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Formal Complaint of Kristy Buchanan against Rocky Mountain Power	<u>DOCKET NO. 18-035-29</u> <u>ORDER DENYING MOTION TO DISMISS AND NOTICE OF HEARING</u>
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ISSUED: September 24, 2018

**BACKGROUND**

On July 23, 2018, after having engaged in the informal dispute resolution process at the Division of Public Utilities, Kristy Buchanan filed a formal complaint against Rocky Mountain Power (“RMP”). Ms. Buchanan alleges a clerical error on RMP’s part resulted in cancellation of her budget billing plan, which she now seeks to restore. RMP filed an Answer and Motion to Dismiss on August 22, 2018, asserting that Ms. Buchanan has not alleged any violation of law, Public Service Commission (“PSC”) rule, or RMP tariff. On September 7, 2018, Ms. Buchanan filed a response indicating that there had been “no solution” and requesting either a hearing or a mediation.

**ANALYSIS, CONCLUSIONS, AND ORDER**

Ms. Buchanan is required by state law, when filing a complaint against a public utility, to “. . . specify the act committed or omitted by the public utility that is claimed to be in violation of the law or a rule or order of the [PSC].”<sup>1</sup> RMP’s motion to dismiss “should be granted . . . only if it is clear that a party is not entitled to relief under any state of facts which could be proved in support of its claim.”<sup>2</sup>

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<sup>1</sup> Utah Code Ann. § 54-7-9(2).

<sup>2</sup> *Am. W. Bank Members, L.C., v. State*, 342 P.3d 224, 230 (Utah 2014) (quoting *Colman v. Utah State Land Bd.*, 795 P.2d 622, 624 (Utah 1990)).

Ms. Buchanan has not articulated any law, rule, or PSC order she claims RMP has violated. However, the statute requiring her to specify her alleged violation does not mandate that a failure to do so results in a dismissal of the complaint.<sup>3</sup> Ms. Buchanan made a general allegation in her July 23, 2018 filing that she did not receive a notice in June 2018 that her account was due. RMP has asserted that Ms. Buchanan received notice of her delinquent account status on a specified date, but that assertion does not directly address Ms. Buchanan's claim of not having received an adequate billing notice in June 2018.

Based on these assertions, a question of fact exists as to whether RMP provided Ms. Buchanan all billing notices required by law, PSC rule (including Utah Admin. Code R746-200-4, Account Billing) or order, or RMP tariff. Reviewing Ms. Buchanan's complaint in the light most favorable to Ms. Buchanan, we do not see any other claim that implicates any potential violation by RMP.

Accordingly, we deny RMP's motion to dismiss and set this matter for hearing for the sole purpose of determining whether RMP provided Ms. Buchanan with all required billing notices.

**NOTICE OF HEARING**

The PSC will conduct a hearing in this docket on **Thursday, October 25, 2018, beginning at 9:00 a.m. (MDT)**. The hearing will be held in the **Fourth Floor Hearing Room 451, Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah**. All parties must have their witnesses in attendance and prepared to testify.

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<sup>3</sup> See generally Utah Code Ann. § 54-7-9.

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Individuals wishing to participate in the hearing by telephone must contact the PSC two days in advance by calling (801) 530-6716 or (toll free) 1-866-PSC-UTAH (1-866-772-8824) to receive a bridge number and participant passcode. Participants attending by telephone should then call the bridge number five minutes prior to the hearing, entering the passcode followed by the # sign to ensure participation.

In accordance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the hearing should notify the PSC at 160 East 300 South, Salt Lake City, Utah 84111, (801) 530-6716, at least three working days prior to the hearing.

DATED at Salt Lake City, Utah, September 24, 2018.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#304568

CERTIFICATE OF SERVICE

I CERTIFY that on September 24, 2018, a true and correct copy of the foregoing was served upon the following as indicated below:

By U.S. Mail:

Ms. Kristy Buchanan  
5294 Wake Robin Drive  
West Jordan, UT 84081

By Electronic-Mail:

Kristy Buchanan ([kbuchanan120@yahoo.com](mailto:kbuchanan120@yahoo.com))

Data Request Response Center ([datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)),  
([customeradvocacyteam@pacificorp.com](mailto:customeradvocacyteam@pacificorp.com))  
PacifiCorp

Jana L. Saba ([jana.saba@pacificorp.com](mailto:jana.saba@pacificorp.com))  
Daniel E. Solander ([daniel.solander@pacificorp.com](mailto:daniel.solander@pacificorp.com))  
Megan McKay ([megan.mckay@pacificorp.com](mailto:megan.mckay@pacificorp.com))  
Eric Holje ([eric.holje@pacificorp.com](mailto:eric.holje@pacificorp.com))  
Autumn Braithwaite ([autumn.braithwaite@pacificorp.com](mailto:autumn.braithwaite@pacificorp.com))  
Rocky Mountain Power

Patricia Schmid ([pschmid@agutah.gov](mailto:pschmid@agutah.gov))  
Justin Jetter ([jjetter@agutah.gov](mailto:jjetter@agutah.gov))  
Robert Moore ([rmoore@agutah.gov](mailto:rmoore@agutah.gov))  
Steven Snarr ([stevensnarr@agutah.gov](mailto:stevensnarr@agutah.gov))  
Assistant Utah Attorneys General

Erika Tedder ([etedder@utah.gov](mailto:etedder@utah.gov))  
Division of Public Utilities

By Hand-Delivery:

Office of Consumer Services  
160 East 300 South, 2nd Floor  
Salt Lake City, UT 84111

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Administrative Assistant