

**VIA ELECTRONIC FILING**

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*Complainants*

**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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Formal Complaint of Douglas F. and Colleen C. Higham against Rocky Mountain Power	) ) ) ) ) )	DOCKET NO. 23-035-33  <b>RESPONSE TO MOTION TO DISMISS AND ANSWER</b>
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Complainants respond to the Motion to Dismiss and Answer of Rocky Mountain Power (“RMP” or the “Company”) as follows:

1. **Although RMP may have complied in certain formal respects to the requirements of the Public Service Commission of Utah (the “Commission”), its course of dealings with the public with respect to home solar power generation is deceptive, unfair, inconsistent, reflects intentional or grossly negligent obfuscation, and is unjust, unreasonable and not in the public interest. RMP should not be entitled to take advantage of its inappropriate course of dealings by applying billing practices inconsistent with its public statements.**
  - a. RMP consistently markets itself as consumer alternative energy source friendly. See, for example, its headlines and primary tag line under “Path to Net-Zero”:

**“Building the foundation for a net-zero future**

We have a vision for a clean energy future, and we're making progress on it every day. We're significantly expanding our wind, solar and storage resources on our path to a net-zero emissions future.

Expanded renewable energy generation is just one part of our plan...

Yet every facet of its billing practices reflect an antipathy toward home based solar generation (see discussion below).

b. In its Motion to Dismiss, RMP claims that “net metering” is not available to Complainants and has not been since 2017 (six years ago), yet both its communications with customers as well as its web page deceptively highlight the advantages and application of net metering, without any disclaimers regarding current application (and without distinguishing “net metering” from its deceptively and confusingly titled current “net billing” practices):

i. For example, RMP has two full pages highlighting the advantages and application of net metering<sup>2</sup>, yet nowhere in those marketing materials does RMP disclose that their net metering program has not been available for six years, and was not available to Complainants. RMP states enticingly:

“When customers choose to operate a generating system *[i.e., customers such as Complainants]*, their electricity is monitored by a system known as net metering, which measures the difference between the electricity the customer consumes from the utility and the electricity the customer generates to the utility using their own solar, wind or other acceptable renewable generating equipment. The following material provides detailed information on small electrical generators and net metering.<sup>3</sup>”

More regarding billing is stated later on that same page:

“Customers are charged for the amount of energy they purchase from the utility company minus the cost of the energy they provide to the utility company.”

And on the second page, RMP concludes:

“What are the benefits?”

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<sup>1</sup> <https://www.rockymountainpower.net/about/innovation-environment.html>

<sup>2</sup>

[https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/savings-energy-choices/customer-generation/RMP\\_NetMetering\\_Brochure.pdf](https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/savings-energy-choices/customer-generation/RMP_NetMetering_Brochure.pdf)

<sup>3</sup> *ibid*

Net metering is a simple way to get a present and future benefit for the electricity you generate. For example, if you are a residential customer, you may not be home during the day when your system generates electricity. Net metering allows you to “store” this excess electricity on the grid, reducing or offsetting the electricity you would otherwise have to purchase.” *[Emphasis added]*

Yet Complainants are being billed under methods inconsistent with the foregoing and have been denied the simple, common sense, net metering billing practices described above. This begs the question as to why RMP continues to tout and detail the advantages of net metering, while providing to detail whatsoever of its more recent (and patently unfair) net billing practices. The answer appears to be that RMP would prefer that its customers not understand the significant difference between the two confusingly similar terms “net metering” versus “net billing.” More will be discussed below about the expectations regarding billing that RMP has raised in public pronouncements versus their actual billing practices.

ii. In its initial responsive letter dated July 10, 2023<sup>4</sup>, RMP states: “Rocky Mountain Power is a regulated utility, and you are billed under the correct approved Schedule 137 for your net-metered service at 752 N Locust Avenue in Lindon.” *[Emphasis added]* This language, from their own recently generated letter, suggests to the reader that RMP will bill according to conventional net metering practices as described in their web site...but RMP does not. Even RMP itself seems to be confused or indifferent—or perhaps intentionally deceptive—about the contrasting terms “net metering” and “net billing” when dealing with the public.

iii. Complainant entered into a contract entitled “INTERCONNECTION AND CUSTOMER GENERATION SERVICE AGREEMENT...” (the “Contract”) with RMP on or about September 7, 2022 which also contains language that suggests to the customer that billing will be handled on a “net-metering” basis. Language in the Contract includes:

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<sup>4</sup> See Exhibit A, attached hereto and made a part hereof by this reference.

“Whereas, Customer using its Customer Generation Facility, intends to offset part or all of its electrical requirement supplied by Rocky Mountain Power.” *[Page 1 of 21; Emphasis added]*

“Offset” is **net metering** language suggesting to the user/customer that conventional net metering offset practices, as described so clearly on RMP’s web site (see above), will be utilized in its billing practices.

c. The meter itself, provided by RMP, provides in large letters at the top of the meter, the words “**Net Metering**”, with smaller letters underneath: “Rocky Mountain Power.” This clearly signals to the customer/user the anticipation that electrical usage will be computed in accordance with their net metering description, referenced above. A photo of Complainants Net Meter is attached hereto as Exhibit B, and made a part hereof by this reference.

**2. In each instance, RMP has adopted billing practices that are detrimental to the consuming public, unfair, deceptive, confusing, contrary to good public policy to promote alternative energy production, antagonistic to good common sense, and favorable only to RMP, to the detriment of its solar generating customers.**

a. Rather than offsetting against solar power used, RMP simply applies its highly discounted tariff credit to the bill—resulting in excess charges to power generating customers. Assuming solely for purposes of this example that the exported customer-generated rate (“ECR”) currently being utilized by RMP is appropriate, RMP computes that charge for electricity as follows (see RMP billing statement dated May 16, 2023, attached hereto as Exhibit C and made a part hereof by this reference, where Complainants generated excess electricity, yet still were billed for electricity usage, in addition to the basic charge of \$10.00 per month and other fees and taxes):

Electricity used (Block 1):	400 kwh @ 0.0798930 = \$31.96
Electricity used (Block 2):	<u>43 kwh @ 0.1037250 = 4.46</u>
Total Charged by RMP:	<u>443 kwh</u> \$36.42

Solar Electricity Generated by us:	<u>472 kwh @ 0.05636 = (22.40)</u> Credited by RMP
Net Charge for Electricity <u>not used</u>	<u>\$14.02</u>

Contrast that actual charge, where Complainants actually utilized less electricity than it generated, with the charge that should be charged in an offsetting (common sense) approach to billing:

Electricity used:	443 kwh
Electricity generated:	<u>(472) kwh</u>
Net used:	(29) kwh @ 0.05636 = \$1.64 <b>credit</b> (or carryover of 29 kwh to next month)
Difference:	<u>\$16.66</u>

Note that the approach immediately above is consistent with RMP's pervasive descriptions of net metering billing throughout their promotional materials.

RMP's inappropriate billing practices similarly overbill solar generating customers when customers utilize more electricity than they generate (taken from RMP's billing statement dated July 18, 2023, attached hereto as Exhibit D and made a part hereof by this reference):

As computed by RMP:

Electricity used (Block 1):	400 kwh @ 0.090279 = \$36.11
Electricity used (Block 2):	<u>528 kwh @ 0.117210 = 61.89</u>
Total Charged by RMP:	<u>928 kwh</u> \$98.00

Solar Electricity Generated by us:	<u>301 kwh @ 0.05636 = (16.56)</u> Credited by RMP
Net Charge for Electricity	<u>\$81.44</u>

Contrast that amount to the amount that would be charged under common sense offsetting as described in RMP's marketing materials:

Electricity used:	928 kwh	
Electricity generated:	<u>(301) kwh</u>	
Net used:	627 kwh	
Electricity used (Block 1):	400 kwh @ 0.090279 =	\$36.11
Electricity used (Block 2):	<u>227 kwh @ 0.117210 =</u>	<u>26.61</u>
Total to be charged :	<u>627 kwh</u>	<u>\$62.72</u>
Difference:	<u>\$18.72</u>	

The difference of \$16.66 in the first example, and \$18.72 in the second example, may be relatively small on a single month basis, but equate to about \$200/year on an annual basis, and over \$5,000 over the term of the typical solar installation contract. Multiply that times the number of Utah RMP customers who may have solar panels, and it is easy to understand why RMP would participate in such sharp (and misleading) practices.

b. Although it may be too late this year to protest RMP's current published tariff for crediting back electricity contributed to the grid, RMP should not have the benefit of its unfair, deceptive, inconsistent, unjust and unreasonable billing practices, particularly considering how it has hidden such practices in its public pronouncements and marketing materials. RMP, in its own correspondence, calls its practices with new customers (such as Complainants) "net metering" (see Exhibit A)—yet fails to compute its billings on the basis marketed. Without making any disclaimer about net metering no longer being available, it highlights the benefits of net metering in its marketing/website materials (see footnote #2). Those materials include the following language:

"What is net metering? Net metering measures the difference between the electricity you consume from your utility and the electricity you generate and send to the utility using your own solar, wind or other acceptable renewable generating equipment. A special net meter is installed that keeps track of this difference as you generate electricity and take electricity from the electrical transmission grid. When you generate more than you use, electricity flows to the utility.

Normally, your electric meter spins forward as it measures how many kilowatt-hours (kwh) of electricity you buy, and is read by your utility once a month. The net meter allows you to use the electricity you generate first, reducing what you would normally buy from your utility. If you generate more electricity than you use, the excess goes through your electric meter and into the grid. Your meter shows the net amount, measured as the difference between the electricity you generate to the utility and the electricity you purchase from your utility.”<sup>5</sup> *[Emphasis added]*

The underlined portion above clearly anticipates an offsetting approach to electricity usage—luring the unsuspecting customer into believing that application of this language would leave the customer with a net zero bill (other than the monthly charge for access) when the customer provides as much electricity as it draws from the grid. As demonstrated above, RMP’s billing practices are just the opposite—requiring solar generating residential customers to pay for electricity not used, and preventing solar generating customers from receiving anything but minimal benefit from extensive solar power investment. Under current RMP billing practices, solar generating customers would have to generate and contribute to the grid approximately TWICE the electricity that it draws from the grid just to break even for the billing period (and this without considering the \$10 monthly base fee and other fees and taxes paid by its customers). Nowhere in all the materials reviewed by Complainants is this fact even hinted at, let alone brought to the attention of the investing public.

Although the marketing and general disclosure materials provided by RMP may reference obliquely technical Schedules, they do not describe with any specificity the unfair current billing practices and tariffs utilized by RMP. The web site and other marketing and promotional material as a whole reflect a course of dealing designed to lure a customer or prospective customer into believing that RMP is an advocate of customer-generated solar power, when everything about its actual billing practices discourage such investment and power generation. Its public materials obfuscate RMP’s true billing practices and are deceptive at best, and may step into the arena of actual fraud in practice. RMP should not be allowed to benefit from or capitalize on these practices.

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<sup>5</sup> Ibid, footnote 2.

### PRAYER FOR RELIEF

3. Consistent with the Commission's obligation to protect the public and assure that the actions of RMP are just, reasonable and in accord with the public interest, Complainants pray for relief as follows:

a. That RMP's Motion to Dismiss be denied; and

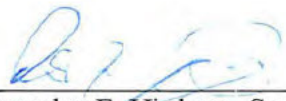
b. On behalf of Complainants, an order be issued to RMP to retroactively and prospectively compute all charges on a true offsetting basis as set forth by Complainants in the examples above; and

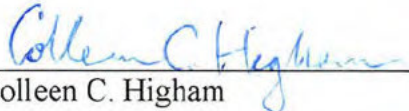
c. On behalf of all other Utah residential solar generators, an order be issued to RMP to retroactively and prospectively compute all charges for all Utah residential solar generators on a true offsetting basis as set forth by Complainants in the examples above;

d. Although it may be too late this year, consideration be given by the Commission when it comes up for reconsideration, to jettisoning RMP's complex methodology for computing its ECR and instead adopt the common sense approach of approving an ECR which is equal in all respects to the amount that RMP is charging customers for power utilized by such customers (consistent with the practices of other Utah utility providers); and further, that RMP be required to utilize common sense net offsetting electricity contributed to the grid by its customers against electricity utilized by its customers prior to application of its approved Block rates.

e. Such other relief as the Commission may deem appropriate.

Respectfully submitted as of the 29<sup>th</sup> day of August 2023.

  
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Douglas F. Higham, Sr.

  
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Colleen C. Higham

*Complainants*



## CERTIFICATE OF SERVICE

Docket No. 23-035-33

I hereby certify that on August 28, 2023, a true and correct copy of the foregoing, including Exhibits A-D attached hereto, was served by electronic mail to the following:

### Utah Office of Consumer Services

Alyson Anderson--akanderson@utah.gov  
Bela Vastag--bvastag@utah.gov  
Alex Ware--aware@utah.gov  
Jacob Zachary--jzachary@utah.gov  
ocs@utah.gov

### Division of Public Utilities

Madison Galt--mgalt@utah.gov  
dpudatarequest@utah.gov

### Assistant Attorney General

Patricia Schmid--pschmid@agutah.gov  
Robert Moore--rmoore@agutah.gov  
Patrick Grecu--pgrecu@agutah.gov

### Rocky Mountain Power

Data Request Response Center--datarequest@pacifiCorp.com  
Jana Saba--jana.saba@pacifiCorp.com  
utahdockets@pacifiCorp.com  
Autumn Braithwaite--autumn.braithwaite@pacifiCorp.com  
Joseph Dallas--joseph.dallas@pacifiCorp.com



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Douglas E. Higham  
Complainant

Exhibit A



Customer & Regulatory Liaison  
P.O. Box 25308  
Salt Lake City, Utah 84125

July 10, 2023

DOUGLAS & COLLEEN HIGHAM  
752 N LOCUST AVE  
LINDON UT 84042 1320

Re: Utah Public Service Commission Complaint

Dear Mr. & Mrs. Higham:

The Utah Public Service Commission forwarded your complaint to Rocky Mountain Power's Customer Advocacy Team for response to you before moving forward with the formal complaint process.

Rocky Mountain Power is a regulated utility, and you are billed under the correct approved Schedule 137 for your net-metered service at 752 N Locust Avenue in Lindon. Different electric companies have different rate structures for a variety of reasons. Rocky Mountain Power cannot speak to Lehi City's billing structure. However, Rocky Mountain Power's rates are reviewed through a public process, and once they are approved, customers falling under the conditions for a specific schedule must be billed in compliance with approved rates.

Please be aware that even though you are generating electricity through your solar panel installation, you are still interconnected to Rocky Mountain Power's distribution system to ensure uninterrupted service when your generation is less than your home's electric demand. The company still must supply you with power when you need it and bills you for that service at approved rates for residential customers.

If you wish to discuss this further, please call toll free at 1-800-532-1626 Monday through Friday 8 am to 5 pm or via e-mail at [TariffPolicy@PacifiCorp.com](mailto:TariffPolicy@PacifiCorp.com) and we will be happy to assist you to make sure that your concerns are addressed.

Sincerely,

Rocky Mountain Power Customer Advocacy Team

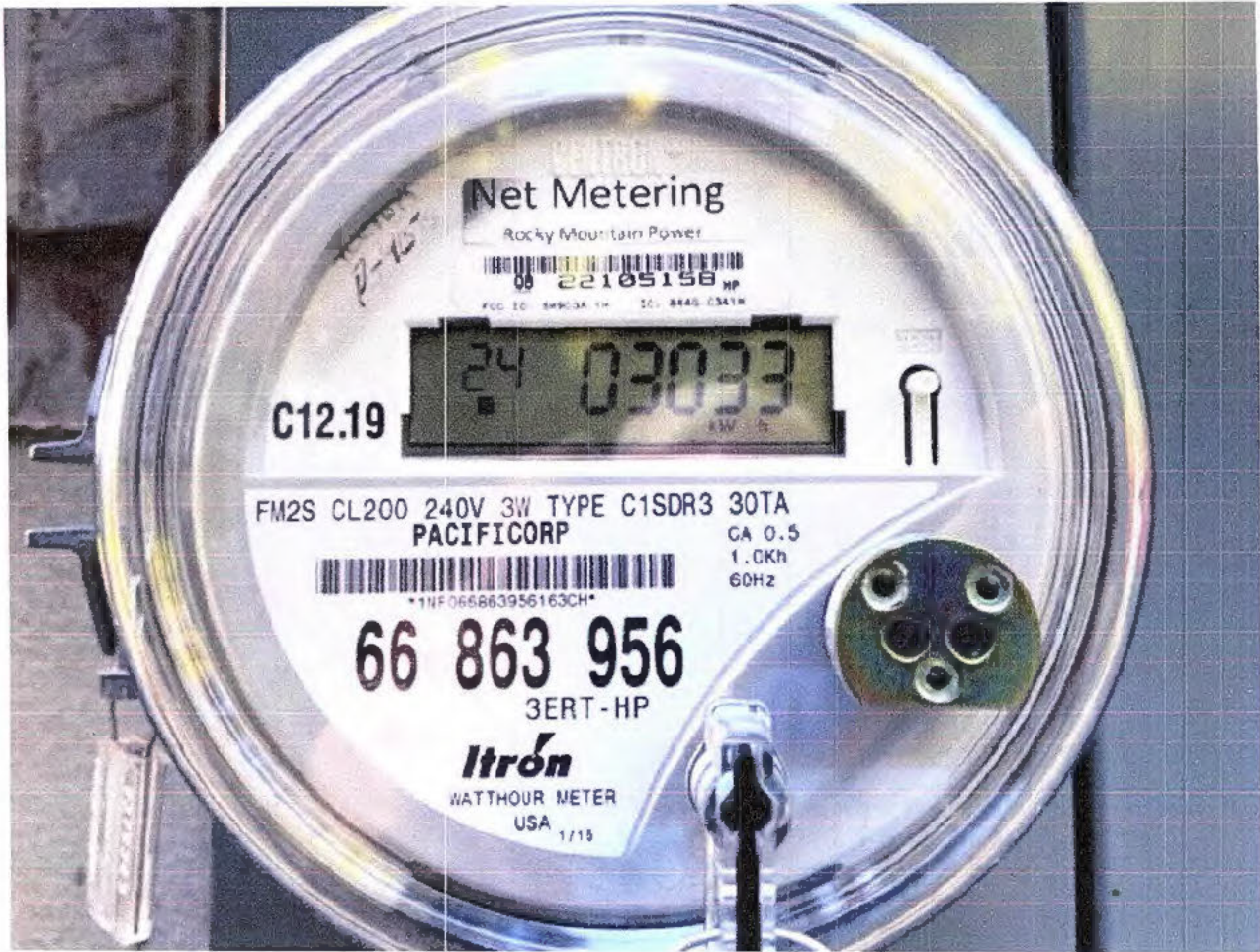


Exhibit 3

BILLING DATE: **May 16, 2023** ACCOUNT NUMBER: [REDACTED] DUE DATE: **Jun 8, 2023** AMOUNT DUE: **\$23.69**

**ITEM 3 - ELECTRIC SERVICE**

752 N Locust Ave Lindon UT  
Cool Keeper 710348224 Schedule PRR

NEW CHARGES - 05/23	UNITS	COST PER UNIT	CHARGE
Cool Keeper Participant Credit for 15 day(s) (Cool Keeper Ytd Credit \$-2.90)	1 units	-6.000000	-2.90
<b>Total New Charges</b>			<b>-2.90</b>

**ITEM 4 - ELECTRIC SERVICE**

752 N Locust Ave Lindon UT  
Net Billing -solar 5.62 Kw Schedule 137

METER NUMBER	SERVICE PERIOD		ELAPSED DAYS	METER READINGS		METER MULTIPLIER	AMOUNT USED THIS MONTH
	From	To		Previous	Current		
66863956	Apr 13, 2023	May 12, 2023	29	4150	4593	1.0	443 kwh
66863956	Apr 13, 2023	May 12, 2023	29	1473	1945	1.0	472 revkwh

Next scheduled read date: 06-13. Date may vary due to scheduling or weather.

NEW CHARGES - 05/23	UNITS	COST PER UNIT	CHARGE
Basic Charge - Single Phase (Energy To Customer Meter ) (Exported Cust Generation )	443 kwh 472 kwh		10.00
Energy Charge Winter Block 1	400 kwh	0.0798930	31.96
Energy Charge Winter Block 2 (Beginning Credits Balance \$) (Credits Earned This Period \$22.40)	43 kwh	0.1037250	4.46
Generation Export Credit (Ending Credits Balance \$)			-22.40
Renewable Energy Adjustment		-0.0008000	-0.03
Energy Balancing Account		0.0353000	1.29
Customer Efficiency Services		0.0384000	1.45
Usip Step Refund		-0.0072000	-0.27
Elec Vehicle Infrastructure		0.0030000	0.11
Home Electric Lifeline Program			0.16
Municipal Energy Sales/use Tax		0.0600000	1.59
Utah Sales Tax		0.0440000	1.17
<b>Total New Charges</b>			<b>29.49</b>

**Net Billing Program**

Thank you for choosing to participate in the Net Billing Program.  
Your invoice is based on the total amount of Energy you receive from Rocky Mountain Power.  
Energy that you send us from your generation facility (Exported Customer-Generated Energy) is measured by Rocky Mountain Power, and per Utah Public Service Commission approval, effective March 1, 2023, earns \$0.05636 per kilowatt-hour (kWh)

*Exhibit C*

**New Mailing Address or Phone?**

Please print your new information below and check the box on the reverse side of this Payment Stub. Thank you.

ACCOUNT NUMBER: [REDACTED]

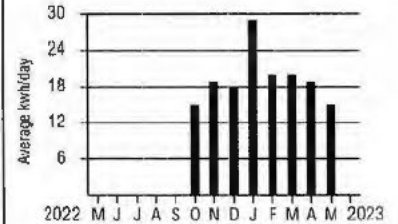
LAST FIRST M.I.

NEW STREET ADDRESS

CITY

ST ZIP TELEPHONE NUMBER

**Historical Data - ITEM 4**



**Your Average Daily kwh Usage by Month**

PERIOD ENDING	MAY 2023	MAY 2022
Avg. Daily Temp.	51	51
Total kwh	443	0
Avg. kwh per Day	15	0
Cost per Day	\$1.02	\$0.00

This product contains fiber from well-managed, independently certified forests.



BILLING DATE: Jul 18, 2023 ACCOUNT NUMBER: [REDACTED] DUE DATE: Aug 10, 2023 AMOUNT DUE: \$98.45

**ITEM 3 - ELECTRIC SERVICE**

752 N Locust Ave Lindon UT  
Cool Keeper 710348224 Schedule PRR

NEW CHARGES - 07/23	UNITS	COST PER UNIT	CHARGE
Cool Keeper Participant Credit (Cool Keeper Ytd Credit \$-14.90)	1 units	-6.000000	-6.00
<b>Total New Charges</b>			<b>-6.00</b>

**ITEM 4 - ELECTRIC SERVICE**

752 N Locust Ave Lindon UT  
Net Billing -solar 5.62 Kw Schedule 137

METER NUMBER	SERVICE PERIOD From To	ELAPSED DAYS	METER READINGS Previous Current	METER MULTIPLIER	AMOUNT USED THIS MONTH
66863956	Jun 13, 2023 Jul 13, 2023	30	5044 5972	1.0	928 kwh
66863956	Jun 13, 2023 Jul 13, 2023	30	2429 2730	1.0	301 revkwh

Next scheduled read date: 08-14. Date may vary due to scheduling or weather.

NEW CHARGES - 07/23	UNITS	COST PER UNIT	CHARGE
Basic Charge - Single Phase (Energy To Customer Meter ) (Exported Cust Generation )	928 kwh 301 kwh		10.00
Energy Charge Summer Block 1	400 kwh	0.0902790	36.11
Energy Charge Summer Block 2 (Beginning Credits Balance \$) (Credits Earned This Period \$16.96)	528 kwh	0.1172100	61.89
Generation Export Credit (Ending Credits Balance \$)			-16.96
Renewable Energy Adjustment		-0.0006000	-0.06
Energy Balancing Account for 13 day(s) for 17 day(s)		0.0806000 0.0353000	3.42 1.96
Customer Efficiency Services		0.0384000	3.97
Usip Step Refund		-0.0072000	-0.74
Elec Vehicle Infrastructure		0.0030000	0.31
Home Electric Lifeline Program			0.16
Municipal Energy Sales/use Tax		0.0600000	5.99
Utah Sales Tax		0.0440000	4.40
<b>Total New Charges</b>			<b>110.45</b>

**Wildfire safety & preparedness**

Safety is a community effort that takes all of us working together. As we're taking steps to continue to mitigate wildfire risks

*Exhibit D*

**New Mailing Address or Phone?**

Please print your new information below and check the box on the reverse side of this Payment Stub. Thank you.

ACCOUNT NUMBER: [REDACTED]

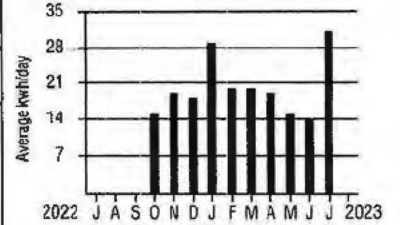
LAST \_\_\_\_\_ FIRST \_\_\_\_\_ M.I. \_\_\_\_\_

NEW STREET ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_

ST \_\_\_\_\_ ZIP \_\_\_\_\_ TELEPHONE NUMBER \_\_\_\_\_

**Historical Data - ITEM 4**



**Your Average Daily kwh Usage by Month**

PERIOD ENDING	JUL 2023	JUL 2022
Avg. Daily Temp.	71	75
Total kwh	928	0
Avg. kwh per Day	31	0
Cost per Day	\$3.68	\$0.00

This product contains fiber from well-managed, independently certified forests.