



1407 W North Temple, Suite 330  
Salt Lake City, Utah 84114

June 20, 2023

***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. 23-035-23** Rocky Mountain Power's Answer, Motion to Dismiss and Status Update

Pursuant to the Notice of Filing and Comment Period issued by the Public Service Commission of Utah on May 19, 2023, Rocky Mountain Power ("Company") hereby submits for filing its Answer, Status Update and Motion to Dismiss 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)  
[jana.saba@pacificorp.com](mailto: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) 220-282

Sincerely,

Joelle Steward  
Senior Vice President, Regulation/Customer and Community Solutions

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

Zachary Rogala  
1407 West North Temple, Suite 320  
Salt Lake City, UT 84116  
435.319.5010  
[zachary.rogala@pacificorp.com](mailto:zachary.rogala@pacificorp.com)  
*Attorney for Rocky Mountain Power*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

Formal Complaint of Glenn Mickelson against Rocky Mountain Power	Docket No. 23-035-23  Rocky Mountain Power’s Answer, Status Update, and Motion to Dismiss
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**I. INTRODUCTION**

Pursuant to 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”) answers the formal complaint (“Complaint”) filed by Glenn Mickelson (“Complainant”) with the Public Service Commission of Utah (“Commission”) on May 19, 2023, provides a status update, and moves to dismiss the Complaint without prejudice because Rocky Mountain Power has not violated any Commission Order, statute, regulation, or Company tariff.

Communications regarding this Docket should be addressed to:

By e-mail (preferred):

[datarequest@pacificorp.com](mailto:datarequest@pacificorp.com)  
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By mail:

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## II. RESPONSE TO ALLEGATIONS

The Complainant alleges that the Company has “not properly buried its 7200 volt line to a code required depth of 30 inches in the lower 1.5 miles of the Water Fork Rose Canyon road,”<sup>1</sup> and that there is an “imminent danger that exists with such a high voltage line exposed on the surface of the road or minimally covered with only a few inches of dirt,”<sup>2</sup> because “rain showers will rapidly re-expose the high voltage cable,”<sup>3</sup> and this “hazard presents significant risk to life and safety of anyone in the area.”<sup>4</sup> The Complainant requests immediate resolution, and requests the Commission order the Company to rebury approximately 1.5 miles of line, and hire an independent third party to verify the line was buried to a proper depth.<sup>5</sup> The Complaint does not allege that RMP has violated any Commission Order, statute, regulation, or tariff.

In response, RMP admits that it owns and operates the electrical line in question, but disputes that it did not properly bury the line. To the best of the Company’s knowledge and belief, RMP represents that: the line was initially installed correctly, and has been correctly repaired and re-buried at various times over the years since; that the County of Salt Lake owns,

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<sup>1</sup> Compl. ¶ 3.

<sup>2</sup> *Id.* ¶ 4.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* ¶ 5.

operates, and otherwise maintains the road under which the Company's line is buried; and that by no fault of the Company, due to a combination of continual erosion and routine road maintenance and repairs by the County of Salt Lake (including re-grading activities), the line has been re-exposed as of the date of the Complaint. The Company also lacks adequate access to the road as it is located almost entirely behind a gate that is locked with access controlled by Salt Lake County. To that end, RMP responds that this is a recurring issue, that at various times either Salt Lake County or the Company has remedied the issue, and that since at least 2000 has discussed this issue with the Complainant. RMP lacks sufficient knowledge or information to determine the truth of the remaining factual allegations included in the Complaint.

### **III. STATUS UPDATE**

On May 19, 2023, the Commission issued a Notice of Filing and Comment Period that directed the Company to respond to several public safety issues by May 23, 2023. The Company's May 23 response indicated that it was currently working on interim and long-term solutions for the re-exposed line, and that the Company would update the Commission on the status of these solutions in its June 20, 2023, filing.

After confirming that the access gate remains locked, the Company represents that it completed work on an interim solution that included covering the exposed line splices with dirt and road base. After a subsequent on-site investigation with Salt Lake County representatives, because the County owns and maintains the road, it informed the Company that it has prioritized filling and regrading the road as soon as possible.

The Company also represents that it is investigating long-term solutions that include potentially encasing the line in a more durable material, reburying the line, or relocating the line. The Company has begun taking steps to study, select and execute the best solution, which

is anticipated to be resolved by the end of 2023, and if necessary, can update the Commission once completed.

#### **IV. MOTION TO DISMISS**

The Company requests the Commission dismiss this Complaint under Rule 12(b)(6) of the Utah Rules of Civil Procedure for failure to state a claim, because the Complaint has not identified any administrative rule, order, statute, or applicable tariff that the Company has violated. It is unclear whether such authority exists, because Salt Lake County—not Rocky Mountain Power—is responsible for the maintenance and repair of the road under which the Company’s line is buried. Further, the Company, with the assistance of Salt Lake County, when necessary, is currently pursuing both short- and long-term solutions to rectify the issue, and these efforts are expected to be completed by 2024. The Company can update the Commission on the status of these solutions if necessary.

For these reasons, dismissal is not only appropriate under Rule 12(b)(6), but also reasonable given this is a recurring issue that the Company, Salt Lake County, and the Complainant have been working on for well over two decades. The Commission should dismiss this Complaint without prejudice, and if necessary, the Complainant could refile in 2024 if the issue has not been adequately resolved.

#### **V. CONCLUSION**

Rocky Mountain Power respectfully requests the Commission dismiss the Complaint without prejudice.

Dated this 20th day of June, 2023.

/s/ Zachary Rogala  
Zachary Rogala  
*Attorney for Rocky Mountain Power*

**CERTIFICATE OF SERVICE**

Docket No. 23-035-23

I hereby certify that on June 20, 2023, a true and correct copy of the foregoing was served by electronic mail to the following:

**Utah Office of Consumer Services**

Michele Beck [mbeck@utah.gov](mailto:mbeck@utah.gov)  
[ocs@utah.gov](mailto:ocs@utah.gov)

**Division of Public Utilities**

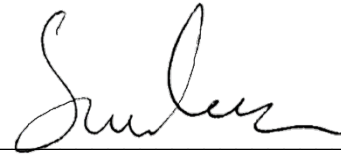
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**Assistant Attorney General**

Patricia Schmid [pschmid@agutah.gov](mailto:pschmid@agutah.gov)  
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**Rocky Mountain Power**

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Santiago Gutierrez  
Coordinator, Regulatory Operations