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October 10, 2023

VIA ELECTRONIC FILING

Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84114

Attention: Gary Widerburg
Commission Administrator

RE: Docket No. 23-035-41

In the Matter of the Formal Complaint of Ian McCubbin, David Goldsmith, Tim Watcke, Laurie Hoffman, and David Classen 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 September 8, 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
utahdockets@pacificorp.com
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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,

A handwritten signature in blue ink that reads "Joelle Steward".

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

Enclosures

Zachary Rogala
Katherine Smith
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Attorneys for Rocky Mountain Power

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Formal Complaint of Ian McCubbin, David Goldsmith, Tim Watcke, Laurie Hoffman, and David Classen against Rocky Mountain Power	DOCKET NO. 23-035-41 ANSWER AND MOTION TO DISMISS
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1. Pursuant to Utah Code Ann. § 63G-4-204(1) and Utah Admin. Code §§ 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 Ian McCubbin, Tim Watcke, Laurie Hoffman, and David Classen (“Complainants”) with the Public Service Commission of Utah (“Commission”). The Company also moves to dismiss the Complaint with prejudice because Rocky Mountain Power has not violated any provision of law, Commission order or rule, or Company tariff.

2. Communications regarding this Docket should be addressed to:

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INTRODUCTION

3. The Complaint alleges that the Company must pay for the full costs to bury the Company's above-ground electric infrastructure located near the Complainants' property, because the lines and related infrastructure are exempted from the Company's Electric Service Regulation No. 12 – Line Extensions Tariff (“Line Extension Tariff”), and because the assets are located in an area which the Complainants characterize as a “high-risk fire zone.” That argument is incorrect, as the plain language of the Line Extension Tariff confirms it applies to the Complainants' request to bury the lines. While Rocky Mountain Power's Utah Wildland Fire Protection Plan (“Wildfire Plan”) explains that burying transmission and distribution line assets located within Fire High Consequence Areas (“FHCA”) can be considered on a case-by-case basis, burial is only required when it is cost-effective or necessary due to functional or operational constraints.¹

4. Given the Line Extension Tariff is applicable to the Complainants request and the Company is adhering to its Commission-approved Wildfire Plan, the Complainants fail to establish that the Company violated any applicable law, Commission rule or Company tariff. The Commission should dismiss the Complaint with prejudice.

¹ *In re RMP's Wildland Fire Protection Plan*, Docket No. 20-035-28, § 7.1 (Oct. 13, 2020).

ANSWER

5. Complainants allege the Company is required to bury certain above-ground power infrastructure located behind eleven homes along Northmont Way from East North Hills Way to Hilltop Road in Salt Lake City, Utah. *See generally*, Compl. Ex. 3, at 1 (diagramming existing facilities, and potential upgrades and installations). They allege this is necessary to mitigate wildfire risk. The Company provides additional factual information below that calls into question these allegations.

6. In 2019, the Company began working with the Complainants to address their concerns. Compl. Ex. 2, at 2. These concerns led to an informal complaint with the Commission that was resolved in April of 2019. *Id.* Shortly thereafter and continuing over the course of the next four years, the Company has proactively discussed solutions with the Complainants. None have been successful, because the Complainants are unwilling to pay for the incremental costs to bury the power lines and related infrastructure.

7. For example, in 2019 the Company initiated Request 6717938 to bury the overhead lines located near the Complainants' residences. The Company conducted initial design and cost estimates and on September 9, 2019, proposed to either bury the lines or rebuild the line using covered conductors because it is more feasible, cost-effective, and aligns with emerging best practices.² Consistent with the Company's Line Extension Tariff, the cost to rebuild the line with covered conductors would amount to \$65,068 and the cost to bury the line would be \$199,760. The Company offered to bury the lines for the difference between the two costs, \$134,692, at a cost of approximately \$12,244.73 per homeowner. Compl. Ex. 4. The Company is not responsible

² *See*, RMP Wildland Protection Plan, § 7.1 (discussing best practices for covered conductors).

for costs associated with burying lines unless required by local ordinance or conditions. Rather, the Company will bury lines for a residential rebuild at the customer's expense.³

8. The Complainants were not willing to pay this incremental cost, and requested the Company delay the work to discuss alternative accommodations and consider alternative options. Compl. Ex. 7. The Company agreed and provided Complainants with several options. The Company could upgrade all of the infrastructure at no cost to the Complainants, but the infrastructure would be left above-ground, or they could pursue burying the lines, again at the \$134,692 cost. *Id.* In this second counter-offer, the Company noted that it disagreed with the Complainants that burying the lines was required; would provide additional time for the Complainants to consider; and that it needed access to the Complainants property to begin preliminary work on the lines that would be required regardless which option the Complainants chose. *Id.* After multiple discussions with the Complainants, including a townhall meeting with residents in February of 2020 where they expressed concerns with paying to bury the lines, in late September of 2020 the Complainants informed Rocky Mountain Power that they were not moving forward with their request. The Company closed Request 6717938.

9. Several months later, in March of 2021 the Complainants revived the issue, and requested an additional estimate to bury the overhead line serving several Complainant residences. The Company initiated Request 8007219 in response, and after several discussions provided the Complainants with a second proposal. Compl. Ex. 8. Consistent with the Company's previous position, the proposal indicated that the Complainants would need to pay for the incremental costs to bury the infrastructure, this time at a cost of \$140,883. *Id.*

³ Electric Service Regulation No. 12 (available here: https://www.rockymountainpower.net/content/dam/pcorp/documents/en/rockymountainpower/rates-regulation/utah/rules/12_Line_Extensions.pdf).

10. During this time, on several occasions the Company and its agents attempted to perform routine vegetation management and other utility repair work at the Complainants premises. One or more of the Complainants denied access to the Company, although the Company's tariffs provide it the right to do so.

11. After receiving the second proposal, the Complainants requested additional time to consider alternative options, including whether it would be more feasible for the Complainants to complete certain aspects of the project. This continued until March of 2022 when the Complainants brought a second informal complaint with the Commission. Compl. Ex. 11. This second informal complaint was also resolved.

12. The Company has since continued to work with Complainants to resolve Request 8007219. This has included multiple on-site visits, and in-person and virtual discussions with the Complainants from March of 2022 through present. Most recently, on August 10, 2023, the Company updated the design of the project and estimate to reflect current costs. On August 15, 2023, the Complainants indicated they were interested in discussing the revised proposal sometime in September.

13. On September 5, 2023, four years and two informal complaints later, Rocky Mountain Power received this formal Complaint.

MOTION TO DISMISS

14. The Company requests the Commission dismiss the Complaint with prejudice under Utah Rule of Civil Procedure 12(b)(6), because the Complainants have failed to allege or establish that the Company has violated any applicable law, Commission rule, or Company tariff.

15. The Company's Line Extension Tariff states that, when not required by local ordinance or conditions, property owners are responsible for the costs to bury, relocate and extend

power lines.⁴ The Complainants do not allege that the Company is violating its Line Extension Tariff; but rather that this Tariff does not apply. The Company respectfully disagrees, because this Tariff applies to (a) underground extensions; and (b) all relocations and conversions of existing overhead facilities to underground facilities.⁵ The Complainants concede that the utility lines in question are the Company's existing overhead facilities, and that they would like the Company to bury the existing lines. *See, e.g., Complaint Cover Letter* ("We respectfully requires the Public Service Commission's intervention in ensuring that RMP undergrounds its electric lines . . ."). On its face, the Line Extension Tariff, either or both sections two and six, apply to this request.

16. The Complainants assert that they are exempt from the Line Extension Tariff simply because the Complainants reside in an area of high risk of wildfire. *Id.* The Company respectfully disagrees. While the electric lines at issue are within a FHCA as defined in the Wildfire Plan, the Company has not determined that these lines must moved underground for wildfire mitigation purposes. The Company has 210 miles of overhead transmission lines and 489 of overhead distribution lines that are located within the FHCA in Utah. The Company's Wildfire Plan does not contemplate converting all of its overhead assets located within the FHCA to underground. Instead, consistent with the Company's FHCA Line Rebuild Program, the majority of lines in these areas have been substantially rebuilt with new conductors and new poles.⁶ This is because burying lines can be prohibitively expensive.⁷ Therefore, the Complainants' replacement project is subject to the Company's Line Extension Tariff.⁸

⁴ Electric Service Regulation No. 12, §§ 2(f), 6(b).

⁵ *Id.*

⁶ § 7.1, at 54.

⁷ *Id.* at 58.

⁸ *Id.* ("Some communities and landowners may prefer, for aesthetic reasons, to pursue a higher cost underground alternative. Consistent with controlling electric service regulations, Rocky Mountain Power will work with communities or individual landowners who are willing to pay the incremental cost and obtain the necessary legal entitlements for underground construction, if covered conductor is the least cost option for a rebuild project.")

17. The Complaint urges the Commission to order the Company to pay for the underground conversion in order to prioritize the interests of customers over the Company's shareholders. However the Company's prudently incurred expenditures for wildfire mitigation efforts under its Wildfire Plan are recovered from all of the Company's Utah customers through the Wildfire Mitigation Balancing Account.⁹ Therefore the premise that the Company's stance is motivated by shareholder profits is false. That said, the Company remains sensitive to the Complainants' concerns regarding living within a FHCA. However, the Company must be a good steward of customer funds provided for the implementation of the Wildfire Plan and using cost-effective alternatives to mitigate the risks of wildfire benefits all Utah customers. Granting the Complainants requested relief would establish a precedent for all customers located within the FHCA to expect the same or similar treatment, resulting in unnecessary increased costs for all Utah customers. Because the Company is complying with both its Line Extension Tariff and Wildfire Plan, the Complaint has failed to state a cause of action.

CONCLUSION

18. The Company respectfully requests that the Commission dismiss the Complaint with prejudice.

Dated this 10th day of October 2023,

ROCKY MOUNTAIN POWER

/s/ Zachary Rogala
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⁹ Utah Code Ann. § 54-24-202.

CERTIFICATE OF SERVICE

Docket No. 23-035-41

I hereby certify that on October 10, 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
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Assistant Attorney General

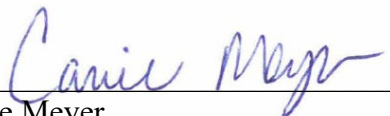
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