

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

-----  
In the Matter of the Formal Complaint of )  
Stanford Nielson vs. Rocky Mountain ) DOCKET NO. 11-035-139  
Power ) ORDER DISMISSING COMPLAINT  
 )  
-----

ISSUED: November 8, 2011

SYNOPSIS

In this matter, the Complainant filed a complaint asking the Commission to invalidate the Company's policy of requesting a customer, facing disconnection, to phone and confirm payment once it is made, as a precondition of establishing a payment plan. The Company moved for dismissal. The Commission grants the Company's motion based on the Division's recommendation and Complainant's failure both to respond to the Company's motion and to appear at the hearing held on the motion.

-----  
By The Commission:

BACKGROUND AND DISCUSSION

On July 13, 2011, Complainant Stanford Nielson ("Complainant") filed a formal Complaint against Respondent Rocky Mountain Power ("Company") alleging the Company's policy requiring him to call, as a precondition of establishing a payment plan, upon making his partial payment via "bill pay," was invalid. Complainant brought his complaint after raising an informal complaint against the Company in February 2011 related to the same issue.

On August 10, 2011, the Company filed its Answer and Motion to Dismiss seeking dismissal of the Complaint with prejudice on the grounds that the Company has not violated any provision of law, Commission rule or order, or Company tariff. The Company served its motion via overnight delivery on September 14, 2011. See Certificate of Service, filed September 20, 2011. Under Utah Admin. Code R746-100-4(D), Complainant had 15 calendar

DOCKET NO. 11-035-139

- 2 -

days in which to file a response. Complainant filed no response, and the time for doing so has expired. "Absent a response or reply, the Commission may presume that there is no opposition." Utah Admin. Code R746-100-4(D).

On August 11, 2011, the Division of Public Utilities ("Division") filed a memorandum recommending the Commission dismiss this matter, based on the Division finding no violation of law, rule or company tariff.

Pursuant to a duly issued notice, the Administrative Law Judge (ALJ) of the Utah Public Service Commission conducted a hearing on October 12, 2011 at 10:00 a.m. in Room 451, Heber M. Wells State Office Building. Neither Complainant nor Company appeared, and neither party contacted the Commission beforehand indicating a scheduling conflict or other reason excusing their non appearance. The ALJ postponed the hearing for several minutes; however, after no party arrived, the ALJ disposed of the case from the bench, granting the Company's motion and dismissing Complainant's complaint. As the ALJ explained, dismissal is appropriate given the Division recommendation, the Complainant's failure to file a response to the Company's motion, and Complainant's failure to appear at the hearing.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the Company's Motion to Dismiss is granted and the complaint filed herein is dismissed.

DATED at Salt Lake City, Utah, this 8<sup>th</sup> day of November, 2011.

/s/ Melanie A. Reif  
Administrative Law Judge

DOCKET NO. 11-035-139

- 3 -

Approved and Confirmed this 8<sup>th</sup> day of November, 2011, as the Order  
Dismissing Complaint 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  
D#211182

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8<sup>th</sup> day of November, 2011, a true and correct copy of the foregoing ORDER DISMISSING COMPLAINT, was served upon the following as indicated below:

By U.S. Mail:

Mr. Stanford Nielson  
1979 Hunters Meadow Circle  
Cottonwood Heights, Utah 84093

Rocky Mountain Power  
Attention: Ms. Barbara Ishimatsu  
*Counsel for Rocky Mountain Power*  
201 South Main Street, Ste. 2300  
Salt Lake City, Utah 84111

By Hand-Delivery:

Division of Public Utilities  
160 East 300 South, 4<sup>th</sup> Floor  
Salt Lake City, Utah 84111

\_\_\_\_\_  
Administrative Assistant