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Formal Complaint of Douglas F. and  
Colleen C. Higham against Rocky  
Mountain Power

DOCKET NO. 23-035-33  
ORDER DISMISSING COMPLAINT

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ISSUED: October 3, 2023

**1. Background**

On July 7, 2023, Douglas F. and Colleen C. Higham (“Complainants”) filed a formal complaint (“Complaint”) with the Public Service Commission (PSC) against Rocky Mountain Power (RMP). After issuing an action request to the Division of Public Utilities to confirm Complainants had completed the informal complaint process, the PSC issued a Notice of Filing and Comment Period on July 13, 2023.

On August 14, 2023, RMP filed its Motion to Dismiss and Answer (“Motion”). Complainants filed a Response to RMP’s Motion on August 29, 2023 (“Complainants’ Response”).

Complainants allege they installed solar panels at their residence in 2022 and were surprised to later learn they would not receive a kWh for kWh credit at the full retail rate for each kWh they exported to the grid. The Complaint asks the PSC to set the export credit rate (ECR) at an amount equal to RMP’s retail rate and require RMP to offset customers’ bills for each kWh a customer contributes to the grid before applying charges for any power a customer consumes.

In its Motion, RMP explains Complainants are receiving service under Schedule 137, consistent with the PSC-approved rates for that schedule. The Motion argues the

Complaint does not allege RMP has violated any statute, rule, order, or tariff provision.

Complainants' Response cites a dated brochure regarding RMP's net metering program and claims RMP misled them about the amount of the credit they would receive for exported generation. Complainants again request the PSC require RMP to calculate their generation on a "true offsetting basis" and to do so for all Utah residential solar generators. Complainants request the PSC "jettison 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." (Complainants' Response at 8.)

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

The PSC appreciates Complainants' frustration they are not receiving the amount of credit they apparently anticipated for their solar generation. However, Complainants' argument that receiving anything less than the full retail rate as credit for their exported CG amounts to "requi[ring them] to pay for electricity not consumed," fundamentally misapprehends RMP's regulated rate structure.

The Schedule 137 rates for exported customer generation (CG) are a product of years of examination and litigation before the PSC to determine a just and reasonable rate structure in light of the costs and benefits of CG. Specifically, in 2014, the Legislature amended Utah's Net Metering Statute, directing the PSC to assess the

costs and benefits of RMP's extant net metering program and determine a just and reasonable ratemaking structure in light of the costs and benefits.<sup>1</sup>

The PSC will not summarize the lengthy procedural history that followed, but notes it spanned two separate dockets and culminated in a hearing that commenced on September 29, 2020.<sup>2</sup> The PSC heard evidence and argument over five days from more than 20 expert witnesses who submitted prehearing written testimonies comprising tens of thousands of pages. The PSC also held a public witness hearing on October 5, 2020, which allowed members of the public to speak on the matter for nearly eight hours. On October 30, 2020, the PSC issued an order approving the ECR under Schedule 137.<sup>3</sup>

The Utah Supreme Court subsequently affirmed the PSC's decision.<sup>4</sup>

All of which is to say, the Schedule 137 rates are a product of extensive examination, deliberation, and litigation. Schedule 137 has been published and posted in accordance with Utah law since the time of its implementation. RMP certainly has

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<sup>1</sup> 2014 Utah Laws Ch. 53 (S.B. 208); codified at Utah Code Ann. § 54-15-105.1.

<sup>2</sup> *Application of RMP to Establish Export Credits for Customer Generated Electricity*, Docket No. 17-035-61 [hereafter "ECR Docket"]; see also *In the Matter of the Investigation of the Costs and Benefits of PacifiCorp's Net Metering Program*, Docket No. 14-035-114.

<sup>3</sup> ECR Docket, Order issued October 30, 2020. Subsequently, the PSC granted competing petitions for reconsideration and issued an order on April 28, 2021 that nominally adjusted the ECR.

<sup>4</sup> *Vote Solar v. Pub. Serv. Comm'n of Utah*, 2023 UT 13.

not acted unlawfully by charging Complainants rates under the applicable PSC-approved tariff.

In Complainants' Response, they also contend RMP has engaged in misleading practices, quoting a brochure containing information about RMP's Blue Sky, Subscriber Solar, and Net Metering programs as well as general information about solar panels, wind generation, and fuel cells. The copyright on this brochure, however, indicates it was published in 2016, and the information the brochure provides generally appears consistent with RMP's programs as they existed in 2016.

The PSC has reviewed RMP's website and the page addressing customer generation for Utah clearly states, "Utah Schedule 135 - Grandfathered Net Metering Program [is] *closed to new applicants.*" (Emphasis in original.) There is no link to the 2016 brochure Complainants quote, though the link Complainants provide in their Response does lead to an apparently archived copy of the 2016 brochure. Complainants do not explain how they discovered the web address to the dated brochure, but RMP's primary site on the topic of customer generation does not direct to it.

Additionally, any customer who interconnects their CG system under Schedule 137 has been required to execute an interconnection agreement for service under

Schedule 137.<sup>5</sup> Complainants do not attach a copy of this agreement or any agreement they executed with RMP and do not allege that any contract they executed failed to accurately state the terms that would govern their service.

Though they do not attach a copy, Complainants do quote language from an “Interconnection and Customer Generation Service Agreement” they allege they executed with RMP. Specifically, Complainants state the contract provides: “Whereas, Customer using its Customer Generation Facility, intends to offset part or all of its electrical requirement supplied by [RMP].” (Complainants’ Response at 4; emphasis in Complainants’ Response.) Complainants then argue the term “offset” is “net metering language” and suggests to customers that “conventional net metering offset practices” will apply to their bills. We conclude the language does no such thing.

Complainants are conflating two distinct benefits that derive from being a CG customer: (1) offsetting their personal consumption and thereby avoiding purchasing that power from RMP at the retail rate and (2) exporting their surplus energy to the grid for compensation in the form of a credit against their bill. The quoted language does not speak to energy exported to the grid whatsoever, let alone the value a customer will receive for exported energy. The language simply affirms the obvious

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<sup>5</sup> See RMP Electric Service Schedule No. 137, available at [https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/rates-regulation/utah/rates/137\\_Net\\_Billing\\_Service.pdf](https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/rates-regulation/utah/rates/137_Net_Billing_Service.pdf).

intention that CG customers will not consume from the utility what they produce for themselves.<sup>6</sup>

In sum, save for referencing a dated brochure that accurately described programs as they existed at the time RMP published it, Complainants have made no allegation suggesting RMP misled them about the ECR they would receive.

The PSC understands Complainants are dissatisfied with the Schedule 137 rates and to the extent Complainants recently installed solar panels believing they would receive rates that have not applied since 2017, it is certainly regrettable. Nothing in the Complaint suggests, however, that RMP misled Complainants or is otherwise responsible for their mistake. To receive service under Schedule 137, Complainants were required to execute an agreement to interconnect and receive service under that schedule, which is publicly posted and available online. RMP's current website contains accurate information with respect to the termination of Schedule 135 and current Schedule 137 rates. Additionally, the filings and orders in the PSC's dockets

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<sup>6</sup> Additionally, Complainants seem confused about the meaning of "net metering." While RMP has appropriately given each of its schedules pertaining to customer generation a separate title (e.g., Schedule 135 is titled "Net Metering Service" and Schedule 137 is titled "Net Billing Service"), all of the CG schedules fall within the definition of a "net metering program" under Utah law. See Utah Code Ann. § 54-15-102(12) (defining a "net metering program" as a program that allows a customer to "generate electricity primarily for the customer's own use[,] supply customer-generated electricity to the electrical corporation[,] and "receive a credit" for any surplus the customer pushes to the grid). Regardless, the export rate a CG customer receives is not ultimately contingent on whether the program qualifies as "net metering" but on the terms and rates set forth in the schedule in which the customer enrolls.

relating to the matter are publicly available on the PSC's website, and numerous industry and media outlets have published materials available online that discuss the PSC-approved change from a kWh-for-kWh credit in 2017 and the adoption of an ECR under Schedule 137 in 2020.

The PSC finds and concludes Complainants have failed to allege RMP violated any law, rule, order, or provision of its tariff. RMP's Motion is therefore granted, and the Complaint is dismissed.

DATED at Salt Lake City, Utah, October 3, 2023.

/s/ Michael J. Hammer  
Presiding Officer

Approved and confirmed October 3, 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#330128

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 written 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. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.



CERTIFICATE OF SERVICE

I CERTIFY that on October 3, 2023, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By USPS:

Douglas F. and Colleen C. Higham  
752 N Locust Ave  
Lindon, Utah 84042

By Email:

Douglas F. and Colleen C. Higham ([dhighamatm1@gmail.com](mailto:dhighamatm1@gmail.com))  
Complainants

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))  
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))  
Assistant Utah 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