

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Formal Complaint of Brett Robinson and Brad Crookston against Dominion Energy Utah	<u>DOCKET NO. 19-057-09</u> <u>ORDER DENYING MOTION TO DISMISS</u> <u>AND NOTICE OF HEARING</u>
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ISSUED: April 25, 2019

This matter is before the Public Service Commission (“PSC”) on the February 21, 2019 complaint of Brett Robinson and Brad Crookston (“Complaint”) against Dominion Energy Utah (“DEU”). On April 8, 2019, DEU filed an answer to the Complaint (“Answer”) and moved to dismiss the Complaint for failure to state a claim upon which relief can be granted. On April 16, 2019, complainants, Mr. Robinson and Mr. Crookston, filed their reply (“Reply”), challenging various factual representations in DEU’s Answer.

Reading the Complaint and Reply together, it appears the heart of this dispute is the Complainants’ allegation that DEU’s charges for the main extension services it provided to Complainants’ development (governed by Section 9.03 of DEU’s Natural Gas Tariff, PSCU 500) are unjust, unreasonable, and in violation of Utah Code Ann. § 54-3-1. Complainants seek a refund for the amount overcharged and removal of facilities they allege were installed unnecessarily. We conclude, in light of the facts asserted, the Complaint does state a claim upon which relief can be granted. Consequently, we will set the matter for hearing as further detailed below.

The conflicting assertions in the pleadings raise several questions of fact and law. Among the issues the parties should be prepared to address at hearing are the following:

1. Is the “Remainder Parcel” undeveloped and must it remain so until the contiguous land is developed or, but for the extension of the mainline to the edge of the instant development,

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would future construction of the extension require replacing or repairing improvements like sidewalks and landscaping?

2. Does the road that serves the lots in the development extend to its boundary or does the road terminate 163' short of the boundary?
3. Did the utility easement that might have served as the location of the mainline extension pre-exist the orchard on contiguous property or was the easement established in 2018?
4. What is the legal authority for maintaining the substantive provisions of Section 11.1 of the "Main Line Installation Guideline" ("Guideline") as an internal policy as opposed to a tariff?
5. What factors did DEU consider in deciding to apply the Guideline?
6. What factors, if any, has DEU relied on to grant exceptions to the Guideline to other developers?

Complainants have requested that the hearing be held in the Logan area to afford the Presiding Officer an opportunity to inspect their development. We do not regard that unusual action to be necessary or appropriate given the facts and circumstances of this case. A simple diagram of the development should be all that is required to illustrate the physical context of the dispute. Accordingly, the hearing will be held in the PSC hearing room, as is customary, in accordance with the details provided below.

NOTICE OF HEARING

The PSC's designated Presiding Officer will conduct a hearing in this docket on **Thursday, June 6, 2019, beginning at 10:00 a.m.** The hearing will be held in the **Fourth Floor**

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Hearing Room 451, Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah. All parties must have their witnesses in attendance and prepared to testify.

Individuals wishing to participate in the hearing by telephone must contact the PSC two days in advance by calling (801) 530-6716 or (toll free) 1-866-PSC-UTAH (1-866-772-8824) to receive a bridge number and participant passcode. Participants attending by telephone should then call the bridge number five minutes prior to the hearing, entering the passcode followed by the # sign to ensure participation.

In accordance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during the hearing should notify the PSC at 160 East 300 South, Salt Lake City, Utah 84111, (801) 530-6716, at least three working days prior to the hearing.

DATED at Salt Lake City, Utah, April 25, 2019.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#307833

CERTIFICATE OF SERVICE

I CERTIFY that on April 25, 2019, a true and correct copy of the foregoing was served upon the following as indicated below:

By U.S. Mail:

Brett Robinson and Brad Crookston
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By E-Mail:

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Administrative Assistant