



1407 W. North Temple
Salt Lake City, UT 84116

February 27, 2023

VIA ELECTRONIC FILING

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

Attention: Gary Widerburg
Commission Administrator

RE: Docket No. 23-035-03 – Formal Complaint of Cindy L. Thompson against Rocky Mountain Power
Rocky Mountain Power's Motion to Dismiss and Answer

Pursuant to the Notice of Filing and Comment Period issued by the Public Service Commission of Utah on January 30, 2023, Rocky Mountain Power ("Company") hereby submits for filing its Confidential 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
jana.saba@pacificorp.com

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,

A handwritten signature in black ink that reads "Joelle Steward".

Joelle Steward

Senior Vice President, Regulation and Customer & Community Solutions

Enclosures

cc: Service List Docket No. 23-035-03

Carla Scarsella
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825 NE Multnomah Street, Suite 2000
Portland, Oregon 97232
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Attorney for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Formal Complaint of Cindy L. Thompson)
against Rocky Mountain Power) DOCKET NO. 23-035-03
)
) **MOTION TO DISMISS**
) **AND ANSWER**
)

Pursuant to Utah Code Ann. § 63G-4-204(1) and Utah Admin. Code §§ R746-1-203, R746-1-206, and R746-1-301, Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or the “Company”) hereby provides its answer to the formal complaint (“Complaint”) filed by Cindy L. Thompson (“Complainant”) with the Public Service Commission of Utah (“Commission”) on January 26, 2023. In addition, the Company moves to dismiss the Complaint in its entirety because Rocky Mountain Power has not violated any provision of law, Commission order or rule, or Company tariff.

Communications regarding this Docket should be addressed to:

By e-mail (preferred):

datarequest@pacificorp.com
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INTRODUCTION

Complainant's meter base¹ located in the back of her home was damaged. Complainant claims that the damage was the result of an improper installation of a "digital electric meter." However, the meter installed at Complainant's home at the time of the outage that occurred was an automated meter reading ("AMR") meter that was installed by the Company in 2007. Thus, a digital electric meter or advanced metering infrastructure ("AMI") meter has never been installed by the Company at the Complainant's home. Given that damage was to the meter base and not the meter, the Complainant is responsible for the repairs under Electric Service Regulation No. 5. Further, although unrelated to the claim regarding the meter base damage, the Complainant alleges that she had windows installed that she believes should have qualified for rebates under the Company's residential energy efficiency program. However the Complainant admits she did not use an approved technician to install the window under the program. The Company has no record that an application was filed. Even if such an application was filed, failure to use one of the Company's approved installation technicians would have been a viable reason for a rebate disqualification. Therefore, the Commission should dismiss the Complaint.

¹ Also known as "meter box," which is the term used by Complainant.

BACKGROUND & RESPONSE TO COMPLAINANT'S ALLEGATIONS

1. Per the Company's records, the Complainant has been the customer of record at [REDACTED] Utah ("Complainant home") from January 1995 to August 2000, April 2003 to December 2003, October 2017 to November 2017, and December 2017 to present day. The meter set at the Complainant's home, which was in service at the time of the partial outage reported by the Complainant in April 2022, involved an AMR meter that was installed on December 15, 2007.

2. On April 12, 2022, the Company responded to a reported outage at Complainant's home. A Company troubleshooter inspected the damage and determined that the meter base was in poor condition and in need of repairs. The troubleshooter removed the existing AMR meter and installed a temporary meter socket cover that enabled the customer to have partial service to her home so she could hire a qualified electrician to repair the meter base.

3. On April 25, 2022, the Company responded to a second trouble report at the Complainant's home. The responding troubleshooter reported that there was no new outage and that the Complainant had partial service as a result of the troubleshooter's actions on April 12, 2022. The Complainant claimed the damage to the meter base was the result of a problem with the Company's "digital electric meter" and as such, the Company was responsible for repairs. The troubleshooter confirmed the earlier troubleshooter's conclusion that the meter base was in poor condition and needed to be replaced. In particular, in his work order, the troubleshooter noted that the meter base was "old and worn out and needs to be replaced." The troubleshooter also informed the Complainant that meter base replacement would require a city inspection before the Company could restore full service.

4. Complainant alleges that the troubleshooter who was onsite on April 25, 2022 “inferred” that the Company was responsible for the costs and repairs to the meter base and that the Complainant should file a claim. This allegation is directly contrary to the troubleshooter’s report. All troubleshooters are trained to address a situation involving a customer dispute of responsibility of a repair to advise the customer to contact the Company’s customer service center to further discuss the responsibility of repairs and, if the Company is responsible for the claims, the customer’s options which may include the process for filing a claim. The Company has informed the Complainant on several occasions of her obligation to obtain and pay for the repair of the meter base. Confidential Attachment 1 provides some recent examples of the written communication that was sent to the Complainant regarding this matter.

5. Complainant alleges that she obtained the opinions of at least three electricians whose conclusions are based on Complainant’s assertion that a “digital electric meter” or AMI meter had been recently installed for use at the Complainant’s home. The Complainant’s claim is contrary to the fact that the last date the Company installed a meter at the Complainant’s home was December 15, 2007, which was in use at the time of the outage on April 12, 2022.

6. The Company’s Electric Service Regulation No. 5, subsection 1(c), Customer Installation, states:

All meter bases for meters required for measuring electric service (including kVar when specified by the Company) shall be provided and installed by the Customer at the location acceptable by the Company and shall conform to the Company’s specifications. The Customer’s wiring, meter bases and service entrance facilities must be installed and maintained by the Customer in accordance with applicable municipal or state requirements and to standards required by the National Electrical Safety Code and National Electric Code. ... The Company is not obliged

to provide service when Customer's equipment and installation does not meet the required standards.²

Complainant is responsible for the maintenance of the meter base, which the Company found to be "old and worn out." The Company denies all claims by the Complainant that the damage to the meter base was caused by the AMR meter in use at the Complainant's home on April 12, 2022.³

7. Complainant further alleges that the Company has been sending electric bills that are "fabricated." Because the Complainant has been receiving partial service without a meter since April 12, 2022, the Company has been estimating the Complainant's electric usage for billing purposes in accordance with the Company's Electric Service Regulation No. 8, Billings. Estimated bills are based on an average usage of the previous 12-month period. Once the Complainant performs the necessary repairs to the meter base and the Company can install a meter, the Company is willing to work with Complainant to resolve concerns with the estimated billing.

8. The Complainant also alleges she was denied a rebate for new windows installed at her home as part of the Company's residential energy efficiency program. Complainant does not provide the date the windows were replaced, whether an application was filed, or any documentation that the Company denied the application if filed. With respect to this allegation, the Company researched its records and could not locate Complainant's rebate application to

² The Customer's responsibility for the maintenance of meter bases is also reflected in Electric Service Regulation No. 6, Company Installations, which specially excludes meter bases. Specifically, Electric Service Regulation No. 6 provides "The Company will install, own and maintain all meters and other metering devices (excluding meter base/cabinets) necessary for measuring the electric power and energy used by the Customer."

³ The Company notes that in 2018 it received a report of meter tampering for this service address. In response to the information, the Company conducted an onsite inspection of the meter and found that the meter was missing its seal. As a result, the responding troubleshooter replaced the seal and installed a locking ring to prevent further tampering. The Company has no evidence as to who was responsible for the missing seal.

confirm this claim. The Company notes that its residential program, currently called Wattsmart Homes, has historically required the use of approved contractors for equipment installations.⁴ Complainant claims that her rebate was rejected due to her failure to use one of the Company's approved technicians to install her windows, which would have been a viable reason for a rebate disqualification. The Commission has in the past denied formal complaints when a customer has failed to use a trade ally for an incentive under the program.⁵

MOTION TO DISMISS

9. The Company moves under Utah Rules of Civil Procedure, Rule 12(b)(6) for an Order dismissing the Complaint. In support of this motion, the Company states that Complainant fails to allege or establish the Company violated applicable law, Commission rules or Company tariffs.

10. The Company's Electric Service Regulation No. 5, subsection 1(c), states "The Customer's wiring, metering bases and service entrance facilities must be installed and maintained by the Customer."

11. The Complainant's meter base is old and worn and in need of replacement. Even though the Complainant alleges that the Company's "digital electrical meter" or AMI meter caused the damage, as described above, the Company has not installed a new meter at the Complainant's home since December 15, 2007.

12. The Company's Electric Service Schedule No. 111 – Residential Energy Efficiency requires replacement windows to be installed by a participating or qualified program trade ally.

⁴ See the Company's Electric Service Schedule No. 111, Residential Energy Efficiency, which provides that "For measures that do not have a self-install specific incentive, equipment may be self-installed or installed by a qualified Trade Ally, per program requirements, to be eligible for an incentive."

⁵ See e.g., *In the Matter of the Formal Complaint of Richard Rawlinson against Rocky Mountain Power*, Docket No. 14-035-84, Order Dismissing Complaint (Aug. 28, 2014).

If the Complainant filed an application for rebate, which there is no evidence, then failure to use a trade ally is justification to reject such application under the Company's tariff.

13. Complainant requests a number of remedies including the cost of replacing the meter base, loss of rental income plus interest, damages resulting from malicious and gross negligence, financial hardship and emotional pain and distress, and the costs plus interest related to the replacement of windows. Under Utah statute, the Commission can only assess penalties against a utility if there is a violation or failure to comply with the Public Utilities statute, or Commission rule or order issued under the statute.⁶ The Commission can assess a penalty of not less than \$500 nor more than \$2,000 for each offense.⁷ Complainant provides no basis that the Company has violated the Public Utilities statute or Commission rule or order or Company tariff. Further, it is outside of the Commission's authority to determine penalties associated with tort claims such as lost income, negligence, or financial hardship and emotional pain and distress.⁸ Therefore, the Commission should dismiss the Complaint.

CONCLUSION

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

⁶ Utah Code Ann. §54-7-25; *see also* Utah Code Ann. §54-7-26 for violations by officers or agents of a utility.

⁷ Utah Code Ann. §54-7-25.

⁸ The Commission has found that it "has no authority to adjudicate liability for common law tort claims (*e.g.* negligence, trespass, etc.) and no authority to award money damages for associated harms." *Formal Complaint of Kip Swan and David Thompson against Rocky Mountain Power*, Docket No. 21-035-67, Order at 5 (Mar. 3, 2022). *See also, McCune v. Mountain Bell Telephone*, 758 P.2d 914, 916 (Utah 1988) ("It is the district court, not the Commission, that has jurisdiction to consider claims for damages for wrongful disconnection or other torts committed by a public utility." *citing, Atkin, Wright & Miles v. Mountain States Tel. & Tel. Co.*, 709 P.2d 330, 334 (Utah 1985))

DATED this 27th day of February, 2023.

Respectfully submitted,

ROCKY MOUNTAIN POWER

Handwritten signature of Carla Scarsella in cursive script.

Carla Scarsella

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Attorney for Rocky Mountain Power

CONFIDENTIAL
Attachment 1

**THIS ATTACHMENT IS CONFIDENTIAL IN ITS
ENTIRETY AND IS PROVIDED UNDER SEPARATE
COVER**

CERTIFICATE OF SERVICE

Docket No. 23-035-03

I hereby certify that on February 27, 2023, a true and correct copy of the foregoing was served by electronic mail to the following:

Complainant

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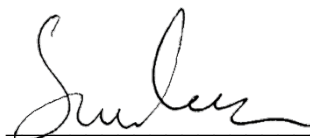
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