

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of)
James W. Harris against Rocky Mountain) DOCKET NO. 07-035-69
Power) REPORT AND ORDER
)

ISSUED: May 27, 2008

SYNOPSIS

Complainants having failed to demonstrate a violation by Rocky Mountain Power of any statute, rule, or tariff provision, the Commission dismissed the complaint.

By The Commission:

PROCEDURAL HISTORY

On October 11, 2007, Complainant James W. Harris filed a formal complaint against Respondent Rocky Mountain Power (“RMP”) claiming Respondent had incorrectly added balances owing from accounts for which Complainant is not responsible to Complainant’s own account. Complainant asked the Commission to review, research, and reconcile the erroneous accounts and to credit \$2,608.44 previously paid by Complainant to Complainant’s account.

On November 6, 2007, RMP filed a memorandum and associated attachments detailing its billing of Complainant’s account, stating its view that Complainant then owed \$1,342.64 on his account, and requesting the complaint be dismissed since Complainant had not alleged any violation by RMP of its tariffs, or applicable statutory or regulatory requirements.

On November 13, 2007, the Division of Public Utilities (“Division”) filed its analysis recommending a Technical Conference be convened so that information could be brought forward to clarify the billing and payment history on Complainant’s account.

On November 20, 2007, the Commission issued a Notice of Technical Conference setting said conference to convene on December 6, 2007, with the Administrative Law Judge (“ALJ”). During this conference, Complainant stated his sister had apparently, without his knowledge, placed his name on one of the service accounts in dispute in this matter. RMP accepted this explanation and offered to remove from the balance owing on Complainant’s account any amounts attributable to the account in question, resulting in a balance owing of \$775.93. On January 29, 2008, RMP filed a memorandum memorializing this agreement and stating Complainant had thus far failed to respond to this write-down.

On March 3, 2008, the Commission issued a Notice of Settlement Conference setting said conference to convene on March 18, 2008, for the purpose of providing a neutral forum to encourage the parties to reconcile the various billing and payment issues regarding Complainant’s account. Said conference took place as noticed but did not result in a settlement.

On April 15, 2008, the Commission issued a Notice of Hearing setting an evidentiary hearing to convene in this matter on April 24, 2008.

On April 23, 2008, the Division filed an additional memorandum detailing its ongoing investigation and analysis of this matter and recommending the complaint be dismissed. The Division noted that, although Complainant continued to argue that RMP owes him for

overpayments made on the various accounts at issue in this docket, Complainant had thus far failed to provide any proof or information to support his claims.

This matter came on for duly-noticed hearing before the Administrative Law Judge on April 24, 2008. Complainant appeared and testified on his own behalf, although, as was the case at all stages of these proceedings, his acquaintance, Ms. Judy Boltz, represented Complainant and provided the bulk of testimony on his behalf. Jordan A. White appeared for RMP and Stacey Davis testified on behalf of RMP.

At the conclusion of the hearing, the ALJ requested RMP search its records and provide to the Commission copies of any bills in its possession that had been issued on the account to which Complainant claims his sister had added his name without his authorization. On May 8, 2008, RMP filed a memorandum stating that image copies of its bills are only retained for a period of three years and that since the bills sought are for service in or before 2003 it no longer has copies of said bills on file.

BACKGROUND, DISCUSSION, FINDINGS AND CONCLUSIONS

This dispute involves two service accounts for which RMP claims Complainant is responsible. RMP's records indicate Complainant has been listed as a responsible party on the first account, which we refer to as Account A, since 1997. This account provided service to Complainant's mother's residence and, later, to a shop and associated lighting at a different address. Complainant and his representative testified that he did not authorize RMP to add him

to Account A as a responsible party until December 2003. He further claims that his sister used his Social Security number and other personal information to add him to the account in 1997 without his knowledge or approval. Therefore, although Complainant resided at his mother's residence and routinely paid the bill owing on Account A during this time period, Complainant now argues he should be refunded all amounts he paid toward electric service at his mother's residence from January 2000 to December 2003 when he admittedly became a responsible party on the account.

Complainant does not specifically challenge any billings made on the second account, Account B, for which he is currently the responsible party. This account also pertains to the shop and associated lighting referred to above. Complainant agrees that he owes the amounts on that account as billed, except that payments he made to RMP from January 2000 to December 2003 that were credited to that portion of Account A related to his mother's residence should properly be credited to service at the shop since that is the only portion of the account for which he was responsible. Therefore, Complainant asks that he be refunded some undetermined amount equal to the \$775.93 owing on Account B plus all payments made on Account A relating to his mother's residence between January 2000 and December 2003, as well as all late and other associated fees assessed against Complainant on Account A during that time period.

At hearing, RMP repeated its contention that, having written off the balance still owing on Account A, the balance owing on Complainant's current account is \$775.93. In support of its position, RMP provided a detailed accounting of all bills rendered and payments made on Accounts A and B.

Having reviewed the evidence and testimony provided in this matter, the ALJ finds no error in RMP's billing practices regarding the accounts at issue in this matter and concludes RMP has violated no provision of statute, regulation, or tariff in calculating Complainant's current account balance. The accounting provided by RMP is clear, well organized, and appears complete. All charges and credits appear reasonable and appropriate. In contrast, despite ample opportunity provided at technical and settlement conferences, as well as at hearing, Complainant has failed to provide sufficient evidence to prove RMP has incorrectly billed him for electricity used at the service addresses in question, that RMP has improperly billed him for accounts on which he was not properly listed as a responsible party, or that the amount RMP claims Complainant now owes on his account is incorrect. Instead, Complainant states that although he resided with his mother, paid the electricity bill at her residence for a number years, and, since 1997, has been listed in RMP's records as a responsible party on that account, he should not be held responsible for amounts owing on that account and, indeed, is due a refund for certain amounts he paid on that account from 2000 to 2003. Rather than providing the Commission with an exact amount he believes he is now owed, he instead relies on his representations and asks the Commission to sift through the records submitted to calculate his refund. Given the state of this evidence, the ALJ simply cannot conclude either that Complainant has been improperly billed or that he is owed any refund from RMP. The ALJ therefore concludes this matter should be dismissed.

Wherefore, based upon the foregoing information, and for good cause appearing, the Administrative Law Judge enters the following proposed

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

The complaint filed herein is dismissed.

Pursuant to *Utah Code Annotated* §§ 63-46b-12 and 54-7-15, agency review or rehearing of this order may be obtained by filing a request for review or rehearing with the Commission 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 Commission fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the Commission'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 Annotated* §§ 63-46b-14, 63-46b-16 and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 27th day of May, 2008.

/s/ Steven F. Goodwill
Administrative Law Judge

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Approved and Confirmed this 27th day of May, 2008, as the Report and Order of
the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary
G#57516