

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

JACOBA H. VAN MASTRIGT, et al,)	CASE NOS. PAC-E-23-04; PAC-E-
)	23-05; PAC-E-23-06; PAC-E-23-07;
COMPLAINANTS,)	PAC-E-23-08; AND PAC-E-23-11
)	
vs.)	
)	ORDER NO. 35849
PACIFICORP, d/b/a ROCKY MOUNTAIN)	
POWER,)	
)	
RESPONDENT.)	
)	

Between March 22, 2023, and March 27, 2023, the Commission received six formal customer complaints (collectively the “Complaints”)¹ filed against PacifiCorp dba Rocky Mountain Power (“Company”) by the Company’s customers (collectively the “Complainants”). The Complaints concern the Company’s notification to terminate electric service if customers refuse to allow the installation of advanced metering infrastructure meters (“AMI meter(s)”) at their residences.

On April 19, 2023, the Commission issued a Summons directing the Company to file an answer to the Complaints within 21 days of service. On May 10, 2023, the Company filed an Answer and Motion to Dismiss (“Answer”) countering the issues cited in the Complaints and asking that the Complaints be dismissed with prejudice.

On May 22, 2023, the Commission received five objections to the Company’s request for dismissal and two “AMENDED CRIMINAL COMPLAINT(s).”²

Having reviewed the record in these cases, we now issue this Final Order dismissing the Complaints.

THE COMPLAINTS

In their Complaints, the Complainants presented various reasons for not wanting an AMI meter installed on their property including the age and health of the complainants, a claimed lack of legal authority allowing the Company to install AMI meters, and concerns over data privacy. Some Complainants also requested the ability to opt-out of having an AMI meter. Five of the

¹ The Complaints were filed by the Company’s electric service customers Jacoba H. van Mastricht, Samuel and Peggy Edwards, Judy Twede, Karen Lane, Christy Armbruster, and Diane Huskinson. The Complainants all appeared *pro se*.

² Jacoba H. van Mastrigt and Judy Twede filed the “AMENDED CRIMINAL COMPLAINT(s).”

Complainants refused to have an AMI meter installed on their residence, the sixth provided consent to allow an AMI meter to be installed but alleged that the consent was unlawfully obtained. Several of the Complainants presented almost identical “Factual Counts” that allege that the Company: (1) breached the peace by attempting to install AMI meters on their residence; (2) attempted extortion of Complainant’s will; (3) impaired contracts; (4) attempted extortion by trying to take over the Complainant’s private property for commercial use; (5) attempted illegal wiretapping; and (6) threatened the Complainant’s with intent to commit harm. Some of the complainants allege additional “Factual Counts” of (1) gross and hazardous negligence; and (2) “actionable fraud.” Two of the Complainants also alleged the Company was committing elder abuse.³

The Complainants all asserted that they have attempted in good faith to resolve their issues with the Company regarding the deployment of AMI meters, and the Complainants alleged the Company is operating in bad faith, and using strong-arm intimidation tactics, threat, duress, and coercion. *See, e.g.*, Complaint of Jacoba H. van Mastrigt at 1. The Complainants also argued that they have paid their bills for electric service they receive from the Company on time.

Several of the Complainants argued the Company only has the authority to enter their properties for specific reasons (i.e., meter reading) and that any other access must be authorized by the property owner for certain matters including troubleshooting and making repairs to electrical equipment. The Complainants further claim they do allow the Company to access their properties to read meters but are not granting the Company access to exchange meters.

COMPANY ANSWER

The Company responded to the Complaints by first describing the notification process it engaged in and its discussions of alternatives for customers who did not want an AMI meter on their residences. Then the Company described the allegations and requests made by the Complainants. Lastly, the Company answered the Complaints lodged against its AMI meter roll-out and moved to dismiss the Complaints with prejudice.

Communication

The Company represented that it started deploying AMI meters in Idaho in the fall of 2021 and has since completed over 84,000 exchanges. The Company stated that it communicated with customers during AMI meter deployment with “letters, emails, and outbound phone calls

³ Most of these claims are civil tort claims or criminal. The Commission is not the appropriate body to the extent the Complaints seek any damages or the imposition of criminal liability.

informing customers of the Company's AMI installation process." Company Answer at 3. The Company asserted that "AMI allows for cost savings by reducing meter reading costs and provides improved customer service through enhanced information and billing options." *Id.* During the deployment of the AMI meters, the Company stated that about 160 customers objected to the installation of AMI meters, and the Company then worked with those customers to reach a resolution. The Company explained it "was willing accommodate customers by relocating the AMI [meter] to a different location of the property" at the customer's expense. *Id.* at 4. The Company represented it "expressed a willingness to continue working directly with these customers to find a resolution. However, keeping their current meter is not an option for any of our customers in Idaho, and disconnection of service will only be used as a last resort after proper notice has been provided." *Id.* The Company represented that it successfully resolved the concerns of 110 of the customers who had initially objected, and the Company exchanged those meters. *Id.*

For the 50 remaining customers, the Company represented that it began to formally notify them that, pursuant to the Utility Customer Relations Rules ("UCRR"), their service would be terminated if they continued to refuse the installation of an AMI meter. *Id.* The Company cited UCRR 302, IDAPA 31.21.01.302, which allows for termination of service if meter access is denied, as the Company's primary argument for its formal process to begin disconnection. *Id.* Along with UCRR 302, the Company cited UCRRs 304 and 305, IDAPA 31.21.01.304-.305, for the notification requirements to disconnect a customer under UCRR 302. *Id.*

The Company asserted it sent an initial letter ("First Letter") to the customers who refused the meter exchange informing them of the Company's inability to access the meter for a meter exchange, and the Company followed that letter with additional correspondence ("Second Letter") providing an explanation of the benefits and customer privacy protections afforded by AMI meters. *Id.* at 5 and 7-8. The Company then sent a final letter ("Final Letter") notifying customers that their service would be terminated. The Company also stated that the Second and Final Letters informed customers, including the Complainants, how to avoid termination of service. *Id.* The Company represented that the Final Letter also stated that "a certificate notifying the utility of a serious illness or medical emergency in the household may delay termination of service as prescribed by Rule 308." *Id.* Finally, the Company stated that its employees began delivering notices in person and attempting to resolve the issues customers cited regarding AMI meters before it planned on terminating service. *Id.* at 8.

Answer and Motion

The Company: (1) denied all factual allegations in the Complaints that were not admitted in its Answer; (2) explained its belief that industry standards have determined AMI meters do not provide a threat of harm to customers; and (3) claimed that the required UCRR notices it sent to customers who refused access were not threats and the Company did not violate any contract, procedure, rule or law with its requirement for AMI meter installations. The Company asked the Commission to dismiss the Complaints with prejudice for failure to state a claim.

The Company denied using “threats, duress, or coercion to induce Complainants to accept AMI [meter] installation.” *Id.* at 7. The Company discussed its communication efforts where it ultimately warned customers that without access to meters, the Company would initiate the termination process and terminate service if unable to resolve the issue of meter access. The Company noted that those communications were “developed in accordance with the UCRR’s approved by the Commission...” and merely warned customers of the possibilities if access was refused. *Id.* at 8.

The Company maintained that it is allowed to terminate customers’ service if not allowed to access the meters, and without an opt-out in Idaho, that is the only option available. The Company stated that it did discuss alternatives available to customers like relocating the new AMI meter on the customer’s property.

The Company cited Electric Service Regulation (“ESR”) No. 6(2)(d), which provides that “[t]he Customer shall provide safe, unencumbered access to Company’s representatives at reasonable times, for the purpose of reading meters, inspecting, repairing or removing metering devices and wiring of the Company,” and which its customers agree to as a condition of service. *Id.* at 9 quoting ESR No. 6(2)(d). The Company disputed the assertion in the Complaints that the Company does have physical access to the meters stating that “refusing a meter upgrade is not safe and unencumbered access” under ESR 6(2)(d). *Id.* Further the Company stated that ESR No. 7 requires the Company “to furnish and maintain all meters and other metering equipment” and does not prohibit or proscribe a specific type of meter. *Id.* quoting ESR No. 7.

The Company discussed the Federal Communication Commission’s (“FCC”) jurisdiction over devices emitting radio frequency, like AMI meters. The Company represents that the FCC ensures the safety of these devices pursuant to “the National Environmental Policy Act of 1969, among other laws.” *Id.* at 10.

The Company also asserted “[i]ndustry research and standards agencies, such as the American National Standards Institute (“ANSI”) and the Institute of Electrical and Electronics Engineers, Inc. (“IEEE”) have compiled the research” concerning exposure to radio frequencies energy and created guidelines that the FCC and federal Occupational Safety and Health Administration have adopted. *Id.* The Company stated those standards define the maximum permissible exposure (“MPE”) standards and the two categories they are assigned to, the controlled and uncontrolled environments. *Id.* The uncontrolled environment applies to the general public, like residential homes, and includes heightened safety requirements by FCC standards. The MPE for the controlled environment is 5:1, meaning the FCC’s MPE limit for the general public is 50X less than research shows can cause harm to humans. *Id.* at 11.

The Company discussed the history of AMI meters in Idaho and represented that the Company is the last major electric utility to install this infrastructure. The Company noted that AMI meters first became available almost 20 years ago. The Company cited previous cases for Avista, Idaho Power, and itself where the Commission dismissed complaints about AMI and/or denied a request to require public utilities to provide an opt-out provision. Case Nos. PAC-E-22-09, AVU-E-17-11, and IPC-E-12-04. The Company stated that the Commission has never “ruled that a public utility’s AMI project, which does not include an opt-out option, violates an administrative rule, order, statute, or applicable provision of the Company’s tariff.” *Id.* at 12.

The Company stated the Complaints “do not identify any specific administrative rule, order, statute, or applicable provision of the Company’s tariff” violated by the Company. *Id.* at 13. Further, the Company claimed it acted in compliance with rules and regulations that apply to notice and termination for complainants’ refusal to grant access to meters.

Objection and Amendments

In their Objection and Opposition to Motion to Dismiss (“Objections”), van Mastrigt and Twede stated that until the Company produces a rule that specifically authorizes termination for refusing to accept an AMI meter, the Company cannot install the AMI meter or terminate service. The Objections reiterated several points first addressed in the original Complaints about access, safety, data acquisition, and trespassing technology. The Objections also argued matters raised in

the “AMENDED CRIMINAL COMPLAINT(s)” filed by each.⁴ The Objections also ask the Commission to address all criminal counts they allege have been committed by the Company.

The Commission received various other documents in response to the Company’s Answer that essentially restated the same claims from the original Complaints and asked the Commission to reject the Company’s Motion.

COMMISSION DISCUSSION AND FINDINGS

The Commission has jurisdiction over this matter under Idaho Code Title 61 and IDAPA 31.01.01. The Commission is charged with determining all rules and regulations of a public utility are just and reasonable. *Idaho Code* § 61-303. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of all public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provisions of law, and to fix the same by order. *Idaho Code* §§ 61-501 through 503.

The Commission addresses informal and formal complaints through the process outlined in its administrative rules and does not provide preferential treatment to any party participating in the process. IDAPA 31.01.01.054 and .057.02. The Commission has had previous opportunities to review AMI meter complaints and the prevailing scientific research on customer safety, and in each instance the Commission has concluded that AMI meters do not pose a risk to the safety and health of customers, comply with *Idaho Code* § 61-302, and should be allowed in Idaho. *See* Case Nos. IPC-E-12-04, AVU-E-17-11, and PAC-E-22-09. The Commission has also recognized that the FCC has jurisdiction over what constitutes a safe level of radio frequency radiation that is permitted by AMI meters, and that the FCC has found it to be safe. *See* Order No. 35544 at 2. The Commission has also never required a utility to offer an opt-out for AMI meters.

The Complainants in these cases raise similar claims as those previously reviewed and decided by the Commission, claims that go against well-established evidence on AMI meter safety and seek an outcome that is not required under state or federal law. As we have stated previously, the FCC has jurisdiction over the approval of devices that use radio frequency, like AMI meters, and the FCC has approved AMI meters as safe for consumer use.

The Commission is authorized to ensure that every public utility furnishes service, instrumentalities, equipment, and facilities as shall promote the safety, health, comfort, and

⁴ The “AMENDED CRIMINAL COMPLAINT(s)” generally allege the same facts and “FACTUAL COUNTS” as the Complaints.

convenience of its customers and the public. *Idaho Code* § 61-302. The Commission is once again asked to weigh the FCC's safety approval of the use of AMI meters and similar devices and withhold the benefits and efficiencies that customers derive from the use of such devices, and the history of AMI meter use by electric utilities in Idaho, against the claims presented in the Complaints.

Having reviewed the record, the arguments of the parties, and all submitted materials, the Commission finds that the Complainants have not provided evidence to support a finding that AMI meters present a legitimate safety concern, or that public utilities in Idaho should be required to provide an opt-out option for AMI meters.

The Commission finds the record demonstrates that the Company and the Complainants have been in contact with each other about the issues surrounding the Company's deployment of AMI meters. The record also shows that the Company intends to replace meters that it owns, and the Company has complied with the UCRR through its communications with the Complainants.

We find that refusing to allow the Company's representatives access to replace existing meters with AMI meters is a violation of the ESR agreed to as a condition of receiving the Company's service. ESR No. 6(2)(d) requires Complainants to provide access to the Company representatives "for the purposes of . . . [among other things] repairing or removing metering devices" Under this ESR, the Company may remove the existing meter to replace it with an AMI meter. If Complainants refuse to allow the Company to remove the Company-owned meters, they are violating the ESR. Further, ESR No. 7(1) requires the Company to "furnish and maintain all meters and metering equipment." When read together, ESR Nos. 6 and 7 require that the Company provide its customers with the meter and associated metering equipment and requires the customer to provide the Company with access to the meter to accomplish this. Based on the foregoing, the Company has the necessary authority to install an AMI meter on the Complainants' property in its furnishing of electric service as a public utility.

The Commission also finds that the Company has been clear about its willingness to relocate AMI meters to a different location on the Complainants' property at the Complainants' expense if requested to. ESR No. 12 provides information on the Company's line extension and relocation policies. The Commission finds that the Complainants have been offered an opportunity to resolve this matter, and they have chosen not to do so. The Commission finds that the facts in


these cases do not justify ordering the Company to provide an option to opt-out of receiving an AMI meter. Accordingly, the Complainants' Complaints are dismissed.

ORDER

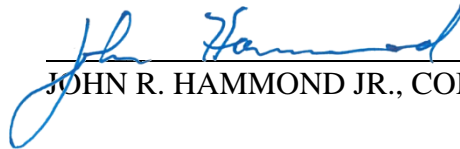
IT IS HEREBY ORDERED that the Complaints filed in the above captioned cases are dismissed.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order regarding any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code § 61-626.*

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 11th day of July 2023.



ERIC ANDERSON, PRESIDENT

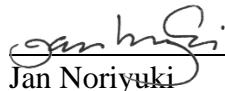


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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