

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of)
Judith Zimmerman against Rocky Mountain) DOCKET NO. 10-035-122
Power) ORDER OF DISMISSAL
)

ISSUED: January 11, 2011

By The Commission:

This matter is before the Commission on the formal complaint of Judith Zimmerman against Rocky Mountain Power (Company). Ms. Zimmerman complains of what she terms “aerial trespass”, specifically complaining that the Company’s lines “run across the middle of [her]property to provide service to [her] neighbor” and that it is “an improper installation and costs for moving the line should be incurred by” the Company. *Zimmerman Complaint, ¶ 3*. She further complains that “there is no recorded easement on the property plat for utility lines at this location” *Idi at ¶ 4*. The Company offered to bury the line so long as Ms. Zimmerman paid for the costs of the burial, per the Company’s tariff. Ms. Zimmerman, however, asks the Commission to order the Company to bury the power line and incur all related costs.

The Company filed its Answer and Motion to Dismiss moving the Commission to dismiss the complaint as issues of easement or trespass are outside of the Commission’s jurisdiction.

The Division also recommended dismissal of the complaint as the easement issue is not within the jurisdiction of the Commission. It also stated that the Company did not violate

any statute, Rule, or tariff in offering to bury the line only if Ms. Zimmerman incurred the costs for the burial.

The Commission finds that there is no basis for the maintenance of the Complaint. The Commission does not have jurisdiction over matters of trespass or easement, as those are issues within the jurisdiction of a district court. *See e.g. McCune v. Mountain Bell Telephone*, 758 P.2d 914 (Utah 1988). Additionally, the Company violated no statute, Rule, or tariff in offering to bury the line on condition that Ms. Zimmerman bears the related costs.

ORDER

The formal complaint of Judith Zimmerman is dismissed with prejudice. Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this 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 does not grant a request for review or rehearing within 20 days after the filing of the request, 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 Sections 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 11th day of January, 2011.

/s/ Ruben H. Arredondo
Administrative Law Judge

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Approved and confirmed this 11th day of January, 2011, as the Order of Dismissal
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#70361