

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Formal Complaint of NWR Limited
Partnership against Rocky Mountain
Power

DOCKET NO. 25-035-58
ORDER GRANTING MOTION TO DISMISS

ISSUED: September 30, 2026

1. Procedural History

On October 29, 2025, NWR Limited Partnership (“Complainant”) filed a formal complaint (“Complaint”) against Rocky Mountain Power (RMP), alleging RMP had unlawfully disconnected its service, charged unlawful fees, and breached its contract. On December 1, 2025, RMP filed its Answer and Motion to Dismiss (“RMP’s Motion to Dismiss”).

On December 11, 2025, and again on January 13, 2026, Complainant filed motions for extensions to respond to RMP’s Motion to Dismiss, which the Public Service Commission (PSC) granted. On January 16, 2026, Complainant filed its Opposition to RMP’s Motion to Dismiss. On January 20, 2026, Complainant filed an Amended Opposition to RMP’s Motion to Dismiss.

On February 17, 2026, Complainant filed a Motion for Partial Summary Judgment (“Complainant’s Motion for PSJ”). On February 23, 2026, RMP filed a Request for Extension, seeking an extension to respond and representing Complainant did not object to the extension. On March 6, 2026, RMP filed a Motion to Defer Briefing and Ruling on Complainant’s Motion for PSJ or, in the Alternative, for Additional Time to Respond. On March 23, 2026, Complainant filed a Motion to Extend the Deadline to

Respond to RMP's Motion to Defer Briefing and Ruling on Complainant's Motion for PSJ.

On April 8, 2026, the PSC issued its Order Granting Requests for Additional Time, granting both RMP's and Complainant's requests for additional time.

On April 13, 2026, Complainant filed its Opposition to RMP's Motion to Defer Briefing and Ruling on Complainant's Motion for PSJ.

On May 6, 2026, Complainant filed a Request to Submit for Decision Complainant's Motion for PSJ ("Request to Decide PSJ"). On May 11, 2026, RMP filed its Objection to Complainant's Request to Decide PSJ. On May 21, 2026, Complainant filed a Response to RMP's Objection to Complainant's Request to Decide PSJ.

2. Complaint

The Complaint alleges NWR's electricity was shut off "about October 2024" and RMP "charged unlawful fees" that were "[i]llegal over charges and [a] breach of contract."¹

More specifically, in an attached letter, the Complaint alleges RMP signed a contract in 2014 with Washakie Renewable Energy ("WRE"), "who was a tenant of NWR," to deliver power to certain property ("Property") in Plymouth, Utah.² The letter further represents that "[i]n or about 2018, the [f]ederal [g]overnment filed forfeiture against WRE and criminal charges against its principals, which ultimately resulted in

¹ Complaint at 1.

² *Id.* at 2.

WRE closing and ceasing to exist.”³ The letter further states, in 2019, RMP signed a contract with NWR to deliver power to the Property. The letter complains RMP continued to “invoice power to NWR[,]” including “minimum charges[,]” pursuant to the earlier contract with WRE “even though the 2019 MESA was a new contract with a new customer.”⁴

The Complaint further alleges a federal court issued restraining orders in 2019 and 2020 that required NWR to pay proceeds from the Property to the government, rendering it “impossible for NWR to pay RMP because of the restraining orders.”⁵ The Complaint states NWR has requested meter separation to allow tenants on NWR’s property to receive service in their own names, but RMP ultimately refused to proceed with meter separation “until the full outstanding balance [is] paid.”⁶

The Complaint alleges RMP disconnected service to the Property on an unspecified date in October of 2024. The Complaint alleges the disconnection caused NWR “substantial damages, including, but not limited to, loss of tenants and rental income, lost agricultural and cattle production, property damage, theft, and additional costs incurred by NWR tenants to mitigate damages.”⁷

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.*

The Complaint alleges breach of contract, arguing NWR was not a party to the earlier contract RMP executed with WRE. The Complaint alleges RMP “continued to bill power under the terms” of the contract with WRE, “[n]ot realizing the inaccuracy of the power bills ... which included unauthorized minimum use charges.”⁸ The Complaint argues each of the contracts contain integration clauses, and NWR cannot be liable for the terms of the earlier contract to which it was not a party.

The Complaint further argues its contract incorporates Electric Service Schedule No. 9, which includes a force majeure clause that relieves NWR of liability and damages for events occurring beyond its control. NWR argues the restraining orders “prohibited NWR’s control of the use of the power, and prevented NWR from receiving reimbursement from its tenant for the power used” such that the force majeure clause “excuses NWR from liability for all amounts not paid which [are] still outstanding on the account.”⁹

NWR asks the PSC for the following relief: (1) direct “RMP to restore power to NWR”; (2) require “RMP [to] disconnect the unrestrained assets from the existing substation, and install the necessary infrastructure to provide power separate therefrom”; (3) “[o]rder RMP to install separate meters to NWR’s residents, NWR’s agricultural tenant operations and NWR’s industrial tenant operations, and bill each under the correct rate categories”; (4) order RMP to issue a credit to NWR equal to the

⁸ *Id.* at 4.

⁹ *Id.* at 5.

outstanding balance on NWR's account; (5) order RMP to issue NWR a refund for all minimum use charges assessed on its bills since 2019, including all late fees and interest; and (6) "[d]eclare that NWR is entitled to damages resulting from the loss of power, in an amount to be determined."¹⁰

3. RMP's Motion to Dismiss

RMP's Motion to Dismiss represents, in May of 2014, RMP and WRE signed an Engineering Services Agreement ("2014 ESA")¹¹ to facilitate RMP's construction of a substation and associated facilities to provide service at the Property. Under the 2014 ESA, RMP and WRE agreed the latter would pay a specified sum to RMP to perform engineering and other preparatory work to determine the infrastructure necessary to serve WRE's proposed load at the Property. Rachel Kingston executed the 2014 ESA on behalf of WRE.

The same month, May of 2014, RMP alleges it also executed a Master Electric Service Agreement with WRE ("2014 MESA").¹² Under the 2014 MESA, RMP agreed to construct a substation and other improvements (collectively, "Substation") necessary to provide service to the Property. The 2014 MESA includes cost estimates that are designated confidential, but the costs are significant. The 2014 MESA, therefore,

¹⁰ *Id.* at 5-6.

¹¹ A copy of the 2014 ESA is attached to RMP's Motion to Dismiss as Confidential Attachment A.

¹² A confidential copy of the 2014 MESA is attached to RMP's Motion to Dismiss as Confidential Attachment B.

“included an allowance and contract minimum billing for [RMP] to recover the cost of the [Substation] over a 10-year period.”¹³

RMP alleges between 2014 and the present, “the customer receiving power from the [S]ubstation has changed several times and with each change, [RMP] has updated the [account holder].”¹⁴

RMP alleges WRE first established service, in its name, at the Property on June 1, 2015, under Schedule No. 9 – General Service-High Voltage (“Schedule 9”). However, on April 1, 2018, RMP alleges the account holder was updated to WRE Feed and Mill, LLC (“WRE Mill”). Later, on or about May 18, 2018, at the customer’s request, RMP alleges it executed a “Deduct Agreement” with Isaiah Kingston signing for WRE Mill, Barry Dixon signing for Block United, and Rachel Kingston identified as the contact for WRE Mill.¹⁵ RMP does not explain the purpose of this agreement but attaches a confidential copy to its motion. It appears the agreement exists to facilitate Block United, potentially conducting temporary business on the Property, to receive electric service without incurring the costs of additional infrastructure to separately meter the account. The Deduct Agreement contains a method for calculating Block United’s and WRE Mill’s respective charges.

¹³ RMP’s Motion to Dismiss at 2.

¹⁴ *Id.*

¹⁵ *See id.* at Confidential Attachment C at 6.

RMP alleges “[o]n or around October 12, 2018, [WRE Mill’s] service was transferred when [NWR] ... set up service at the Property.”¹⁶ RMP alleges its records indicate that “NWR’s request for service was submitted by Rachel Kingston.”¹⁷

Approximately a year later, on or about September 19, 2019, RMP alleges it executed a Master Electric Service Agreement with NWR (“2019 MESA”).¹⁸ RMP alleges the “purpose of the 2019 MESA was to reduce the load under the 2014 MESA, as requested by NWR.”¹⁹ RMP alleges this agreement to reduce the load also “served as a supplemental agreement to the 2014 ESA for building the [Substation] and the 2014 MESA, for which NWR assumed [sic] when the service was transferred to NWR and NWR ratified the 2014 MESA through payments.”²⁰

RMP alleges “[i]n or around 2019 and 2020, the United States government placed restraining orders on WRE’s assets” as “part of the asset forfeiture process, which gathers assets to liquidate and pay victims [of crimes] back.”²¹ Subsequently, RMP alleges “NWR made sporadic payments towards contract minimum billing under the 2014 [MESA] and its payments for power under the 2019 MESA.”²²

¹⁶ RMP’s Motion to Dismiss at 3.

¹⁷ *Id.*

¹⁸ A copy of the 2019 MESA is attached to RMP’s Motion to Dismiss as Confidential Attachment D.

¹⁹ RMP’s Motion to Dismiss at 3.

²⁰ *Id.*

²¹ *Id.* at 4. RMP attached copies of the restraining orders to its Motion to Dismiss as Attachment E.

²² *Id.*

RMP alleges, according to its records, “payments were made towards NWR’s account with a business checking account under the name of [WRE].”²³ RMP also emphasizes “Rachel Kingston was [a] signatory to the 2014 [MESA], listed as the “Facilities Owner” in the 2018 [Deduct] Agreement [when WRE Mill was the account holder], and was the individual who requested service to the Property on behalf of NWR.”²⁴

RMP states it delivered a notice of disconnect to the Property on or about September 13, 2024, for nonpayment and terminated service to the Property on or about October 1, 2024.

On an unspecified date in 2024, RMP alleges it “discovered an unauthorized power line attached to the substation, leading across Interstate 15, to the Property, and serving load to multiple residences and industrial equipment on the Property.”²⁵ After RMP contacted Complainant about the issue, RMP alleges Complainant insisted it had “received approval for the power line from representatives of Box Elder County.”²⁶

RMP alleges it requested proof from Complainant of formal approvals from Box Elder County and it disconnected power to the substation after Complainant failed to respond or provide any proof of approval from Box Elder County.

²³ *Id.*

²⁴ *Id.* at 10.

²⁵ *Id.* at 4.

²⁶ *Id.*

“Due to the unauthorized wire’s risks to public safety and the suspect nature of the wire leading from the substation to the Property,” RMP “believes th[e] wire constituted tampering under [its] tariffs and unlawful use of [RMP’s] service and facilities.”²⁷

RMP alleges that it received a letter from David Kingston on behalf of NWR on or about October 10, 2024, requesting a change in rate classification from industrial to agricultural. RMP states it responded on or about October 28, 2024, and explained the Property did not qualify for service under Electric Service Schedule No. 10 (Irrigation and Soil Drainage Pumping Service) or Electric Service Schedule No. 22 (Indoor Agricultural Lighting Service).

Finally, RMP alleges “[a]fter months of attempting to resolve this issue with Complainant, [RMP] again explained in a letter dated August 28, 2025[,] to Aaron and Lynn Kingston, that [RMP] is willing to reconnect service if NWR: (1) pays its outstanding balance; and (2) pays to install safe electric facilities in adherence to [RMP’s] tariffs replacing the illegal power line [RMP] discovered tapped into the substation and connected to several residences and irrigation equipment on the Property.”²⁸

RMP argues “[a]lthough [it] initially disconnected service to the Property for nonpayment,” it later “shut off power to the substation to protect public safety and

²⁷ *Id.* at 5.

²⁸ *Id.* at 5-6.

prevent further tampering of the wiring and facilities” consistent with its Electric Service Regulation No. 5(3)(a).

With respect to NWR’s argument that it is not responsible for contract minimum billing under the 2014 MESA to compensate RMP for the costs associated with the Substation, RMP argues that Rachel Kingston was a consistent point of contact for or represented to be an owner of all named account holders. RMP further asserts NWR made payments from a checking account belonging to WRE.

RMP argues the 2019 MESA expressly incorporates all RMP’s electric service regulations, including Electric Service Regulation No. 12, “which includes contract minimum billing.”²⁹ RMP further argues NWR ratified its obligation to pay for contract minimum billing under the 2014 MESA by making payments consistent with that obligation for a period of years.

With respect to Complainant’s argument that Schedule 9’s force majeure clause relieves NWR of paying for service after the federal government ordered NWR to deliver proceeds from the Property to the federal government, RMP argues the “restraining orders stem from criminal conduct by business members of WRE, for which the United States government prosecuted [them]” and, therefore, were not beyond the reasonable control of NWR.³⁰

²⁹ *Id.* at 11.

³⁰ *Id.* at 11-12.

RMP asks the PSC to dismiss the Complaint because RMP “has not violated any provision of law, [PSC] order or rule, or [RMP’s] tariff.”³¹

4. NWR’s Response to the Motion to Dismiss

In response to RMP’s Motion to Dismiss, NWR denies any knowledge of the 2014 ESA or 2014 MESA, and NWR denies that WRE made payments “towards NWR’s account.”³² NWR denies that WRE Mill’s service was transferred to NWR and alleges it was NWR’s request for new service that prompted the 2019 MESA. NWR states it is “unaware of a request by Rachel Kingston” to establish service on behalf of NWR.³³ NWR alleges “Rachel Kingston was not a representative of three parties to three agreements” and she “was not a representative of any parties” to the 2019 MESA.³⁴

NWR denies that it ratified the 2014 MESA, alleging “[a]ll payments on contract minimum billings made by NWR were a result of NWR not understanding that RMP was unlawfully and illegally mischarging NWR outside of the terms of its contract.”³⁵

NWR denies RMP’s allegation concerning the unauthorized power line, stating “[t]here was a power line leading to the areas stated, but it was authorized by RMP previously.”³⁶ However, NWR “admits that RMP requested proof of approvals from

³¹ *Id.* at 13.

³² Complainant’s Amended Opposition to RMP’s Motion to Dismiss at 6.

³³ *Id.* at 4.

³⁴ *Id.* at 14.

³⁵ *Id.* at 15.

³⁶ *Id.* at 6.

NWR” for the line from Box Elder County.³⁷ Regardless, NWR argues the issue is irrelevant because service “was already disconnected before any questions or discussion about the power line every [sic] began.”³⁸

More generally, NWR argues RMP’s motion fails to address its argument that the 2019 MESA contains an integration clause, precluding any additional terms or amendments. NWR reiterates that its paying bills consistent with minimum contract billing under the 2014 MESA “does not equate to NWR having knowledge that RMP” was “sending unlawful and incorrect bills.”³⁹

With respect to RMP’s allegations concerning the unauthorized line, NWR argues the “lines referenced were on NWR’s side of the meter, so regardless of whether the lines were authorized or not, NWR was billed for all power it used at all times.”⁴⁰

5. Discussion, Findings, and Conclusions

While Utah Code § 54-4-1 confers on the PSC “power and jurisdiction to supervise and regulate every public utility[,]”⁴¹ that “ample power is not without limits.”⁴² Where a “specific statute” circumscribes the PSC’s authority, the Utah

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.* at 21.

⁴⁰ *Id.* at 22.

⁴¹ Utah Code § 54-4-1.

⁴² *Utah Office of Consumer Servs. v. PSC*, 2019 UT 26, ¶38 (quotation omitted).

Supreme Court has held “specific statutes ... control more general ones[,]” including the PSC’s otherwise broad authority under § 54-4-1.⁴³

Utah Code § 54-7-9 governs the scope of the PSC’s authority to adjudicate complaints against utilities, providing the PSC with lawful authority to adjudicate a complaint against a utility “[w]hen any public utility violates any provision of law or any order or rule of the [PSC].”⁴⁴ The complaint must “specify the act committed or omitted by the public utility that is claimed to be in violation of the law or a rule or order of the [PSC].”⁴⁵ The statute expressly precludes the PSC from entertaining a complaint “concerning the reasonableness of any rates or charges” unless the complaint is signed by certain enumerated officials of the governing body where the “alleged violation occurred[,]” or by 25 customers or prospective customers of the utility.⁴⁶

Broadly, regarding private agreements between a utility and another party, “[t]here can be no doubt that not every contract entered into by a public utility is subject to the jurisdiction of the PSC.”⁴⁷ “Although the PSC has power to construe contracts affecting matters within its jurisdiction such as rate-making, ordinary

⁴³ *Id.*

⁴⁴ Utah Code § 54-7-9(1).

⁴⁵ *Id.* at § 54-7-9(2).

⁴⁶ *Id.* at § 54-7-9(3)

⁴⁷ *Garkane Power Ass’n v. PSC*, 681 P.2d 1196, 1207 (Utah 1984).

contracts unrelated to such matters are outside of the purview of PSC jurisdiction.”⁴⁸

“Any activities of a utility that actually affect its rate structure would necessarily be subject to some degree to the PSC’s broad supervisory powers in relation to rates ... [t]he question ... is whether the activity the [PSC] is attempting to regulate is closely connected to its supervision of the utility’s rates and whether the manner of the regulation is reasonably related to the legitimate legislative purpose of rate control for the protection of the consumer.”⁴⁹ “To ensure that the administrative powers of the PSC are not overextended, any reasonable doubt of the existence of any power must be resolved against the exercise thereof.”⁵⁰

While the law does not require the PSC to review or approve every private contract RMP enters regarding the provision of utility service, the law does require RMP to submit to the PSC, for review, any changes to the rates and terms in its tariff or to its Electric Service Regulations (ESRs).⁵¹ The ESRs and tariff are published and “open to public inspection,” as the law requires.⁵² The law proscribes RMP from charging rates “greater or less” than those “on file [with the PSC] and in effect at the time.”⁵³

⁴⁸ *Hi-Country Estates Homeowners Ass’n v. Bagley & Co.*, 901 P.2d 1017, 1023 (Utah 1995).

⁴⁹ *Kearns-Tribune Corp. v. PSC*, 682 P.2d 858, 860, (Utah 1984).

⁵⁰ *Williams v. PSC*, 754 P.2d 41, 50 (Utah 1988) (quotation omitted).

⁵¹ See, e.g., Utah Code § 54-3-3.

⁵² *Id.* at § 54-3-2(1).

⁵³ *Id.* at § 54-3-7.

RMP's Electric Service Regulation No. 3 – Electric Service Agreements (“Reg. 3”) contemplates “[f]or electric service in large quantity or under special conditions, [RMP] may require a suitable written agreement or special contract.”⁵⁴ Reg. 3(1) further states “[e]xecuted agreements and contracts shall ... be binding upon ... successors in interest[,]” and “[t]ransfer of service requires that the person to whom the service is to be transferred ... agree to assume responsibility for the billing for service, including minimums, from that date forward.” “In the absence of a signed ... contract, the delivery of electric service ... and the acceptance thereof by the Customer shall be deemed to constitute an agreement by and between the Customer and [RMP].”⁵⁵ The ESRs are “made a part of each [e]lectric [s]ervice [a]greement, express or implied[,]” and the published tariff and ESRs “take precedence” in any conflict with the terms of a particular electric service agreement.⁵⁶

Electric Service Regulation No. 12 – Line Extensions (“Reg. 12”) provides generally applicable terms and conditions governing circumstances wherein RMP incurs costs to build facilities to extend service to a customer, and it includes “Contract Minimum Billing” (CMB) as a measure to allow RMP to recover the associated costs. Further, it states, “[t]he Applicant or subsequent Customer(s) shall pay the [CMB] as specified by this Regulation.”⁵⁷

⁵⁴ Reg. 3(1).

⁵⁵ Reg. 3(2).

⁵⁶ Reg. 3(3).

⁵⁷ Reg. 12(1)(b).

- a. *NWR fails to allege RMP violated any applicable statute, rule, or PSC order, and RMP's actions appear wholly consistent with its published tariff and ESRs.*

NWR does not allege RMP violated any applicable law, rule, or order of the PSC; instead, NWR alleges RMP breached a private agreement between the two parties. The PSC did not review or endorse the terms of that agreement, and nothing under the law required the PSC to review or approve their agreement.

As discussed above, the Legislature has expressly precluded the PSC from entertaining any customer's complaint "concerning the reasonableness of any rates or charges" unless a threshold number of customers or certain enumerated local officials join the complaint.⁵⁸ Because the rates a utility charges stem from a thorough and open public process before the PSC, the patent intention of this restriction is to preclude individual customers from prompting duplicative and redundant adjudicative proceedings. Regardless of the legislative intent, however, Utah Code § 54-7-9(3) specifically and explicitly circumscribes the PSC's authority to hear individual customer's complaints concerning the rates RMP charges.

Importantly, NWR does not contend any term of the 2019 MESA or any of RMP's actions in relation to it violate any applicable law, order of the PSC, or provision of RMP's ESRs or tariff. If RMP had charged a rate or imposed a term inconsistent with its PSC-approved tariff or PSC-approved ESRs, then the PSC undoubtedly could

⁵⁸ Utah Code § 54-7-9(3).

exercise jurisdiction over the Complaint because the PSC expressly has jurisdiction to hear complaints that allege such a violation occurred.⁵⁹

Accordingly, even if NWR's Complaint were signed by a statutorily enumerated local official, the PSC would nevertheless conclude it has no jurisdiction to evaluate NWR's claim that RMP breached the 2019 MESA because RMP's actions were entirely consistent with its published ESRs and its tariff. The published tariff and ESRs are PSC-approved documents that reflect the nondiscriminatory rates and terms the law and the PSC expect RMP to apply with respect to all similarly situated customers. The CMB rates RMP charged NWR mirror the charges prescribed under Reg. 12.

Our conclusion that the PSC does not have jurisdiction to resolve NWR's breach of contract claim does not suggest the PSC never has jurisdiction to resolve contract issues between RMP and a third party. As the Utah Supreme Court has observed, "the sheer breadth of delegated authority precludes a precise demarcation of the line beyond which the [PSC] may not tread" and "a realistic appraisal of the particular situation to determine whether" the PSC's action "reasonably promotes or transgresses the pronounced legislative" parameters of the PSC's authority.⁶⁰ Circumstances may arise where the PSC may be lawfully called upon to resolve

⁵⁹ Utah Code § 54-7-9(1) (providing any person may file a complaint with the PSC "[w]hen any public utility violates any provision of law or any order or rule of the [PSC]").

⁶⁰ *Kearns-Tribune Corp.*, 682 P.2d 858, at 860 (quoting *Consolidated Edison Co. of New York v. PSC*, 390 N.E.2d 749, 752 (N.Y. 1979), *rev'd on other grounds*, 447 U.S. 530 (1980)).

issues arising out of a contract between a utility and another party.⁶¹ Whether the PSC may lawfully exercise authority in such circumstances requires a careful analysis of the particular circumstances, including any parameters the Legislature has placed on its authority, the extent to which the disputed issue stands to affect the utility's financial viability, and the potential ramifications on future published rates applicable to all customers.⁶²

Here, NWR is simply a retail customer taking service under RMP's Schedule 9 applicable to "General Service High Voltage" customers. However, such service is only possible because RMP incurred substantial costs to construct the Substation necessary to provide service at the meter, *i.e.* to provide electric service to NWR's Property. As discussed above, Reg. 12 governs such circumstances and it plainly states "[t]he Applicant or subsequent Customer(s) shall pay the [CMB] as specified by this Regulation."⁶³ Reg. 12 is perfectly consistent with Reg. 3 in this regard, as the latter repeatedly emphasizes that electric service agreements are binding on

⁶¹ See, e.g., *Garkane Power Ass'n v. PSC*, 681 P.2d 1196 (Utah 1984) (affirming PSC's authority to order electric cooperative to refund wholesale rates a small public utility paid to the cooperative where the parties' contract pegged rates to the published rates of another larger utility and the contract contemplated increases or refunds in the event the published rate changed).

⁶² See *id.* at 1207 (explaining the PSC's statutory authority to order reparations "is not the equivalent of a contract action for damages in a district court[.]" noting "[a] large lump sum judgment entered by a district court for breach of contract ... could conceivably result in severe impairment of the financial integrity of the utility involved[.]" which "would be of no concern to a court in [a] contract dispute" but "is of major concern to the PSC.").

⁶³ Reg. 12(1)(b).

successors in interest and that transfer of service requires that the person to whom service is transferred assume responsibility for the service, "including minimums."⁶⁴

In sum, the PSC expressly lacks jurisdiction to entertain any individual customer's complaint concerning rates or charges that the PSC has approved and are disclosed in RMP's published tariff and ESRs. Further, even if NWR's Complaint were signed by a statutorily enumerated local official, the PSC's jurisdiction to hear customer complaints extends to circumstances involving a utility's violation of "any provision of law or any order or rule of the [PSC]."⁶⁵ However, NWR has not alleged RMP violated any provision of law or any order or rule of the PSC nor charged any rate inconsistent with its published tariff and ESRs. On the contrary, RMP incurred tremendous costs to build the Substation to provide service to NWR's Property and RMP is entitled, pursuant to and consistent with Reg. 12, to charge CMB to recover those costs from the customer receiving service at the meter.

b. NWR's reliance on the force majeure clause in Schedule 9 is misplaced and irrelevant.

Schedule 9 states: "Neither [RMP] or Customer shall be subject to any liability or damages for inability to provide or *receive service* to the extent that such failure shall be due to causes beyond the control of either [RMP] or Customer, including, but not limited to ... restraining order, injunction[,] or similar decree of any court."⁶⁶ It

⁶⁴ Reg. 3(1).

⁶⁵ Utah Code § 54-7-9(1).

⁶⁶ Schedule 9 at 9.3 (emphasis added).

continues: “Should any of the foregoing occur, the minimum billing demands that would otherwise be applicable under this Schedule shall be waived and Customer will have no liability for service until such time as Customer is able to *resume service*.”⁶⁷

As an initial matter, the PSC has no lawful authority to issue a judgment entitling RMP to collect any monies NWR owes to RMP. Moreover, the PSC has no authority whatsoever to adjudicate a customer’s liability to RMP or to award RMP damages against a customer.

The force majeure clause in Schedule 9 absolves a customer of liability for damages, including minimums, when it is unable to *receive service* due to a qualifying circumstance. This protection extends “until such time as Customer is able to *resume service*.” The plain language is clear: a customer who may otherwise incur minimum billing charges may avoid those charges when a qualifying condition precludes them from *receiving service*. Nothing in the clause absolves a customer of its responsibility to pay for service it *receives*.

NWR does not contend the federal restraining orders interfered with its ability to receive service at the Property; it contends the restraining orders interfered with NWR’s ability to pay for the service it received. NWR’s suggestion that RMP is obliged to provide free service to a customer who is unable to pay because the customer’s

⁶⁷ *Id.* (Emphasis added).

income stream is subject to a post-indictment restraining order is fundamentally unserious, and we consider it no further.

6. Order

For the foregoing reasons, the PSC grants RMP's Motion to Dismiss and dismisses the Complaint. Because RMP's Motion to Dismiss is granted, Complainant's Motion for PSJ is denied as moot.

DATED at Salt Lake City, Utah, September 30, 2026.

/s/ Michael J. Hammer
Presiding Officer

Approved and confirmed September 30, 2026, as the Order of the Public Service Commission of Utah.

/s/ Jerry D. Fenn, Chair

/s/ David R. Clark, Commissioner

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

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#347199

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 September 30, 2026, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By Email:

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