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Salt Lake City, Utah 84114

July 22, 2021

***VIA ELECTRONIC FILING***

Utah Public Service Commission  
Heber M. Wells Building, 4<sup>th</sup> Floor  
160 East 300 South  
Salt Lake City, UT 84114

Attention: Gary Widerburg  
Commission Administrator

**RE: Docket No. 21-035-38**  
In the Matter of the Formal Complaint of Matthew Gosselin Against Rocky Mountain Power

In accordance with the Notice of Filing and Comment Period issued by the Public Service Commission of Utah on June 22, 2021, Rocky Mountain Power (“Company”) hereby submits for filing its Motion to Dismiss and Answer in the above referenced matter.

The Company respectfully requests that all formal correspondence and requests for additional information regarding this filing be addressed to the following:

By E-mail (preferred): [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)  
[utahdockets@pacificorp.com](mailto:utahdockets@pacificorp.com)  
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By regular mail: Data Request Response Center  
PacifiCorp  
825 NE Multnomah, Suite 2000  
Portland, OR 97232

Informal inquiries may be directed to Jana Saba at (801) 220-2823.

Sincerely,

Joelle Steward  
Vice President, Regulation

Enclosures

Emily L. Wegener (12275)  
Stephanie Barber-Renteria (8808)  
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*Attorneys for Rocky Mountain Power*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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Formal Complaint of Matthew Gosselin against Rocky Mountain Power	)	DOCKET NO. 21-035-38
	)	<b>MOTION TO DISMISS</b>
	)	<b>AND ANSWER</b>
	)	

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Pursuant to Utah Code section 63G-4-204(1) and rules R746-1-203 and R746-1-206 of the Utah Administrative Code, Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or the “Company”) hereby provides its answer to the formal complaint (“Complaint”), filed by Matthew Gosselin (“Complainant”) with the Public Service Commission of Utah (“Commission”) on June 22, 2021. In addition, the Company moves under Utah Administrative Code R746-1-301, R746-1-105 and Utah Rules of Civil Procedure Rule 12(b)(6) to dismiss the Complaint in its entirety because Complainant has failed to state a claim upon which relief can be granted. Complainant has not alleged any injury or loss caused by Rocky Mountain Power, nor has Complainant alleged that Rocky Mountain Power violated any provision of law, Commission order, or Company tariff.

Communications regarding this Docket should be addressed to:

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## INTRODUCTION

Complainant's formal complaint expresses dissatisfaction with current Utah law, Commission orders, and Company tariffs regarding the annual expiration of unused bill credits accumulated through customer-generated electricity. Specifically, Complainant alleges that customer-generated credits should not expire annually in March, but rather such credits should never expire.

The annual expiration of customer-generated credits is mandated under current Utah law. *See* Utah Code Ann. § 54-15-104(3)(a)(ii). That section states, "all credits that the customer does not use during the annualized billing period expire at the end of the annualized billing period." *Id.* Commission orders and Company tariffs are governed by the statute and provide that any unused

credits expire every March. Complainant has not alleged that the Company's actions are inconsistent with applicable law on this issue. Furthermore, because Complainant is not self-generating electricity and establishing customer-generated credits at this time, the Complainant has not and cannot claim an actual loss or injury caused by the Company's actions. Because Complainant fails to assert a claim upon which relief can be granted, the Commission should dismiss the Complaint.

### **BACKGROUND**

1. Complainant is a Rocky Mountain Power customer. However, Complainant is not currently receiving electric service under any one of the three tariffs providing for the accumulation of credits through customer-generated electricity. *See* Electric Service Schedule 135, Net Metering Service; Electric Service Schedule 136, Transition Program for Customer Generators; and Electric Service Schedule 137, Net Billing Service. Instead, Complainant receives electric service provided under Electric Service Schedule No. 1. Because Complainant is not accumulating any unused credits at this time, he has alleged no current injury or loss caused by Rocky Mountain Power's actions.

2. Should Complainant elect to install solar panels, he would receive service under Electric Service Schedule No. 137, which provides, in Special Condition 3, that “[a]ll unused credits accumulated by the customer-generator shall expire with the regularly scheduled meter reading at the conclusion of the Annualized Billing Period.” The Annualized Billing Period for new Schedule 137 customers is defined in the tariff as the date that the customer first takes service on Schedule 137 and ending on the regularly scheduled meter reading for the month of March.

3. Schedule 137 and Special Condition 3 are consistent with the Commission's order dated October 30, 2020, in Docket No. 17-035-61, which stated, "Accrued bill credits will expire annually coincident to the regularly-schedule meter reading in the month of March."

4. Both the Commission's order and Schedule 137 are consistent with Utah Code section 54-15-104(3)(a)(ii), which provides that all customer-generated credits not used by the customer during the annualized billing period expire at the end of the annualized billing period.

5. Complainant's position that unused credits should continue indefinitely is inconsistent with the current law, and Rocky Mountain Power denies any wrongdoing by its actions in applying the statute, Commission order, and applicable tariffs.

#### **MOTION TO DISMISS**

6. Complainant has failed to state a claim upon which relief can be granted and the Company moves, under Rule 12(b)(6) of the Utah Rules of Civil Procedure and Utah Administrative Code R-746-1-105, for an order dismissing the Complaint.

7. In support of this motion, the Company asserts that Complainant fails to allege an injury or loss caused by the Company's actions. Furthermore, Complainant fails to allege that the Company's actions are contrary to any statute, Commission order, or the Company tariff.

#### **CONCLUSION**

For the foregoing reasons, the Company requests that the Commission dismiss the Complaint with prejudice.

DATED this 22<sup>nd</sup> day of July, 2021.

Respectfully submitted,

ROCKY MOUNTAIN POWER

A handwritten signature in blue ink, appearing to read "Stephanie Barber-Renteria".

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**CERTIFICATE OF SERVICE**

Docket No. 21-035-38

I hereby certify that on July 22, 2021, a true and correct copy of the foregoing was served by electronic mail to the following:

Matthew Gosselin [mgosselin80@gmail.com](mailto:mgosselin80@gmail.com)

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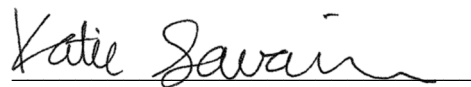
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**Rocky Mountain Power**

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