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Formal Complaint of Alan Kruckenberg Construction against Dominion Energy Utah	<u>DOCKET NO. 19-057-15</u> <u>ORDER DISMISSING COMPLAINT</u>
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ISSUED: August 1, 2019

**BACKGROUND**

On June 5, 2019, after having engaged in the informal dispute resolution process at the Division of Public Utilities, Alan Kruckenberg Construction (“Complainant”) filed a formal complaint with the Public Service Commission of Utah (PSC) against Dominion Energy Utah (DEU). Complainant alleges DEU improperly placed and installed a gas lateral, i.e., service line. Complainant claims DEU’s failure to compact the soil after burying the new service line resulted in subsidence that damaged the adjacent asphalt driveway. Complainant seeks compaction of the trench and repair or replacement of the affected asphalt.

The PSC issued a notice of filing and comment period on June 6, 2019, and set July 5, 2019 as the deadline for DEU’s response. The notice also afforded Complainant the opportunity to reply no later than July 22, 2019.

DEU filed its Response on July 3, 2019, denying responsibility for the damage and requesting an order finding it had complied with all laws, statutes, rules, regulations, and tariffs. DEU states the service line and meter were installed in a public utility easement as specified in the Service Line Worksheet (Exhibit A to DEU’s Response) prepared by a DEU employee and the Service Line Agreement (Exhibit B to DEU’s Response) executed by Complainant and DEU. According to DEU, the service line was installed in a soft surface adjacent to, but not under, an asphalt driveway. DEU asserts when soil compaction is requested or a line is to be placed under

a hard surface, these facts will be noted in the “Construction Notes” section of the Service Line Worksheet. Additionally, the costs of compaction will be stated in the “As Built Excess Costs” section of the Worksheet. The Service Line Worksheet does not include a request or cost estimate for soil compaction. Similarly, the Service Line Agreement does not specify soil compaction or associated costs. Moreover, DEU argues no law, statute, rule, regulation, or tariff requires compaction of the service line trench in question.

DEU also offers two alternative causes of the subsidence of the service line trench. First, after the service line was installed, DEU’s representatives observed and photographed heavy equipment parked over the line. (The photographs are Exhibit C to DEU’s Response.) Second, DEU alleges, on information and belief, that Complainant installed water and sewer lines under the asphalt and that any subsidence adjacent to the service line was caused by the water and sewer lines or the heavy equipment or both.

Complainant did not file any reply to DEU’s Response.

**FINDINGS, CONCLUSIONS, AND ORDER**

A successful complaint against a utility must establish the utility violated “any provision of law or any order or rule of the commission” (*see* Utah Code Ann. § 54-7-9). Complainant has not alleged any law, order, or rule, (e.g., a DEU tariff) that it claims DEU violated. More precisely, Complainant has not alleged any specific legal requirement for soil compaction or placement of the service line that DEU failed to follow. Nevertheless, we have evaluated Complainant’s allegations to identify any potential violations by DEU. We find none.

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DEU's assertions are unrefuted that compaction of the service line trench was not legally required and that DEU complied with all laws, statutes, rules, regulations, and tariffs related to installation of the service line. Moreover, neither the Service Line Agreement nor the Service Line Worksheet called for compaction, facts which are not disputed. Finally, Complainant has not challenged the alternative causes for the subsidence DEU alleges -- causes stemming from conditions and actions, at least in part, under Complainant's control.

We conclude, therefore, DEU did not violate any law or any PSC order or rule pertaining to installation of Complainant's service line. We dismiss the complaint.

DATED at Salt Lake City, Utah, August 1, 2019.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#309435

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Notice of Opportunity for Agency Review or Rehearing

Pursuant to §§ 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 PSC 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 PSC 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 PSC'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 §§ 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on August 1, 2019, a true and correct copy of the foregoing was served upon the following as indicated below:

By U.S. Mail:

Alan Kruckenberg Construction  
5411 S Vine St  
Murray, UT 84107

By Email:

Jeff Kruckenberg ([akhomes@yahoo.com](mailto:akhomes@yahoo.com))

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Administrative Assistant