
Formal Complaint of Alan Kruckenberg Construction, Inc. against Dominion Energy Utah	<u>DOCKET NO. 19-057-15</u> <u>ORDER DENYING REQUEST FOR</u> <u>REVIEW AND REHEARING</u>
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ISSUED: August 30, 2019

BACKGROUND

On August 1, 2019, the Public Service Commission of Utah (PSC) issued an order (“Order”) dismissing the formal complaint in this docket filed by Alan Kruckenberg Construction, Inc. (“Complainant”) against Dominion Energy Utah (DEU). Thereafter, on August 12, 2019, Complainant filed a request for review and rehearing (“Request”). Complainant’s Request did not include a certificate of service or other indication that the Request had been mailed to DEU. DEU has not responded to the Request.

FINDINGS, CONCLUSIONS, AND ORDER

Review or rehearing of our Order is governed by PSC statute¹ and the Utah Administrative Procedures Act (UAPA).² Under sections 63G-4-301 of UAPA and 54-7-15 of PSC statute, an aggrieved party may request agency review or rehearing of our Order by filing a written request with the PSC within 30 days after issuance of the Order.³ While Complainant’s Request was filed within the 30-day deadline, it failed to provide proof of service to DEU, thus defeating its request for review or reconsideration.

Section 63G-4-301(1)(b)(iv) of UAPA requires that a request for agency review must “be mailed to . . . each party.” DEU is the party against whom Complainant has filed its formal

¹ See Utah Code Ann. § 54-7-15.

² See Utah Code Ann. §§ 63G-4-101 to -601.

³ See also Order at 4 (“Notice of Opportunity for Agency Review or Rehearing”).

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complaint. However, Complainant's Request included no certificate of service or other indication that the Request had been mailed to DEU. As such, it appears that DEU was not served with the Request, and the 15 days in which DEU was allowed to file a response has now elapsed.⁴

PSC statute allows us 20 days in which to issue our decision to grant a request for review or hearing; otherwise the request is deemed denied.⁵ Due to Complainant's failure to serve DEU with the Request, we conclude Complainant has failed to timely preserve its interest in seeking review or rehearing. We also conclude that procedural fairness dictates this result.

Accordingly, for the reasons stated above, we deny the Request and affirm our Order.

DATED at Salt Lake City, Utah, August 30, 2019.

/s/ Melanie A. Reif
Presiding Officer

⁴ See Utah Code Ann. § 63G-4-301(2)(a).

⁵ See Utah Code Ann. § 54-7-15(2)(c).

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Approved and confirmed August 30, 2019, as the Order of the Public Service
Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#309832

Notice

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

CERTIFICATE OF SERVICE

I CERTIFY that on August 30, 2019, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By U.S. Mail:

Alan Kruckenberg Construction, Inc.
5411 S Vine St
Murray, UT 84107

By Email:

Alan Kruckenberg Construction, Inc. (akhomes@yahoo.com)

Jennifer Nelson Clark (jennifer.clark@dominionenergy.com)

Arminda I. Spencer (arminda.spencer@dominionenergy.com)

Leora Price (leora.price@dominionenergy.com)

Dominion Energy Utah

Patricia Schmid (pschmid@agutah.gov)

Justin Jetter (jjetter@agutah.gov)

Robert Moore (rmoore@agutah.gov)

Steven Snarr (stevensnarr@agutah.gov)

Assistant Utah Attorneys General

Madison Galt (mgalt@utah.gov)

Division of Public Utilities

By Hand Delivery:

Office of Consumer Services
160 East 300 South, 2nd Floor
Salt Lake City, UT 84111

Administrative Assistant