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Formal Complaint of Cindy L. Thompson  
against Rocky Mountain Power

DOCKET NO. 23-035-03

ORDER

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ISSUED: May 31, 2023

**1. Procedural History**

On January 26, 2023, Cindy L. Thompson (“Complainant”) filed a Formal Complaint (“Complaint”) with the Public Service Commission (PSC) against Rocky Mountain Power (RMP). The PSC issued a Notice of Filing and Comment Period (“Notice”), establishing a response deadline for RMP of February 27, 2023, and a reply deadline for Complainant of March 14, 2023. On February 27, 2023, RMP submitted its Motion to Dismiss and Answer (“Motion to Dismiss”).

On the date her reply was initially due, March 14, 2023, Complainant submitted a Request for Extension of Time to Reply (“First Request for Extension”), seeking an extension of time to file her reply until April 14, 2023. Complainant cited personal reasons and her desire for more time to conduct legal research.

On March 21, 2023, the PSC issued an order granting the First Request for Extension and extending Complainant’s deadline for replying to April 14, 2023. Complainant did not file her reply on April 14, 2023. Again, on the due date, she requested an extension, filing a document styled “Request to Subpoena Documents and Evidence and for an Extension of Time to Reply (“Second Request for Extension and for Discovery”). In this filing, Complainant asked for an indefinite extension to file

her reply, “request[ing] until April 21, 2023, in which to provide [RMP] with a subpoena requesting evidence and records ... [and] an additional two weeks after receiving the subpoenaed evidence ... in which to file ... her reply.”

On April 21, 2023, Complainant filed a “Request for an Order Requiring RMP to Stop Fabricating Billing Statements and Attempting to Collect Monies” and a proposed Subpoena Duces Tecum (“Request to Stop Attempting to Collect”).

On April 26, 2023, the PSC issued a Notice it would treat Complainant’s Second Request for Extension and for Discovery as a request for formal discovery.<sup>1</sup> On May 18, 2023, Complainant filed two more documents, one requesting the PSC issue a decision regarding her Request to Stop Attempting to Collect and another requesting the PSC compel RMP to produce discovery in response to her proposed form of subpoena.

## **2. Factual Background**

### **a. Complainant’s Allegations and Complaint**

Complainant alleges a technician from RMP visited her residence on April 25, 2022, in response to a service call Complainant made after she partially lost power the same date. Complainant alleges the technician told her the “meter box attached to the back of the home was damaged” and removed the meter and meter box from her

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<sup>1</sup> Utah Admin. Code R746-1-501 provides “[p]arties shall attempt to complete informal discovery through written requests for information and records” and requires parties to file a motion with the PSC to conduct formal discovery.

home. (Complaint at 1.) Complainant represents the technician told her she could file a claim with RMP to pay for the damages and departed without restoring the lost power. She also represents the technician “inferred that RMP was responsible for the costs and repairs” based on his representation she could file a claim with RMP. (*Id.*)

Complainant alleges she contacted RMP on April 26, 2022, for the purpose of filing a claim, and RMP electronically provided her with a “Claim Form” with instructions attached. After reading the instructions, “it was clear to the [Complainant] that she would need to upfront the costs and be responsible for the repairs/replacement of the meter box” and “hope for reimbursement from RMP.” (Complaint at 2.)

Complainant alleges she later met with an electrician, identified only as “Adam,” who told her “it was obvious ... severe damage had been done to the meter and surrounding areas within the meter box, as a direct result of RMP’s faulty meter and/or RMP’s service technician’s earlier improper installation” of the meter. (*Id.*)

Complainant represents she had a tenant living in the basement of her home who paid \$1,200.00 per month in rent, and the tenant moved out on April 30, 2022 because of the power outage.

After she lodged an informal complaint with the Division of Public Utilities (DPU) on May 2, 2022, a representative from RMP contacted Complainant on May 5, 2022. Complainant states she told RMP she did not have funds to “front the costs for

the damages caused by RMP.” (*Id.* at 3.) She explained to RMP’s representative “several years earlier she had new windows installed in her home ... when RMP was offering an energy rebate to homeowners who got new windows” and “RMP failed and refused to honor the rebate offer at that time ... because she failed to use one of RMP’s preferred technicians to install her new windows.” (*Id.*) Therefore, she believed “RMP to be dishonorable” and “would not be fronting any costs for RMP.” (*Id.*)

Complainant alleges she later met with a master electrician, identified as “Guy,” who also told her “the damage to the meter box was most likely a result of poor wiring at the point of RMP’s electric meter.” (*Id.*) Complainant represents Guy provided her with a verbal estimate of repairs of \$6,500.

Complainant alleges “[b]y June 2022,” she began receiving bills from RMP she characterizes as “fabricated to reflect exorbitant power usage amounts and fees.” (*Id.* at 4.)

On November 14, 2022, RMP left a notice at Complainant’s home that her service was to be disconnected for failure to pay. She contacted RMP again, which sent two employees to her home on November 17, 2022.<sup>2</sup> She states these employees asked to examine the meter box and subsequently left Complainant with a letter stating the situation presented safety code violations.

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<sup>2</sup> Complainant believes RMP opened a work order for an exact reading of her electric usage in June 2022, but RMP was unable to make such a reading because it had removed the meter in April 2022.

On January 17, 2023, Complainant received another notice from RMP, attached to her door, informing her of safety code violations. Later that day, she alleges she received a phone call from RMP, threatening her with disconnection of all power to her home on January 27, 2023.

The Complaint asks for the following relief: (i) a “judgment in favor of [Complainant] and against [RMP] in the amount of \$6,500.00” for the alleged damage RMP caused to her meter box; (ii) a “judgment ... in the amount of \$13,200.00 ... for lost rents”; (iii) a “judgment ... for punitive damages in the amount of \$50,000.00 per month ... and no less than \$500,000.00”; and (iv) a “judgment ... in the amount of [ \$ ]1,200.00 with accrued interest at 10% per annum, the exact amount which is to be determined after further research by [Complainant]” in connection with RMP’s denial of her application for a rebate some unspecified number of years ago. (*Id.* at 7-8.)

b. RMP’s Motion to Dismiss

In its Motion to Dismiss, RMP states Complainant has been a customer at the residence for many years, and RMP installed the subject AMR meter at her residence in 2007.

RMP represents a technician responded to a reported outage at Complainant’s residence on April 12, 2022. The technician “inspected the damage and determined that the meter base was in poor condition and in need of repairs.” (Motion to Dismiss at 3.) Consequently, the technician “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.” (*Id.*)

RMP confirms it responded to a second trouble report at Complainant’s residence on April 25, 2022. The technician that visited the residence that day “reported that there was no new outage and that the Complainant had partial service as a result of [RMP’s] actions on April 12, 2022.” (*Id.*) RMP states the Complainant told the technician RMP was responsible for the repairs because RMP’s “digital electric meter” had caused the damage to her meter box. RMP represents this technician affirmed the earlier technician’s conclusion the meter base was in poor condition and needed to be replaced. The technician noted in his work order the meter base was “old and worn out and needs to be replaced.” (*Id.*) RMP also represents the technician informed Complainant that replacing the meter box would require a city inspection.

RMP states the technician who visited on April 25, 2022, submitted a report that contradicts Complainant’s representation he “inferred” RMP was responsible for the repair. RMP further states all technicians “are trained to address a situation involving a customer dispute of responsibility [for] a repair to advise the customer to contact [RMP’s] customer service center to further discuss” responsibility and the possibility of filing a claim. (*Id.* at 4.)

RMP represents it has “informed ... Complainant on several occasions of her obligation to obtain and pay for the repair of the meter base” and attached some examples as exhibits to its Motion to Dismiss, which are designated confidential. (*Id.*)

RMP rebuts Complainant’s representation that multiple electricians have told her RMP caused the damage to the meter box when it recently installed a digital electric meter by emphasizing RMP installed the subject AMR meter on December 15, 2007, approximately 15 years prior to the outage in 2022.

### **3. Discussion, Findings, and Conclusions**

The scope of the PSC’s jurisdiction to hear complaints against public utilities is specifically enumerated in the Utah Code. By statute, any such complaint must “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].” Utah Code Ann. § 54-7-9.

Here, as an initial matter, Complainant’s requests for relief all demand money damages. Complainant points to no authority that empowers the PSC to award such damages, and the PSC is aware of no such authority. As the PSC has previously concluded, it “unquestionably 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.”<sup>3</sup>

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<sup>3</sup> *Formal Complaint of Kip Swan and David Thompson against RMP*, Docket No. 21-035-67, Order issued March 3, 2022 at 5, available at <https://pscdocs.utah.gov/electric/21docs/2103567/3226412103567o3-3-2022.pdf>

Complainant's primary grievance concerns the damage she maintains RMP caused through negligent work when installing a new meter. RMP maintains the meter was installed nearly 15 years ago and suggests Complainant incorrectly believes RMP performed work on her property at a time more proximate to the outage she experienced in April 2022. While this question presents a genuine issue of fact, the PSC has no jurisdiction to adjudicate it. Complainant's grievance amounts to a civil claim for monetary damages sounding under the common law of torts. The same is true for Complainant's money damages claims for lost rents and punitive damages. These tort claims can only be resolved in a court with jurisdiction to adjudicate them and lawful authority to award Complainant the relief she seeks.

Two issues Complainant raises could potentially fall within the jurisdiction of the PSC: (1) her allegation that her bills, which she characterizes as fabricated, do not reflect the amount of electricity she consumed and (2) her allegations regarding RMP's failure to honor a rebate concerning new windows she installed at an unspecified time.

With respect to the latter, Complainant's allegations are extremely vague, she has not attempted to approximate when the windows were installed, the particular incentive program for which she sought to qualify, when RMP offered the incentive, who installed the windows, or whether the installation qualified under the terms

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(dismissing complaint where the only relief sought was monetary damages associated with loss of enjoyment of property because PSC had no authority to grant such relief).



stated in the tariff to receive the incentive. She does state RMP informed her she did not qualify because she failed to use an approved installer, which the PSC notes could likely have been a condition for qualifying for whatever incentive it was that Complainant hoped to receive. The PSC appreciates Complainant's disappointment she did not receive the rebate she hoped, but she has not alleged she qualified for the rebate under the terms of the applicable tariff.

With respect to Complainant's allegation RMP has fabricated her bills, RMP responds that it has been estimating Complainant's electric usage for billing purposes consistent with RMP's Electric Service Regulation No. 8 ("ESR No. 8") because she has had no meter since April 2022. Specifically, RMP states it has been estimating Complainant's bills based on an average usage of the prior 12-month period. RMP also represents it "is willing to work with Complainant to resolve concerns with the estimated billing" after she "performs the necessary repairs to the meter base and [RMP] can install a meter." (Motion to Dismiss at 5.)

While Complainant characterizes these bills as "reflect[ing] exorbitant power usage amounts and fees," her Complaint does not identify the actual amount of any estimated bill, the quantity of power RMP has estimated she used in any period, or the discrepancy she believes to exist between the power she has used and the power for

which she has been charged. (*See* Complaint at 4.)<sup>4</sup> RMP is correct that its ESR No. 8 allows for estimated billing, and Complainant has not filed a reply to explain how she believes RMP has acted inconsistently with that regulation or any other applicable rule or regulation with respect to her bills.<sup>5</sup>

Accordingly, the PSC finds the Complaint fails to specify any law, rule, administrative order, or tariff provision that RMP allegedly violated. RMP argued as much in its Motion to Dismiss, and Complainant failed to make any effort to remediate this deficiency, declining to file a response to the motion or a reply in support of her Complaint and instead asking for two extensions, the second for an indefinite period to allow her to conduct formal discovery. However, Complainant's failure to identify any violation on the part of RMP is a legal deficiency that warrants dismissal. No basis exists upon which to require RMP to participate in discovery where no violation has been alleged to exist and where it appears the primary grievance concerns a matter over which the PSC has no jurisdiction.

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<sup>4</sup> Complainant attached copies of several bills to her Request to Stop Attempting to Collect but does not provide any estimate of the amount of electricity she believes she consumed or the amount she believes she was overcharged.

<sup>5</sup> In her Request to Stop Attempting to Collect, Complainant complains the estimated bills are fabricated because RMP has not provided her with a meter reading. That is, Complainant appears to believe RMP's estimating these bills is equivalent to fabricating them. However, she has not responded to RMP's assertion that these estimated bills are consistent with ESR No. 8 or what alternative exists for her to pay RMP for the electricity she is using in the absence of a meter.

**4. ORDER**

The PSC finds and concludes Complainant has failed to allege RMP violated any governing statute, rule, order, or tariff provision. The PSC therefore grants RMP's Motion to Dismiss and dismisses the Complaint. The PSC emphasizes the dismissal is without prejudice. If Complainant believes RMP has overcharged her in a manner inconsistent with its tariff or applicable law and is unable to satisfactorily resolve the matter with RMP she may file an informal complaint with the DPU and that informal complaint may subsequently be elevated to the PSC. The same is true with respect to the rebate to which she alludes in her Complaint. In either case, Complainant should be mindful any future complaint must specify what RMP did or failed to do in violation of its tariff or applicable law.

Because the Complaint is dismissed, Complainant's Second Request for Extension and for Discovery and Request to Stop Attempting to Collect are moot and therefore denied.

DATED at Salt Lake City, Utah, May 31, 2023.

/s/ Michael J. Hammer  
Presiding Officer

Approved and confirmed May 31, 2023 as the Order of the Public Service  
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#328183

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, it is deemed denied. 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. §§ 63G4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on May 31, 2023, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

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Office of Consumer Services

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Administrative Assistant