

FORMAL COMPLAINT FORM
PUBLIC SERVICE COMMISSION
Heber M. Wells State Office Building
160 East 300 South, Fourth Floor
P.O. Box 45585
Salt Lake City, Utah 84114

1. Name of Complainant: Bringard Millworks LC ("Bringard")

Address: 2400 S 2570 W, West Valley City, Utah 84119

Telephone: 801-973-4466

Representing Counsel: Wade S. Winegar

Address: 2400 S 2570 W, West Valley City, Utah 84119

Telephone: 801-420-8900

2. Utility being complained against is: Rocky Mountain Power ("RMP")

3. Complaint against the Utility:

- a. RMP illegally backbilled Bringard approximately \$22,577.07 on October 31, 2017.

RMP claimed the electric meter at Bringard failed to register correctly the amount of electric power used by Bringard and then estimated what RMP thought Bringard had used. RMP actually became aware that the meter was improperly registering electrical usage on July 28, 2017 yet rendered a backbill more than 3 months later, contrary to PSC rules as enacted by RMP to the contrary (Electric Service Regulation No. 8R.3, para. 8(c)).

- b. RMP illegally backbilled Bringard for more than 3 months of estimated usage when the Electrical Service Regulation No. 7R.4, para. 4(b) limits them to being able to bill for only 3 months estimated usage, if they had issued the backbill within 3 months.
 - c. RMP failed to provide proper “Notice” which included a sufficiently detailed written description to apprise Bringard of the circumstances, error or condition that caused the underbilling thus enabling Bringard to understand what had happened and properly respond.
 - d. RMP failed to mediate in good faith as is required by PSC rules when a party agrees to mediate.
4. Illegality of the Utility’s actions: RMP has adopted Electrical Service Regulations which have been approved by the Public Service Commission of Utah and govern their interactions with their customers. They publish these rules on their website and claim they are bound by these rules and they should follow them. It is clear RMP expects customers to strictly abide by the rules and rate schedules. Yet, as this complaint alleges and the facts will show, it is clear RMP has ignored the rules that govern their conduct because it does not produce the result they want, that of backbilling Bringard. Each of the complaint’s allegations in paragraph 3, above, are addressed below in corresponding subparagraphs. Citations to regulations are those published on RMP’s website and attached hereto.
- a. Electric Service Regulation No. 8R.3, paragraph 8(c) states:

Limitations on Rendering a Backbill

The Company **shall not** render a backbill **more than three months after** the Company actually became aware of the circumstance, error, or condition that caused the underbilling. This limitation does not apply to fraud, and theft of service limitations. (Emphasis added).

Yet, according to the company's own chronology of events, RMP became aware that the meter was failing to correctly register the amount of electric power consumed by Bringard on July 28, 2017. The backbill was issued on October 31, 2017, which is more than three months after RMP was aware of the circumstance. Apparently, aware they had passed the 3 month mark, RMP suddenly deemed it necessary to cease discussions and issue the backbill without notice. But they were already too late. The "shall not render a backbill more than three months after" language is very clear in the rules and dispositive. Yet RMP ignores this language saying that it was 'close enough' or that Bringard knew it would be backbilled one day. This attitude ignores the language of the regulation and violates Bringard's right to have certainty in its billing per the regulations.

- b. Even if the limitation on backbilling didn't prohibit RMP from charging Bringard (which it in fact does), Electric Service Regulation No. 7R.4, paragraph 4(b) limits what can be backbilled and RMP ignores this language as well. It states in regards to "Bill Adjustments for Meter Error and Failure to Register":

Failure to Register

If any meter fails to register correctly the amount of electric power or energy used by the Customer, the amount of such use will be estimated by the Company from the best available information. If a meter does not register, the Company may bill the customer for the estimated power and energy used but not registered **for a period not exceeding three months.** If the Company finds that the meter has been tampered with, the Customer shall pay for such estimated usage together with the expense for restoring the Company's equipment to its normal operating condition and correcting Company billing records. (Emphasis added).

These two subsections for billing adjustments due to either meter error (not applicable or quoted here) or failure to register correctly the electricity used each have their own limitations on how far RMP can go back to estimate usage, and then backbill the customer for such estimated usage. Under "Failure to Register", which is the subsection RMP claims this matter falls under, it is limited to backbill for 3 months estimated usage. RMP has consistently tried to convince Bringard it can backbill for 24 months, despite the clear language of this subsection. The twisted logic used to attempt to justify a longer period makes little sense other than an attempt to get to a result, regardless of the rules.

- c. In Electrical Service Regulation No. 8R.3, para. 8(b), RMP is required to notify Bringard of the billing adjustment, and the notification "shall be followed by, or include a written explanation of the reason for the backbill that shall be received by the customer before the due date and be sufficiently detailed to apprise the

customer of the circumstances error or condition that caused the underbilling . . . “ so Bringard can know what occurred and properly respond. Despite several requests for this information, RMP never provided such written explanation. Additionally, RMP changed their position several times on why they could backbill as well as the amount they were proposing to backbill. All of these changes in reasoning and amounts make it clear that RMP is attempting to justify a large backbill and is willing to ‘alter their position’ in order to justify it. This also kept Bringard from being able to intelligently respond to RMP’s ever changing positions.

- d. Finally, Bringard suggested that a mediation might resolve the issues. RMP agreed to a mediation and signed such agreement to mediate. The instructions set out that while the mediation is completely voluntary, it was to be conducted in good faith. RMP failed to act in good faith by never moving from their original amount backbilled and by failing to recognize the plain language of the PSC regulations. If they did not intend to act in good faith to resolve the matter, they should not have agreed to the mediation and moved on to the next step in the process.
5. Relief requested: That the Public Service Commission of Utah order RMP to reverse the backbill they imposed on Bringard by crediting the amounts they illegally charged on Bringard’s account and require them to comply with the PSC regulations by not backbilling Bringard for any past estimates.
6. Signature:

Date: 11 December 2017

/S/ Wade S. Winegar