
Formal Complaint of Marcia Darger d/b/a My M&Ms LLC against Dominion Energy Utah	<u>DOCKET NO. 23-057-09</u>
	<u>ORDER</u>

ISSUED: September 14, 2023

BACKGROUND

On June 12, 2023, Marcia Darger d/b/a My M&Ms LLC (“Complainant”) filed with the Public Service Commission (PSC) a complaint against Dominion Energy Utah (DEU) regarding natural gas service at an address (“Property”) identified in the filing (“Complaint”).

On that same date, the PSC issued an Action Request to the Division of Public Utilities (DPU) requesting its review of the Complaint and to indicate whether it had a recommendation. On June 13, 2023, the PSC issued a Notice of Filing and Comment Period, providing DEU until July 12, 2023, to submit a written response to the Complaint, and providing Complainant until July 27, 2023, to submit a written reply.

On July 6, 2023, DPU responded to the Action Request, indicating it had no recommendation. On July 3 and 7, 2023, Complainant filed correspondence with the PSC (“Correspondence”). On July 12, 2023, DEU filed a response to the Complaint, including numerous exhibits (“DEU’s Response”). On July 27, 2023, Complainant filed a reply (“Reply”).

On August 10, 2023, the PSC issued a Notice of Hearing and to Parties to be Prepared to Address Specific Questions at Hearing, setting a virtual hearing for

August 25, 2023, at 9:00 AM (“Hearing”). The Hearing was convened on August 25, 2023, at approximately 9:20 AM. Counsel and representatives from DEU were present. Complainant was not present at that time, nor did Complainant appear at any time through the duration of the Hearing.

Complainant's Written Submissions

Complainant’s submissions are the informal complaint, the Complaint, the Correspondence, and the Reply. The Complaint is better understood when read in conjunction with the informal complaint and the Correspondence.¹ Taken together, Complainant appears to make allegations that the gas meter at the Property is not functioning properly and/or not providing accurate gas usage readings. Complainant alleges the Property is residential and is vacant. Complainant further alleges that at some unstated point in time, she turned down the appliances that use gas at the Property and then completely turned off those appliances. Complainant also alleges that a “Dominion Tech[] stated that sometimes the meter reader’s needles stick.”²

Based on these allegations, Complainant concludes there is no reason she should be being billed for gas usage when the services are turned off and the

¹ It is not always clear whether Complainant’s Correspondence is directed to the instant docket or to Docket No. 23-057-10, which is a similar, but different complaint filed against DEU by Complainant.

² Complainant does not provide the name of this person nor provide a date the alleged statement was made.

Property is unoccupied. Complainant seeks a “bill adjustment – credit for overcharges, fees and time while investigation [sic].”³

Complainant’s Correspondence also alleges that the gas meter associated with the Property was spray painted,⁴ asserting that this caused the meter to have inaccurate or erroneous readings. Complainant again alleges a “tech” told her that sometimes meter needles get stuck and cause error readings.⁵ Complainant’s Correspondence also identifies the date and time she advised DEU she was filing a formal complaint concerning this matter.

Complainant then explains she received an urgent letter dated June 12, 2023, from DEU concerning non-payment and possible termination of gas service.⁶ Complainant again asserts she decided to “turn everything off” in the Property, claiming that “[t]he [g]as appliances have been turned off for at least 4 months and this was verified by the Dominion Tech that was sent and who changed the meter.” Complainant further asserts her discussions with DEU about her concerns lead her “to believe that there was something wrong with the meter readings that were spray-painted.”

³ Complaint at 1.

⁴ Complainant does not identify who allegedly spray painted this meter or when it was spray painted.

⁵ Complainant again does not provide the name of this person nor provide a date the alleged statement was made.

⁶ The PSC has no record of this alleged letter.

Complainant's Reply does not address the merits of DEU's Response or otherwise further support the Complaint.⁷

DEU's Written Response

DEU's Response provides a detailed narrative and timeline, along with supporting exhibits, relating to the Complaint. DEU's Response notes Complainant contacted DEU on November 30, 2022, with concerns about her bill increasing,⁸ asserting it reviewed the billing and determined it appeared accurate. According to DEU, Complainant contacted it again on January 12, 2023, not to complain about a high bill, but instead to pay the balance owed and to request the removal of accrued late fees.⁹

DEU's Response further explains that Complainant again contacted DEU on March 10, 2023, this time to review the billing on the Property because the bill was improperly high. According to DEU, Complainant explained that the Property had been vacant for one year and the only gas appliance at the Property was a new water heater.¹⁰ On March 22, 2023, Complainant provided DEU with a picture of the gas

⁷ The Reply appears to assert that DEU's Response was untimely and mailed to an incorrect address. However, the certificate of service for DEU's Response indicates it was sent via email on July 12, 2023, to Complainant at the email addresses of record and Complainant has not asserted she did not receive that email. Complainant also does not assert that she did not receive the copy of the Response sent via US mail. Finally, Complainant has not alleged that she has suffered any prejudice because of the alleged untimeliness or DEU's use of an allegedly incorrect physical mailing address.

⁸ See DEU's Response at 1 and Exhibit A.

⁹ See *id.* at 2 and Exhibit B.

¹⁰ See *id.* at 2 and Exhibit C.

meter¹¹ “which showed a reading that was only registering 1 unit higher than” the prior months’ reading.¹² Thus, DEU asserts, the meter was reading accurately.

DEU states Complainant requested a high bill investigation on April 4, 2023.¹³ In response, DEU sent a technician to the Property on April 11, 2023. DEU represents that its technician ran several tests – on the meter and on Complainant’s gas appliances at the Property – and determined that there did not appear to be a leak or any other errors or problems.¹⁴ DEU states the gas meter at the Property was removed and replaced with a new meter, and the new meter was painted.¹⁵ DEU asserts “[p]ainting a meter does not impair the functioning of that meter.”¹⁶

DEU concludes that it “has, at all times, acted in accordance with all applicable statutes, rules, regulations, and Tariff provisions[]” and seeks denial of the Complaint.¹⁷

Hearing

Although provided notice and opportunity, Complainant was not present at the Hearing. DEU presented several witnesses in support of many of the assertions, arguments, and exhibits submitted in DEU’s Response (“DEU Witnesses”). The DEU

¹¹ DEU alleges it had previously asked Complainant for such a picture on November 30, 2022, and March 10, 2023.

¹² DEU’s Response at 2 and Exhibit D.

¹³ *See id.*, Exhibit E.

¹⁴ *See id.* at 2 and Exhibit F.

¹⁵ *See id.* at 3.

¹⁶ *Id.*

¹⁷ *Id.* at 4.

Witnesses were sworn and proffered live testimony. The DEU Witnesses were available for cross examination and questions to those present at the Hearing. DEU also moved for the admission of the DEU Response, which was unopposed, and the motion was granted.

Jace Gordon, a supervisor for gas training and development for DEU, testified that painting a gas meter does not impair its functionality. Mr. Gordon further testified that painting gas meters is done to comply with federal regulations regarding anti-corrosion standards. Mr. Gordon's testimony was unopposed and has not been disputed.

Shawn Goodfellow, a senior meter shop technician with DEU, testified about DEU's meter testing methodologies. Mr. Goodfellow further testified about the testing results for the specific meter associated with the Property. According to this testimony, the results as reflected in a May 19, 2023, letter from DEU to Complainant and Exhibit G to DEU's Response, show a very accurate meter. Mr. Goodfellow specifically testified that for a meter to surpass the 3% threshold set forth in DEU's tariff, which is explained in greater detail below, the reported results would be presented as "+3.XX," in contrast to the "+00.8" and "+00.6" presented in the May letter and in Exhibit G. Mr. Goodfellow's testimony was unopposed and has not been disputed.

Finally, Elia Lopez, a customer relations and energy assistance representative with DEU, offered testimony concerning various aspects of the background of Complainant's communications with DEU, including DEU's May 19, 2023, letter to Complainant reporting the testing results for the Property's gas meter. Ms. Lopez also testified about many of the exhibits submitted in conjunction with DEU's Response, including to the authenticity of Exhibit H, the copies of the DEU bills for the Property. Ms. Lopez's testimony was unopposed and has not been disputed.

DISCUSSION, FINDINGS OF FACT, AND ORDER

The scope of the PSC's jurisdiction to adjudicate complaints against public utilities is specifically enumerated in the Utah Code. The PSC can only adjudicate a complaint raising issues that are within its statutory jurisdiction. By statute, any such complaint must "specify the act committed or omitted by the public utility that is claimed to be in violation of the law or a rule or order of the [PSC]."¹⁸

Complainant alleges, in essence, that the gas meter at the Property was not functioning properly and/or not providing accurate gas usage readings. Thus, the DEU tariff requirement at issue here is Section 8.01 Gas Measurement, specifically Meter Testing at Customer's Request, which states:

METER TESTING AT CUSTOMER'S REQUEST

Upon written request of the customer, the Company will promptly complete a meter test after receipt of such request. ... If a tested meter shows an average error of more than 3% (plus or minus), the Company

¹⁸ See Utah Code Ann. § 54-7-9(2).

will refund any overbilling if the meter is fast, and the customer will pay any under billing if the meter is slow, based on the nearest corresponding equal period of use by the customer at the premises when the meter was operating accurately. ...¹⁹

Complainant asserts that the painting of the gas meter at the Property is the cause, or a cause, of this improper functionality and/or inaccurate gas usage readings. However, Complainant has not offered sufficient evidence to support her claim. In contrast, DEU has provided sufficient written and testimonial evidence supporting its assertions that the gas meter at the Property was not functioning improperly and that the bills reflecting Complainant's gas usage are accurate. For example, DEU has shown that painting a gas meter does not impact its functionality. DEU has also shown that the testing results for the gas meter at the Property show it was functioning properly and accurately reflected the gas usage.

DEU's Response is unopposed, and the testimony of the DEU Witnesses was not disputed. We thus find it undisputed that painting the gas meter at the Property did not impair its functionality. We also find it undisputed that the gas meter at the Property was functioning properly and accurately measured Complainant's gas usage. We further find it undisputed that the copies of the DEU bills for service at the Property, as submitted as Exhibit H in DEU's Response, accurately reflect the gas usage amounts at the Property.

¹⁹ DEU Utah Natural Gas Tariff PSCU 600 at page 8-2.

Based on Complainant's written submissions, DEU's Response and exhibits, the testimony of the DEU Witnesses, the evidence admitted at the Hearing, and the foregoing discussion, we conclude that the Complaint fails to allege DEU violated any governing statute, rule, order, or tariff provision.

ORDER

For the reasons set forth herein, the Complaint is denied and therefore dismissed.

DATED at Salt Lake City, Utah, September 14, 2023.

/s/ John E. Delaney
Presiding Officer

Approved and confirmed September 14, 2023, as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ John S. Harvey, Ph.D., Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#329832

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this written order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the 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 fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, 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 Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on September 14, 2023, a true and correct copy of the foregoing was delivered upon the following as indicated below:

By USPS:

Marcia Darger d/b/a My M&Ms LLC
241 N 2230 E
St. George, UT 84790

By Email:

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