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Formal Complaint of Glenn Mickelson  
against Rocky Mountain Power

DOCKET NO. 23-035-23

ORDER DISMISSING COMPLAINT

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ISSUED: August 17, 2023

On May 19, 2023, Glenn Mickelson (“Complainant”) filed a formal complaint (“Complaint”) with the Public Service Commission (PSC) against Rocky Mountain Power (RMP). The Complaint indicates the Complainant is an electrician and expresses his concern about an exposed high voltage line (“Line”) on or near an unpaved road in the area of the Yellow Fork Trailhead in Salt Lake County (“County”). On the date the Complaint was filed, the PSC issued a Notice of Filing and Comment Period (“Notice”), asking RMP to submit a written response to the Complaint on or before June 20, 2023, and the Complainant to file a reply on or before July 5, 2023. Given the possibility of an immediate threat to public safety, the Notice also asked RMP to submit a statement on an expedited basis to address whether RMP owns or operates the Line and any risks to the public associated with the Line.<sup>1</sup>

### **1. RMP’s Expedited Response**

On May 23, 2023, consistent with the Notice, RMP filed its Response Addressing Safety Risks (“Expedited Response”), confirming that RMP owns and operates the Line. RMP claims it installed the Line more than thirty years ago and did so consistent with relevant safety and engineering protocols. RMP further confirms the Line is energized

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<sup>1</sup> The Notice required RMP to file this expedited statement on or before May 23, 2023.

and noted it is encased in plastic conduit. The exposed portion of the Line lies on an access road the County owns and maintains. While access to the road has previously been restricted by placing locks on the access gate, RMP states third parties have cut and removed the locks.

RMP alleges the County exposed the Line when it regraded the road on or about May 4, 2023. RMP avers the County attempted to remove the Line and caused a power outage affecting approximately 68 customers on that date. RMP responded to the outage and covered the Line the same date, May 4. However, snow around and above the Line subsequently melted, eroded the road, and re-exposed the Line in various areas. According to RMP, significant snowpack this year has presented continued erosion risks throughout late winter and spring.

In its Expedited Response, RMP represented it was currently working on an interim solution for the re-exposed Line, which was likely to include marking the area with caution tape, barricades, backfill, steel plates, or other means to notify and protect the public from the exposed portions of the Line.

Finally, RMP noted the Line does not present a “per se electrocution risk” and is similar to any line encased in plastic conduit (e.g., an encased line that runs down a distribution pole to a transformer in the ground.)<sup>2</sup> RMP has no redundant lines beyond the exposed line. Consequently, RMP cannot de-energize the Line without

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<sup>2</sup> Expedited Response at 3.

causing an interruption of service. Acknowledging the Line presents some risk notwithstanding it being encased in plastic, RMP concluded de-energizing the Line was not warranted or in the public interest given that an interim solution would be implemented soon.

## **2. RMP's Motion to Dismiss**

On June 20, 2023, RMP filed its Answer, Status Update, and Motion to Dismiss ("Motion"). In its Motion, RMP again avers "the line was initially installed correctly, and has been correctly repaired and re-buried at various times over the years since."<sup>3</sup> RMP emphasizes the County "owns, operates, and otherwise maintains the road under which [RMP's] [L]ine is buried" and "by no fault of [RMP], due to a combination of continual erosion and routine road maintenance and repairs by the County ... the line [was] re-exposed as of the date of the Complaint."<sup>4</sup> RMP further emphasizes it "lacks adequate access to the road as it is located almost entirely behind a gate that is locked with access controlled by [the] County."<sup>5</sup> RMP clarifies the problem with the Line is a recurring issue, which RMP, the County, and Complainant have been working on intermittently for over two decades.

The Motion provides an update with respect to RMP's effort to implement interim and long-term solutions to the issue. RMP represents it confirmed the gate to

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<sup>3</sup> Motion at 2.

<sup>4</sup> *Id.* at 2-3.

<sup>5</sup> *Id.* at 3.

the access road is again locked and RMP “completed work on an interim solution that included covering the exposed line splices with dirt and road base.”<sup>6</sup> RMP also represents it conducted an on-site investigation with representatives from the County, and the County assured RMP it has prioritized filling and regrading the pertinent portion of the road as soon as possible.

Finally, RMP represents it is investigating long-term solutions, including encasing the Line in a more durable material, reburying the Line, and relocating the Line. RMP states it is taking steps to study and select the best alternative and anticipates implementing a long-term solution by the end of 2023.

Having updated the PSC as to the Line’s status and RMP’s short- and long-term efforts and plan to remediate the issue, RMP moves to dismiss the Complaint. RMP argues the Complaint has not identified any administrative rule, order, statute, or tariff provision that RMP allegedly violated. RMP, again, emphasizes the Line is located on an access road the County owns and maintains and argues the County is responsible for the road’s maintenance and repair. Noting RMP has been working with the County and Complainant on issues with the Line for many years, RMP asks the PSC dismiss this Complaint without prejudice, allowing Complainant to refile at a later date should he believe the problem persists.

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<sup>6</sup> *Id.*

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

The PSC notes the Complainant did not file a timely reply in support of his Complaint, and, to date, has not made any filing with the PSC subsequent to his initial Complaint.

The PSC finds an exposed, energized line is a serious issue that requires remediation in the interest of public safety. RMP's Expedited Response and Motion repeatedly provide assurances RMP is aware of the issue, has implemented an interim solution, and is actively working with the County to find an appropriate long-term solution to this recurring problem. The PSC recognizes the County's ownership and responsibility for the road complicates matters, insofar as the problem appears to stem from erosion and degradation of the road.

While the Complaint alleges RMP did not properly bury the Line, RMP represents it installed the Line correctly over two decades ago and that the County's maintenance and repairs, combined with natural erosion, have repeatedly created problems for the Line. RMP further alleges in each instance it has appropriately and correctly repaired and re-buried the Line. RMP further represents it is taking earnest, appropriate, and responsible actions to address the most recent exposure and working with the County to implement a long-term solution.

By statute, a complaint against a public utility must allege a violation of law, rule, or administrative order and must “specify the act committed or omitted by the public utility that is claimed to be in violation” of the law, rule, or order.<sup>7</sup>

The PSC appreciates Complainant’s concern over the exposed Line, but the information available in the record suggests the County exposed the Line and RMP is working responsibly with the County to remediate the issue. The Complaint does not specify any law, rule, or order RMP allegedly violated. Further, the Complainant failed to file a timely reply or otherwise pursue his Complaint in this docket. On the record before us, the PSC cannot make a finding RMP has violated law, rule, order, or tariff.

**4. Order**

Accordingly, the Motion is granted, and the Complaint is dismissed. Because this issue has been a recurring one and regards a matter of public safety, the PSC clarifies this order does not preclude Complainant from filing a future complaint regarding the Line should RMP’s and the County’s efforts fail to resolve the problem.

Additionally, in its Motion, RMP offers to submit an update to apprise the PSC of the Line's status next year. As this Order dismisses the Complaint, the PSC does not order RMP to make such a filing. Notwithstanding the disposition of this docket, the PSC would appreciate an update and encourages RMP to make such a filing.

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<sup>7</sup> Utah Code Ann. § 54-7-9.

DATED at Salt Lake City, Utah, August 17, 2023.

/s/ Michael J. Hammer  
Presiding Officer

Approved and confirmed August 17, 2023, as the Order of the Public Service  
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#329182

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 August 17, 2023, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

Glenn Mickelson ([glenn@peakmobile.com](mailto:glenn@peakmobile.com))

Data Request Response Center ([datareq@pacificorp.com](mailto:datareq@pacificorp.com))  
([customeradvocacyteam@pacificorp.com](mailto:customeradvocacyteam@pacificorp.com))  
PacifiCorp

Jana Saba ([jana.saba@pacificorp.com](mailto:jana.saba@pacificorp.com))  
Zachary Rogala ([zachary.rogala@pacificorp.com](mailto:zachary.rogala@pacificorp.com))  
Autumn Braithwaite ([autumn.braithwaite@pacificorp.com](mailto:autumn.braithwaite@pacificorp.com))  
Rocky Mountain Power

Patricia Schmid ([pschmid@agutah.gov](mailto:pschmid@agutah.gov))  
Patrick Grecu ([pgrecu@agutah.gov](mailto:pgrecu@agutah.gov))  
Robert Moore ([rmoore@agutah.gov](mailto:rmoore@agutah.gov))  
Utah Assistant Attorneys General

Madison Galt ([mgalt@utah.gov](mailto:mgalt@utah.gov))  
Division of Public Utilities

Alyson Anderson ([akanderson@utah.gov](mailto:akanderson@utah.gov))  
Bela Vastag ([bvastag@utah.gov](mailto:bvastag@utah.gov))  
Alex Ware ([aware@utah.gov](mailto:aware@utah.gov))  
Jacob Zachary ([jzachary@utah.gov](mailto:jzachary@utah.gov))  
([ocs@utah.gov](mailto:ocs@utah.gov))  
Office of Consumer Services

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Administrative Assistant