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PUBLIC SERVICE COMMISSION

NADRA HAFFAR

Claimant,

v.

DOMINION ENERGY.

Respondent.

FORMAL COMPLAINT

Docket No. _____

Comes now Nadra Haffar, by and through undersigned counsel, and complains against Dominion Energy, Inc. (“Dominion”) and its affiliated entities as follows:

1. Nadra Haffar resides at 7245 South 650 West in Hyrum, Utah.
2. Dominion’s local Consumer Affairs Office is located at 1140 West 200 South, Salt Lake City, UT 84101, with a mailing address at P.O. Box 45360, Salt Lake City, UT 84145.
3. Dominion is regulated by the Public Service Commission.
4. The Public Service Commission has authority to order a utility to refund incorrect billings.

NATURE OF COMPLAINT

5. In 1986, Dominion incorrectly assigned to Ms. Haffar a meter connected to pipes serving her neighbor. Dominion’s mistake resulted in Ms. Haffar being consistently

overcharged. Dominion discovered its error in May, 2018. However, Dominion has failed to refund the amounts it overbilled as required by Utah's Public Service Commission Rule 746-320-9.C.4.

FACTUAL BACKGROUND

6. Ms. Haffar's home was constructed in 1979.
7. In 1979, Dominion installed a meter in a utility box between Ms. Haffar's lot and an adjoining vacant lot to measure Ms. Haffar's use of gas.
8. Ms. Haffar's use of gas was accurately measured by that meter until 1986.
9. In 1986, a new home was built on the lot neighboring Ms. Haffar.
10. In 1986, Dominion connected a second meter in the utility box between Ms. Haffar's home and her neighbor's.
11. In 1986, Dominion incorrectly assigned the meters in the utility box.
12. Dominion wrongfully assigned to Ms. Haffar the meter that measured her new neighbor's use of gas. This is known as a "crossed meter."
13. Only Dominion had authority to access, install, maintain and assign the meters at issue.
14. As a result of the crossed meter, Dominion billed Ms. Haffar for her neighbor's use of gas.
15. Ms. Haffar's neighbor regularly used more gas than Ms. Haffar. Therefore, Dominion regularly overcharged Ms. Haffar.
16. In 2010, Ms. Haffar's neighbor constructed a heated outbuilding, which significantly increased her neighbor's use of gas.

17. In 2010, Ms. Haffar contacted Dominion to tell them that her gas bill was rising dramatically for no apparent reason.

18. Ms. Haffar requested that Dominion agents check for problems associated with her gas lines or billing.

19. Dominion agents visited Ms. Haffar's home, but negligently failed to discover the crossed meter condition.

20. Dominion agents represented to Ms. Haffar that they found no problems with her gas lines or billing.

21. In reliance on Dominion's representations, Ms. Haffar had additional insulation installed in her home in an effort to reduce her gas bill.

22. In reliance on Dominion's representations, Ms. Haffar purchased and installed a new furnace in an effort to reduce her gas bill.

23. In reliance on Dominion's representations, Ms. Haffar continued to pay bills from Dominion.

24. In May, 2018, a contractor suggested to Ms. Haffar that her meter may be crossed with her neighbors.

25. In May, 2018, Ms. Haffar again requested that Dominion visit her inspect the gas lines.

26. Dominion agents visited Ms. Haffar's home and this time identified the crossed meters.

27. The Dominion agents who discovered the crossed meter represented to Ms. Haffar that the meter appeared to have been crossed at the time her neighbor's home was built in 1986.

28. In a letter dated June 8, 2018, Dominion admitted to Ms. Haffar that there was “a billing error on your account. The meter measuring your gas usage . . . was crossed with a meter measuring your neighbor’s usage.”

29. Dominion continued: “the problem occurs when the interior piping for multiple units in a building are installed and a meter assigned to one customer is accidentally connected to pipes serving another customer.”

30. On June 8, 2018, Dominion credited Ms. Haffar’s account \$1,552.43. Dominion only credited amounts overbilled between June 10, 2016 and May 10, 2018.

31. Despite its admissions, Dominion has failed to refund any amounts overbilled between 1986 and June 10, 2016.

32. Ms. Haffar requested a refund of amounts overbilled on July 3, 2018, and again on September 10, 2018.

33. When Ms. Haffar’s requests were rejected, Ms. Haffar submitted an informal complaint to Dominion.

34. Dominion has refused to refund amounts that it billed and received in excess of what Ms. Haffar owed.

35. Dominion has refused to mediate this matter with Ms. Haffar.

DISCUSSION

A. Dominion must refund all overcharged amount pursuant to Commission Rule.

“[B]illing based on a crossed meter condition where the customer is billed on the incorrect meter” constitutes overbilling under Utah’s Public Service Commission Rule 746-320-9.A.4. This Rule requires utilities to refund overbilled amounts to its customers unless a limitation listed in 746-320-9.C applies.

Subsection (C) provides that utilities generally shall not be required to make a refund for overpayments which occurred more than 24 months before either a complaint was made or the utility became aware of incorrect billing. However, 746-320-9.C .4 provides an exception to this limitation:

“[A]n exception to the 24 month limitation period applies when the overbilling can be shown to be due to some cause, the date of which can be fixed. In this instance the overcharge shall be computed back to that date and the *entire overcharge shall be refunded.*”

Crossed meter conditions fall under this exception unless the crossed meter condition is “not caused by the utility.” R. 746-320-9.C .4. Dominion must refund amounts that it overbilled, including interest, between 1986 and 2016 because the crossed meter condition was caused by Dominion, and the date of the error and its cause can be determined.

1. The cause of the overbilling was Dominion’s incorrect installation and assignment of meters

The cause of the overbilling is not in dispute. Dominion has acknowledged that the crossed meter condition “occurs when . . . a meter assigned to one customer is accidentally connected to pipes serving another customer.” Exhibit A, at 1. Here, Dominion added a second meter in the same utility box that housed Ms. Haffar’s meter in 1986, and during the installation and/or assignment of that meter, incorrectly assigned to Ms. Haffar a meter measuring the neighbor’s use of gas. Therefore, the overbilling “can be shown to be due to some cause,” Rule 746-320-9.C.4, and is attributable to Dominion.

2. Overbilling dates back to the installation of Ms. Haffar’s meter

When Dominion finally discovered the crossed meter, Dominion agents represented to Ms. Haffar that the condition dated back to the original assignment of the meter. The meter at issue was assigned in 1986, when Dominion installed and/or connected a new meter for Ms.

Haffar's neighbor from the same utility box that served Ms. Haffar. Therefore, the date overbilling began can be identified by the date on which Dominion connected the meters and added Ms. Haffar's neighbor as a client.

Dominion's billing records and/or its contract with Ms. Haffar's neighbor would show the precise date that overbilling began. *See* 18 C.F.R. § 225.3 (requiring utilities to maintain service contracts until 4 years after their expiration or conclusion). Dominion has not produced that information to Ms. Haffar, therefore Ms. Haffar must rely on public records showing that the neighbor's home was completed in 1986. Overbilling began upon completion of the neighbor's home. Therefore, the date that the crossed meter condition began can be fixed.

3. The crossed meter condition was caused by Dominion

A crossed meter occurs when meters are assigned to one customer, but connected to pipes serving another customer. Here, Dominion connected and assigned the meters serving Ms. Haffar and her neighbor. Dominion alone had access to the shared utility box and authority to install, assign, and maintain the meters housed in it.

The doctrine of *res ipsa loquitur* allows a claimant to establish "a foundation from which an inference of negligence can be drawn" by proving three elements:

(1) the accident was of a kind which, in the ordinary course of events, would not have happened had the defendant used due care; (2) the agency or instrumentality causing the accident was at the time of the accident under the exclusive management or control of the defendant; and (3) the plaintiff's own use or operation of the agency or instrumentality was not primarily responsible for the accident.

King v. Searle Pharm., Inc., 832 P.2d 858, 861 (Utah 1992). While the Commission Rule does not require negligence, the doctrine is helpful in showing that Dominion was responsible for the crossed meter condition.

First, Dominion acknowledged that a crossed meter condition happens when “a meter assigned to one customer is accidentally connected to pipes serving another customer.” If due care is used in the assignment of meters, a utility can and should be sure that a meter is connected to the correct pipes. In sum, this is not the type of accident that occurs despite the use of due care.

Second, the pipes and meters were under the exclusive management or control of Dominion. Dominion was the only party authorized to access, install, or assign meters. No other party had access to the meters or was authorized to make any changes to the assignments made by Dominion.

Third, Ms. Haffar played no role in the installation or assignment of the meters nor did she authorize anyone other than Dominion to connect or assign the meters. In sum, Ms. Haffar’s actions did not result in the crossed meter condition.

In sum, the cause of the crossed meter condition can be attributed to Dominion because this type of accident does not occur when due care is used, because the meters were in the sole control of Dominion, and because neither Ms. Haffar nor anyone else did anything to contribute to the crossed meter condition. The elements of *res ipsa loquitur* establish an inference that Dominion caused the crossed meter condition.

III. CONCLUSION

Utah’s Public Service Commission Rules directs a utility to refund the entire amount overbilled to a customer plus interest when a crossed meter condition is caused by the utility and “can be shown to be due to some cause, the date of which can be fixed,” Ut. Pub. Serv. Comm’n. R. 746-320-9.C.4. Each of those requirements is met here. Dominion installed and/or assigned a new meter in the same utility box that served Ms. Haffar’s home to serve a new

customer in 1986. At that time, Dominion incorrectly assigned to Ms. Haffar the meter measuring her neighbor's use of gas. Dominion had sole control over the meters, and the mistake would not have occurred if Dominion had exercised due care. Finally, the date that the meters were crossed can be fixed. Therefore, Pursuant to Rule 746-320-9.C.4, Dominion must take responsibility for the crossed meter condition by refunding the money Dominion collected from Ms. Haffar that was wrongfully billed to her. Interest on the overcharged amount should be calculated pursuant to Rule 746-320-9.B

IV. PRAYER FOR RELIEF

Ms. Haffar requests that the Commission enforce its Rule 746-320-9.C.4 by ordering Dominion to make a computation of the overcharged amounts dating back to Dominion's incorrect assignment of Ms. Haffar's meter, and to make a full refund plus interest pursuant to Rule 746-320-9.B.

DATED this 11th day of March, 2019.

PECK HADFIELD BAXTER & MOORE, LLC

/s/ Loren K. Peck
Loren K. Peck
Attorneys for Plaintiff