



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

August 14, 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. 23-035-33**  
In the Matter of the Formal Complaint of Douglas F. & Colleen C. Higham  
Against Rocky Mountain Power  
*Rocky Mountain Power's Answer and Motion to Dismiss*

Pursuant to the Notice of Filing and Comment Period issued by the Public Service Commission of Utah on July 13, 2023, Rocky Mountain Power ("Company") hereby submits for filing its Answer 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)  
[utahdockets@pacificorp.com](mailto:utahdockets@pacificorp.com)  
[jana.saba@pacificorp.com](mailto:jana.saba@pacificorp.com)  
[joseph.dallas@pacificorp.com](mailto:joseph.dallas@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,

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

Enclosures

Joseph Dallas  
Rocky Mountain Power  
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*Attorney for Rocky Mountain Power*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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Formal Complaint of Douglas F. & Colleen C. Higham against Rocky Mountain Power )  
DOCKET NO. 23-035-33 )  
MOTION TO DISMISS )  
AND ANSWER )

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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 Douglas F. and Colleen C. Higham (“Complainants”) with the Public Service Commission of Utah (“Commission”) on July 7, 2023. In addition, the Company moves to dismiss the Complaint under Utah Rules of Civil Procedure, Rule 12(b)(6) for failure to state a claim upon which relief can be granted.

Communications regarding this Docket should be addressed to:

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Portland, OR 97232

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## INTRODUCTION

The Complaint conveys dissatisfaction with the current Commission orders and Company tariffs governing the exported customer-generated rate (“ECR”) outlined in Electric Service Schedule No. 137—Net Billing Service (“Schedule 137”). Schedule 137 provides for terms and conditions, including the ECR amount associated with customer’s exported energy to Rocky Mountain Power. The Complainants are advocating for the Commission to increase the ECR to be equivalent to the amount that is charged for energy consumed on their relevant rate schedule. Despite their concerns about the ECR amount specified in Schedule 137, it is important to note that the Commission has already approved this amount, and no motion for reconsideration has been presented in the pertinent docket.<sup>1</sup> Furthermore, the Complaint refers to materials and information on the Company’s website associated with net metering. The Company’s net metering rate schedule, Schedule No. 135—Net Metering Service (“Schedule 135”), has been closed to new customers since November 15, 2017, and is not applicable to the Complainants.

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<sup>1</sup> See *Rocky Mountain Power’s Proposed Tariff Changes to Electric Service Schedule No. 137, Net Billing Service*, Docket No. 23-035-T03, Tariff Approval Letter from Public Service Commission (February 23, 2023) (hereinafter “Commission Approval Letter”).

The Complaint does not allege that Rocky Mountain Power violated any statute, administrative rule, Commission orders or Company tariff. The Complainants seek a kilowatt-hour (“kWh”) for kWh offset, which is effectively a request for reconsideration of a final Commission action.<sup>2</sup> As a result, the Complainants have not put forth a valid claim for which relief can be granted, and the Commission should dismiss the Complaint under Utah Rules of Civil Procedure, Rule 12(b)(6).

### **BACKGROUND & RESPONSE TO COMPLAINANTS**

1. Complainant is a Rocky Mountain Power customer currently receiving service provided under Schedule 137. The Complainants state they installed solar panels at their residence last year. The Company confirms that its records show that the date of interconnection was September 20, 2022.

2. The Complainants claim that their goal was to generate more electricity than they are using and state they were surprised by the rate structure used by Rocky Mountain Power to calculate their bills. The Complainants reference a Commission decision on March 1, 2023, which set the most current ECR to be \$0.05636. The filing referenced by the Complaint is the annual filing that Rocky Mountain Power submits to the Commission each year on March 1<sup>st</sup> to revise the ECR amount as outlined in Schedule 137.<sup>3</sup> This filing was made in compliance with the directives set forth in orders issued within Docket No. 17-035-61 on October 30, 2020, December 23, 2020, and August 11, 2021 (“ECR Update Orders”).

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<sup>2</sup> See Utah Code 63G-4-401 (providing for the procedure to appeal a final agency action).

<sup>3</sup> See *Rocky Mountain Power's Proposed Tariff Changes to Electric Service Schedule No. 137, Net Billing Service*, Docket No. 23-035-T03, Tariff (January 30, 2023).

3. On February 23, 2023, the Commission approved the ECR updates, effective March 1, 2023.<sup>4</sup> The Commission’s letter also affirmed that the ECR was consistent with the calculation methodology endorsed in previous ERC orders.<sup>5</sup> Notably, no motion for reconsideration was submitted within the pertinent docket in response to the Commission’s letter dated February 23, 2023.

4. On July 7, 2023, the Complainants filed the Complaint requesting the Commission reconsider the ECR amount approved in the Commission’s letter dated February 23, 2023. The Complaint specifically asks for the ECR amount to be increased to fully offset the amount paid for energy consumed. Additionally, the Complaint refers to materials and information on the Company’s website that relates to net metering, which is not relevant to the Complainants’ status as a net billing customer under Schedule 137.

5. The Company notes that the Commission approval to close Schedule 135 to new customers was issued on September 29, 2017.<sup>6</sup> Then on November 14, 2017, the Commission approved the Company’s filing to revise Schedule 135 to include language that states the schedule would be “Closed to Applications for New Service as of November 15, 2017.” This language has been included in Schedule 135 since that time.

### **MOTION TO DISMISS**

6. Rocky Mountain Power moves pursuant to Utah Rules of Civil Procedure, specifically Rule 12(b)(6), to request the dismissal of the Complaint. Complainants have not alleged any violation of statutes, administrative rules, Commission orders, or Company tariff by

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<sup>4</sup> Commission Approval Letter at 2.

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

<sup>6</sup> *In the Matter of the Investigation of the Costs and Benefits of PacifiCorp’s Net Metering Program* Docket No. 14-035-114

Rocky Mountain Power. Rather than presenting an argument that Rocky Mountain Power operated contrary to applicable law, the Complainants are instead seeking a reconsideration of a final Commission action that approved the Schedule 137 ECR amount, effective from March 1, 2023.<sup>7</sup>

### CONCLUSION

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

DATED this 14<sup>th</sup> day of August 2023.

Respectfully submitted,

ROCKY MOUNTAIN POWER



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*Attorney for Rocky Mountain Power*

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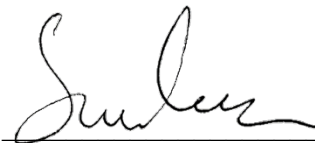
<sup>7</sup> Commission Approval Letter; *Supra* footnote 2.

**CERTIFICATE OF SERVICE**

Docket No. 23-035-33

I hereby certify that on August 14, 2023, a true and correct copy of the foregoing was served by electronic mail to the following:

<b><u>Utah Office of Consumer Services</u></b>	
Alyson Anderson	<a href="mailto:akanderson@utah.gov">akanderson@utah.gov</a>
Bela Vastag	<a href="mailto:bvastag@utah.gov">bvastag@utah.gov</a>
Alex Ware	<a href="mailto:aware@utah.gov">aware@utah.gov</a>
Jacob Zachary	<a href="mailto:jzachary@utah.gov">jzachary@utah.gov</a>
	<a href="mailto:ocs@utah.gov">ocs@utah.gov</a>
<b><u>Complainants</u></b>	
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