



State of Utah

Department of Commerce Division of Public Utilities

MARGARET W. BUSSE
Executive Director

CHRIS PARKER
Director, Division of Public Utilities

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Manager

Doug Wheelwright, Utility Technical Consultant Supervisor

David Williams, Utility Technical Consultant

Gwen Flores, Office Specialist

Date: June 4, 2021

Re: **Docket No. 21-035-30, Hearing Recommended**—Formal Complaint of Jennifer Sampson against Rocky Mountain Power.

Recommendation (Hearing)

The Utah Division of Public Utilities (Division) recommends that the Public Service Commission of Utah (Commission) schedule a hearing in Docket No. 21-035-30. The docket involves a customer complaint regarding a power transformer box that has been damaged several times over the last ten years; Rocky Mountain Power (Company) seeks payment for repairs to the box from the current property owner Jennifer Sampson (Complainant). The Division is unable to determine some key facts, including whether the Company pursued payment from the party who damaged the box, and when driveway improvements were made near the box. It is also not clear if the Company is alleging negligence by the Complainant. A hearing will allow the parties to present evidence on these issues.

Background

On May 7, 2021, Complainant filed a Formal Complaint with the Commission.¹ The complaint description was filed in the docket (in the Informal Complaint).² The Informal Complaint states that the Complainant contacted the Division regarding a bill received for damages to a power transformer box on Complainant's property. The box is located near Complainant's driveway and has been damaged "at least four times over the course of 10 years."³ The Company has not taken any action to protect or relocate the box. Complainant contacted the Company in October 2020 to ask about having the box moved underground. The Company quoted \$2,000 to move the box underground.⁴ At some point after October 2020, the box was damaged again by a guest of the Complainant.

Complainant then received a bill for \$2,500 from the Company for the most recent damage to the box. The Company did not explain the price of repairs to Complainant. The Company told Complainant that since the box is on her property, she was responsible for the repairs. Complainant asked the Company why she hadn't been charged for previous damage but was charged for the present damage. According to Complainant, the Company said they now know who to send the bill to, whereas in the past they did not.⁵

On April 9, 2021, James Ingram, a Customer Advocacy representative for the Company, sent Complainant an email stating:

After reviewing this matter with our damage claims department manager, the Rocky Mountain Customer Advocacy department has determined that you are responsible for the cost of repairs necessary after an RV backed into the transformer on your property.⁶

Mr. Ingram also stated that the damages were \$1,403.16, not \$2,500 as previously identified and billed to the Complainant. The Company did not provide any explanation for the large decrease

¹ Formal Complaint of Jennifer Sampson against Rocky Mountain Power, Docket No. 21-035-30, May 7, 2021.

² Redacted Exhibit A – Informal Complaint, Complaint Description, Docket No. 21-035-30, May 7, 2021, p. 2.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at Complaint Response (p. 4).

in the repair cost or provide an explanation of the extent of the damage. Mr. Ingram suggested that Complainant could handle the damages through the insurance policy of the motorist who damaged the box, or through her home insurance.⁷

Complainant states that she was told at some point that “her protection insurance was forfeited when the RV pad was installed on the property.”⁸ Complainant does not know what this insurance is. Complainant does not think it is fair that she has the responsibility to pay for the damages when she did not cause them, and wonders if the damages were merely cosmetic. Complainant admits that a guest of hers caused the damages by backing into the box.⁹

Discussion

More information is required before the Division can make a final recommendation regarding the damages. For example, the following factual issues would be relevant to the Division’s position:

- Did the Company contact the party who is alleged to have damaged the box? What was the result of that inquiry?
- Did the previous owner of the Complainant’s house build the RV pad? How far away from the driveway is the box currently? How far away from the driveway was the box before the RV pad was installed?
- Were the damages to the box cosmetic or structural?
- Why did the damage estimate drop from \$2,500 to \$1,403.16?

Given the lack of details regarding these and other facts, the Division is not sure how the relevant tariffs and rules apply. For example, the Company’s Electric Service Regulation No. 6 for Utah states:

All materials furnished and installed by the Company on the Customer’s premises, shall be, and remain, the property of the Company. The Customer shall not break the Company’s seals. In the event of loss or damage to the Company’s

⁷ *Id.* at Complaint Description (p. 2)

⁸ *Id.*

⁹ *Id.*

property, arising from neglect, carelessness, or misuse by the Customer, the cost of necessary repairs or replacement shall be paid by the Customer.¹⁰

It is unclear to the Division whether the Company is alleging Complainant was negligent, or careless, or misused the box. The answers to the factual questions listed above should help to determine if Complainant acted prudently with regard to the box. It is also unclear why, if the Company is arguing that Complainant owes damages simply by virtue of owning the property (and not due to negligence etc.), why she is being billed for damages now, and not in previous instances (or why the previous owner was never billed). If the Company's policy in these cases is to proceed on a strict liability standard, it always knew where to send the bill in past instances of damage—to the property owner.

The Division also notes that in other dockets, the Company has stated that the party who causes damages is responsible, not the property owner—even if the party that caused the damages was a subcontractor of the Company. For example, in Docket No. 20-035-01, which dealt with costs relating to the Energy Balancing Account (EBA), the Company stated that it should not be held responsible for its contractor's errors regarding equipment installed incorrectly at the Dave Johnston plant, causing extra outage time. In that docket, the Division and the Office of Consumer Services (Office), through their experts, argued that certain outage expenses that resulted from the Company's contractor's errors should be disallowed from recovery through the EBA.¹¹ The Company acknowledged that an outage had occurred because of a contractor error, but argued that the outage expenses should still be allowed, because despite the Contractor's error, the Company acted prudently in its supervision and management of the contractor.¹²

¹⁰ Rocky Mountain Power Electric Service Regulation No. 6, State of Utah, P.S.C.U. No. 51, Original Sheet No. 6R.1, paragraph 2(a), available at: https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/rates-regulation/utah/rules/06_Company%27s_Installation.pdf

¹¹ See, e.g., Rebuttal Testimony of Philip DiDomenico and Dan F. Koehler, Docket No. 20-035-01, pp. 2-3, lines 34-46, January 5, 2021.

See also Response Testimony of Philip Hayet for the Office of Consumer Services, Docket No. 20-035-01, p. 8, lines 156-75, December 10, 2020.

¹² Rebuttal Testimony of Dana M. Ralston, Docket No. 20-035-01, pp. 6-9, lines 129-187, January 5, 2021.

Although there are obvious differences between the EBA docket and the present docket, the Division suggests at this preliminary stage in the present case, a hearing would help to elicit facts that determine whether the Complainant acted prudently in her actions related to the box, or, alternatively, why the Company believes a prudence standard is inapplicable when the Company's Electric Service Regulation No. 6 requires the customer's "neglect, carelessness, or misuse" if the customer is to be held responsible for damages.

Given the sparse record, it is difficult to even discern what facts are in dispute. The Division recommends that a hearing be held so that the parties can present evidence on these matters.

Conclusion

There are facts in this docket that are missing or in dispute, including whether the Company attempted to contact the party who damaged the box, and when the RV pad was installed. These and other facts may also bear on whether Complainant acted with neglect or carelessness under the Company's Electric Service Regulation No. 6. The Division recommends a hearing so the parties can present evidence on these matters.

Cc: Service List
Jana Saba, Rocky Mountain Power
Michele Beck, Office of Consumer Services