

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Formal Complaint of Sarah John against Rocky Mountain Power	<u>DOCKET NO. 19-035-30</u>
	<u>ORDER DENYING REQUEST FOR RECONSIDERATION</u>

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ISSUED: October 31, 2019

On July 30, 2019, Sarah John (“Complainant”) filed a Formal Complaint (“Complaint”) with the Public Service Commission (PSC) against Rocky Mountain Power (RMP). The Complainant alleges RMP disconnected power to a secondary meter on her property after RMP received an order from Uintah County to do so.

On October 7, 2019, the PSC issued its Order Dismissing Complaint (“Order”). Because the parties did not dispute that RMP disconnected Complainant’s service as a result of Uintah County’s instruction to do so, the PSC found Complainant had not alleged RMP to have violated any provision of statute, rule, or tariff. *See* Utah Admin. Code R746-310-2(D) (providing a “utility shall have the right of ... ceasing to ... deliver electric energy to a customer ... if the utilization of electric energy by means thereof shall be prohibited or forbidden under the authority of a law or municipal ordinance or regulation”).

On October 11, 2019, Complainant submitted a request for reconsideration (“Request”), reasserting her prior request the PSC amend R746-310-2(D) (the “Rule”) to include the sentence: “The authority of a law or municipal ordinance or regulation must give adequate proof of unsafe conditions and provide a court order to justify the use of this code to disconnect utilities.” Complainant also asks the PSC amend the Rule to add the bolded language to the existing text as follows: “The utility does not assume the duty of inspecting the customer’s services, appliances

or apparatus, and assumes no liability therefore, **but [the utility] may have the authority to continue services if [the utility] deem[s] it appropriate to do so.**

As the PSC observed in our Order, “a customer complaint is not an appropriate forum to amend an administrative rule.” Indeed, the Utah Code contemplates that any “interested person may petition an agency to request the making, amendment, or repeal of a rule.” Utah Code Ann. § 63G-3-601(2). Such a request must, among other things, include a statement “demonstrating that the proposed action is within the jurisdiction of the agency and appropriate to the powers of the agency.” *Id.* at § 63G-3-601(4). Therefore, we conclude the appropriate procedure for an interested person to request an amendment to a rule is the filing of a petition for agency action pursuant to Utah Code Ann. § 63G-3-601.

The PSC appreciates Complainant does not have counsel. If her Request substantively met the requirements of a petition to amend a rule, we would treat it is as such notwithstanding it being presented through a customer complaint. However, to amend the Rule as Complainant proposes raises serious questions as to the compatibility of that change with state laws granting authority to local governments and with the International Residential Code, which Utah has adopted and incorporated into the State Building Code. Utah Code Ann. § 15A-2-103. Yet, Complainant does not address these issues nor does she otherwise attempt to demonstrate the proposed change is within the jurisdiction of the PSC and appropriate to our powers. We appreciate that fulfilling such a requirement may be difficult for an individual without counsel, but this is what the law requires when a person seeks to change an administrative rule that governs all Utahns.

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Because we find nothing in the Request warrants revisiting or revising any finding or conclusion in our Order, the Request is denied.

DATED at Salt Lake City, Utah, October 31, 2019.

/s/ Michael J. Hammer  
Presiding Officer

Approved and confirmed October 31, 2019, 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  
PSC Secretary  
DW#310861

Notice of Opportunity for Judicial Review

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 October 31, 2019, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Sarah John ([dsjohn96@gmail.com](mailto:dsjohn96@gmail.com))

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