint shall be taken to the commission in a timely manner.***

15. The Complainant requests: "That the poles be placed on the easement that services the property at their own expense." The power poles have been in place for over 60 years. The Commission, in previous orders, has recognized its limited scope of jurisdiction. The property issues raised by Mr. Hill are beyond the scope of the Commission's jurisdiction and would be properly raised in a district court.

***Answer: It would be a shame to use the Courts to resolve this matter. The costs of the court's cost with Judges and attorneys and staff would be expensed to RMP which again would go to their business expenses and ultimately paid by the consumers of RMP. In effect I, and all my neighbors, would pay to defend RMP. Isn't this a main reason the "Consumer Protection" and the "Public Service Commission" is in existence? To save the consumers from the big monopolies like RMP? This seems like a scare tactic hoping the consumer will just roll over and not continue to fight, not hire their own attorney, not file a suit, and do whatever the big monopoly is asking. I feel this can and should be solved now if possible.***

16. The complaint does not state that the Division has determined that Commission action is warranted. In the Informal Complaint Report, attached as Exhibit A 6 to Mr. Hill's Formal Complaint, the Division specifically states "It sounds like a property dispute, not whether RMP is following its tariff. I do not see it as a regulated issue, or one that we would mediate."

***Answer: Even if this is a property dispute it can be easily resolved by RMP by providing power to the properties as they have in the past. The division may be right that this is a property dispute, but it is only a dispute because RMP did not place their Power poles and lines in the easement areas that were in existence at that time. They now insist all utilities be placed inside the easement area. As I stated before, this dipute can go away by providing power to the property to the approved building lot and not requiring this to go bfore the courts costing RMP and myself, time , attorney fees and effort. This is a simple utility problem and should be handled outside the courtroom.***

#### IV. CONCLUSION

WHEREFORE, having fully answered Complainant's complaint and finding no violation of law, Commission rules, or Company tariffs to base an award of the relief requested, the Company prays for the dismissal of the Complaint with prejudice.

***Answer: Please consider the expense of RMP requiring one small building lot owner to upgrade their lines to provide power to one building lot. These services were provided and promised to all the lots in this subdivision since 1946.***



**RMP saved thousands of dollars by placing their Poles and lines outside the existing easements.**

**They want me to buy easements, put in taller poles and or upgrade the existing lines to provide power to my lot. I am being asked to do the things RMP should have done in the 1940's. If RMP would have stayed inside these easements or moved their lines to the easement areas it would have solved my current problem. Now they are asking me to solve the problem they created. I am sure by not conforming to the original easement RMP has benefitted for over 60 years.**

**Please do not grant this dismissal.**

**Sincerely Brent Hill.**

**Dated Dec 6, 2017**

Dated this 6th day of October, 2017.

Respectfully submitted,

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Daniel E. Solander

Attorney for Rocky Mountain Power

On Fri, Aug 25, 2017 at 10:07 AM, Utility Complaints <utilcomp@utah.gov> wrote:

Dear Mr. Hill,

Attached please find the information that you will need to file a formal complaint.

I have spoken with Rocky Mountain Power and am waiting for a response as to whether they are willing to entertain a mediation. I will be in touch as soon as I hear back from Rocky Mountain Power.

Thank you,

Stefanie Liebert

Office Specialist

Division of Public Utilities

[\(801\)-530-6285](tel:(801)530-6285)

*Business hours are 8:00 a.m. - 5:00 p.m., Monday-Friday*

On Thu, Aug 24, 2017 at 6:15 PM, DPU Web Server <utilcomp@utah.gov> wrote:



# DPU ONLINE COMPLAINT

## UTILITY CUSTOMER

**FROM:** Brent Hill

**CONTACT:** Brent Hill

**PHONE:** 8017212474

**OTHER PHONE:** 8017212474

**EMAIL:** [mylenderllc@gmail.com](mailto:mylenderllc@gmail.com)

**SERVICE ADDRESS:**

300 West Riverdale, UT 84405

**MAILING ADDRESS:**

235 W 1100N Farmington, UT 84025

## INCIDENT DETAILS

**UTILITY:** Rocky Mountain Power

**ACCOUNT NUMBER:** N/A

**COMPLAINT TYPE:** Other

**COMPLAINT:**

Complaint: for lot 15 Highland View Subdivision. Tax ID 06-026-0002. Located at the South West corner of 300 West and Highland Drive Riverdale Utah. Last year I filed an informal complaint to which Rocky Mountain Power (RPM) felt no obligation to work with me, or make any concessions. Again I make the same complaint Summary: The property is an improved building lot in Riverdale Utah, When the land was first subdivided a fee was paid by the developer to Utah Power (UP) to bring electricity to each building lot. Power is supplied by power poles in the rear of the building lots. These poles were placed by UP years ago. The subdivision (Highland View) got approval from and paid a fee to UP to receive electric service. At the conclusion they said: 1. At my own expense and difficulty I would need to obtain Easement(s) from the adjacent neighbors. 2. This easement would needs to be obtained before a complete a detailed cost analysis to bring power to approved building lot can be completed. a. The expenses to bring the property electricity is between \$15,000.00 to \$30,000.00+, not including the cost of obtaining the easements, According to the RMP representative who visited the property in April 2016. b. RMP suggested 2 ways to possibly bring power. i. New Power Poles that stay in line with the existing poles or ii. Bring the power down a pole and over to the easement area and then underground to the property and to the front of the property. 1. It is difficult to know which way to pursue o obtain the easement when a cost analysis is not available to compare both ideas. 2. Putting in power poles, seems easier, When going underground for several hundred feet until we get to the existing easement may be more permanent. One way could be thousands of dollars cheaper, but may be less desirable. Without knowledge of the various expenses how can we choose which avenue to bring power is best? 3. RPM usually keeps their Power poles and buried lines within the easements area. However in Highland View subdivision was built even though the easements were all recorded before power was brought to the properties UP place the pole to their own convenience. 4. These poles were placed by UP and service was given to the property owners, and the same poles are now being used by RMP but they were not installed on the Easements that were agreed to. 5. That these easements were in place and were agreed to by UP before any service was rendered. 6. A fee was paid to Utah power for each lot for access to electric power but no provision or expense was made to provide that power. 7. The Utilities services were installed and service both given and accepted by the consumers without regard to the fact they were not placed inside the agreed easements. (Most likely they were kept in a straight line to keep costs and expenses to UP at a minimum.) 8. RMP placed the power poles as they wished. The RMP employees had no reasoning why the poles were placed where they are, but did mention that since they are now place for over 20 years a "prescriptive easement" comes with their placement(S). And that 50 years ago things were done very differently. 9. Since 50 years ago the easements were clearly established before the poles were installed, but UP placed the poles somewhere to their own advantage and for all these years UP and PMP have collected fees have from the use and power carried by these poles; why should 1 person need to pay for the mistakes made all those years ago? The Power companies have benefitted for years by not placing their poles in the right place. The poles and power should be brought to the place they originally agreed; That is the poles should be brought to the easement area at their Power companies expense and difficulty as was originally agreed. 10. If it matters to RMP that the power be brought inside the easement area now it should have mattered to them when they accepted the building permit 50 years ago. At minimum they should have made allowance(s) to keep themselves in

compliance with the building plats they previously approved. And now that that they care that the poles they installed years ago be placed in the easement area it should be their expense to accomplish this. 11. Since the original developer paid for power delivery to each lot, and the plat was agreed to in advance UP intentionally made this decision to not care if the poles were in easement area. That both shows 1. The power company knew what they were doing and 2. They were paid in advance and responsible to bring power to each lot. Conclusion: Funny, now the poles, or buried lines must be in an easement area and the burden is ours that this be done; when before the easements didn't seem to matter. Utah power placed these poles as best suited their needs. Because they placed the poles outside the easements, and did not plan that each lot be accommodated electric service as they originally agreed with the developer. And now they ask the homeowner to buy and facilitate something they should have done original years ago. They opted to save money, and to hold the funds they took years ago to supply power. Now it is time for them to rectify the problem they caused, supply power to the lot, obtain there own easements (If needed). Or do whatever they need to do to provide power to this approved building lot. RMP needs to help or facilitate the following: I ask for Rocky Mountain Power to rectify the problem they caused, supply power to the lot, to obtain their own easements (If needed). Or do whatever they need to do to provide power to this approved building lot. Or I guess they can offer to pay me to rectify their problem. I have spoken with and I am on good terms with the neighbors, and am willing to help obtain the permissions required. Thank You \_\_\_\_\_ Brent E Hill \_\_\_\_\_ 8/24/2017 digitally signed and uploaded to [BLOCKEDpublicutilities.utah.gov](https://publicutilities.utah.gov) Brent E Hill [801-721-2474](tel:801-721-2474) 235 W 1100 N Farmington, Utah 84025 Stephanie at Division of public utilities [801-530-6285](tel:801-530-6285) said I must file informal complaint and wait 5 business days for an answer, then choose a non binding mediation, or file a formal "complaint". [BLOCKEDpublicutilities.utah.gov](https://publicutilities.utah.gov) for informal complaint.

**SUGGESTED RESOLUTION:** RMP should agree to bring power to this approved building lot.

**TECH INFO**

**BROWSER:** Google Chrome 60.0.3112.101  
**PLATFORM:** Windows  
**SCREENRES:** 1600 x 900  
**IP:** 24.11.24.239  
**FORM:** /compform.html

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 Gary Widerburg  
 Commission Secretary  
 Public Service Commission of Utah  
[801-530-6713](tel:801-530-6713)

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 **anser to RMP Riverdale Power lines to the easements.docx**  
 24K