



# Idaho Public Utilities Commission

Brad Little, Governor

P.O. Box 83720, Boise, ID 83720-0074

Eric Anderson, President  
John R. Hammond, Jr., Commissioner  
Edward Lodge, Commissioner

September 18, 2023

*Via E-Mail and Interagency Mail*  
[supremecourtdocuments@idcourts.net](mailto:supremecourtdocuments@idcourts.net)

Melanie Gagnepain  
Clerk of the Courts  
Supreme Court  
451 W. State Street  
Boise, Idaho 83720-0101

Re: PUC Clerk's Certificate of Appeal  
Supreme Court Docket No.: \_\_\_\_\_-2023

Dear Ms. Gagnepain,

Enclosed for your information and action is the Clerk's Certificate of Appeal from the Idaho Public Utilities Commission. Also enclosed is the Notice of Appeal filed by Sherry Cole on September 6, 2023, and the \$94 filing fee.

I have also enclosed copies of the two PUC Orders appealed from: Final Order No. 35856 and Reconsideration Order No. 35903.

If you have any questions, please contact me at (208) 334-0338.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Noriyuki".

Jan Noriyuki  
Commission Secretary

Enclosures

cc: Michael Duval, Deputy Attorney General

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**BEFORE THE PUBLIC UTILITIES COMMISSION**

<b>SHERRY COLE,</b>	)	
	)	<b>Supreme Court Docket</b>
<b>Appellant,</b>	)	<b>No. _____-2023</b>
	)	
<b>v.</b>	)	
	)	<b>Idaho Public Utilities Commission</b>
<b>PACIFICORP, d/b/a ROCKY</b>	)	<b>Case No. PAC-E-23-12</b>
<b>MOUNTAIN POWER COMPANY,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	
	)	
_____	)	

Appeal from the Idaho Public Utilities Commission, The Honorable Eric Anderson presiding.

**Case Number from Idaho Public Utilities Commission:** PAC-E-23-12

**Order or Judgment Appealed from:** Final Order No. 35856 and Final Reconsideration Order No. 35903

**Attorney(s) for Appellant:** N/A – Appellant Sherry Cole, *pro se*, 350 S. 12<sup>th</sup> W., #14, Saint Anthony, Idaho 83445

**Attorney for Respondent:** Michael Duval, Deputy Attorney General, Idaho Public Utilities Commission, P. O. Box 83720, Boise, Idaho 83720-0074

**Appealed by:** Sherry Cole

**Appealed against:** Idaho Public Utilities Commission

**Notice of Appeal Filed:** September 6, 2023

**Amended Notice of Appeal filed:** N/A

**Notice of Cross-appeal Filed:** N/A

**Amended Notice of Cross-appeal Filed:** N/A

**Appellate Fee Paid:** \$94.00 (September 6, 2023)

**Respondent or Cross-Respondent’s Appeal Request for Additional Record Filed:** N/A

**Respondent or Cross-Respondent's Request for Additional Reporter's Transcript Filed:**  
N/A

**Was Agency Reporter's Transcript Requested:** No

**Estimated Number of Pages:** N/A

**If so, name of each reporter of whom a transcript has been requested as named below at the address set out below:** N/A



**Dated this 18<sup>th</sup> day of September 2023.**

  
\_\_\_\_\_  
Jan Noriyuki  
Secretary of the Public Utilities Commission

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT I HAVE THIS 18<sup>th</sup> DAY OF SEPTEMBER 2023, SERVED THE FOREGOING *Clerk's Certificate of Appeal*, in IPUC Case No. PAC-E-23-12, ON THE FOLLOWING PERSONS, AS INDICATED BELOW:

Sherry Cole  
350 S. 12<sup>th</sup> W., #14  
St. Anthony, ID 83445

- US Mail, postage prepaid
- E-Mail to [slordaz@hotmail.com](mailto:slordaz@hotmail.com)

  
\_\_\_\_\_  
Jan Noriyuki  
Commission Secretary

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>SHERRY COLE,</b>	)	<b>CASE NO. PAC-E-23-12</b>
	)	
<b>PETITIONER,</b>	)	<b>ORDER NO. 35903</b>
	)	
<b>vs.</b>	)	
	)	
<b>PACIFICORP, d/b/a ROCKY MOUNTAIN</b>	)	
<b>POWER COMPANY,</b>	)	
	)	
<b>RESPONDENT.</b>	)	
	)	

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On March 16, 2023, Sherry Cole (“Petitioner”) filed a formal complaint (“Complaint”) with the Idaho Public Utilities Commission (“Commission”) alleging that Rocky Mountain Power, a division of PacifiCorp (“Company”), overcharged her while her meter was cross-connected with her neighbor’s meter. The Petitioner stated she was inappropriately charged for her neighbor’s higher power consumption. While acknowledging some remedial actions and compensation by the Company, the Petitioner believed further compensation was necessary to be made whole.

On July 24, 2023, the Commission issued a Final Order in this case dismissing the Petitioner’s complaint and referencing the Commission’s Utility Customer Relations Rules as found under IDAPA 31.21.01. Order No. 35856.

On July 25, 2023, Petitioner filed a public comment explaining her frustration with the Commission’s decision in the Final Order and expressing an intent to sue the Company. On July 28, 2023, the Petitioner filed a document intended to be a Petition for Reconsideration (“Petition”). The Company did not respond to the Petition.

On August 14, 2023, Commission Staff (“Staff”) filed an affidavit regarding Staff’s analysis of the Petitioner’s bills spanning the timeframe the Petitioner believed that the meters were cross-connected.

The Commission now issues this Order dismissing the Petitioner’s Petition, as discussed in detail below.

## **BACKGROUND**

### **1. The Complaint**

The Petitioner stated that she has been arguing with the Company for approximately five years; which she stated started when the Company moved her meter bank (which included neighboring meters). At some point not clearly specified in the record, the Company inspected the Petitioner's meter and informed her that it was cross-connected with her neighbor's meter. The Petitioner stated that, as part of the inspection, the Company tried to turn off her power, but the neighbor's power was turned off instead. The Petitioner stated that the Company then told her that a workman would be out to fix the issue. The Petitioner explained that no one came out until she called the Company in January 2023. After the January 2023 call, the Company then sent someone out who fixed the allegedly cross-connected meters. The Petitioner stated that she was then provided a written report dated January 25, 2023. The Petitioner also stated that a \$1,620.08 credit subsequently was applied to her bill for January. Regarding her issue with the Company, the Petitioner stated that "[w]e were good at this point." Complaint at 1.

However, the Petitioner explained that when she received her bill for February, she saw that the \$1,620.08 credit had been reversed. The Petitioner stated that the Company told her that the Petitioner's meter had actually never been cross-connected with her neighbor's meter. The Petitioner stated that her neighbor also called the Company because the neighbor's bill was also different than expected. The Petitioner stated that the Company ignored her after the meters in question were allegedly fixed. The Petitioner stated that the Company offered her a \$450 credit as a sign of good will. However, the Petitioner explained that the \$1,620.08 credit (which she stated was a credit for six months of usage) should have remained. The Petitioner requested that the Commission order the Company to reinstate the \$1,620.08 credit.

### **2. The Company's Answer**

On June 8, 2023, the Company filed an Answer and Motion to Dismiss ("Answer"). The Company stated that the Company's own technician did not initially utilize the proper process to accurately read the Petitioner's meter, which led to an erroneous belief that the meter had been cross-connected. The Company stated that subsequent testing revealed that the Petitioner's meter was working properly and never cross-connected with her neighbor's meter. The Company stated it had offered the Petitioner a \$450 credit for any inconvenience. However, the Company stated that the Petitioner has not identified any legal authority that would require the Company to provide

the Petitioner with any compensation. The Company thus requested that this case be dismissed with prejudice.

### **3. Petitioner’s First Comment**

On June 12, 2023, the Petitioner filed a public comment expressing that she “need[ed] to talk to the judge [*sic*] about some issues with the procedures with this case. . . .” Petitioner’s First Comment at 1. The Petitioner expressed displeasure regarding the veracity and presentation of the evidence in this case and stated that she was seeking an attorney.

### **THE FINAL ORDER**

On July 24, 2023, the Commission issued Final Order No. 35856. After reviewing the record, the Final Order dismissed the Petitioner’s complaint and noted that the Company had provided the Petitioner with a \$450 credit despite the lack of any clear legal obligation to do so. Order No. 35856 at 3. The Commission also referenced Commission’s Utility Customer Relations Rules as found in IDAPA 31.21.01.

### **PETITIONER’S SECOND COMMENT**

On July 25, 2023, Petitioner filed a public comment expressing her frustration and claiming that the evidence that she submitted was not properly examined. She alleged that the Company committed theft. The Petitioner also stated that she would “be appealing this decision and suing them now.” Petitioner’s Second Comment at 1.

### **PETITION FOR RECONSIDERATION**

The Petitioner noted that she was not an attorney and requested leniency from the Commission when reviewing the legal aspects of her filing. The Petitioner cited “Rules 005, 200, 204, 313” without elaboration. Petition at 1. Petitioner referenced an unspecified three-year exception that she stated should apply because she contacted the Company as soon as she had proof after the moving of certain meter banks.<sup>1</sup> The Petitioner stated that Staff originally suggested a higher amount in controversy relevant to her compensation. Petitioner reviewed the narrative of her Complaint and discussed certain exhibits from the Company’s Answer—disputing various aspects of these based upon her assertion that her meter was cross-connected with her neighbor’s meter. She also expressed displeasure regarding her interactions with Staff. The Petitioner requested that the Commission order a reimbursement of “THE CORRECT AMOUNT OF

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<sup>1</sup> Utility Customer Relations Rule 203, IDAPA 31.21.01.203, discusses billing errors and proper procedures for remedying incorrect bills.

MONEY WRONGFULLY CHARGED ME AND ADDED TO THE BIL1620.08 [sic].” Petition at 4. Petitioner noted her struggle with the legal complexities of this case and asked that the Commission review the matter in good faith.

While certainly asking for compensation for a total of \$1,620.08 for the six months preceding the discovery of the allegedly cross-connected meters, the record indicates that the Petitioner argued that the Company’s obligation to reimburse her is correlated to a sum of \$10,870 (for the total amount of time that she was overpaying for energy usage). The Petitioner also attached the Company’s letter to her initially informing her that her meter was crossed, and that she would be granted a credit of \$1,262.52<sup>2</sup> that would be applied to her next bill. The Petitioner also provided two billing statements that showed a credit initially being applied to her account balance.

#### **STAFF’S AFFIDAVIT**

On August 14, 2023, Staff filed the Affidavit of Jon Kruck (“Affidavit”). In this Affidavit, Staff noted that it had reviewed the Petitioner’s utility bills from the Company and did not believe the data supported a finding that the Petitioner’s meter was cross-connected with her neighbor’s meter. Staff examined the Petitioner’s bills from the time that she stated the allegedly cross-connected meters were fixed and compared that time period with the same time period from previous years. Staff stated that her bills from this period were very comparable with the commensurate period for each previous year going back to 2018. Staff also correlated this data with the average monthly temperature for each year. This increased Staff’s confidence that the minor differences in the prices for each month can largely be explained by normal temperature fluctuations. Accordingly, Staff stated that the data does not support a finding the meters in question were ever cross-connected.

#### **COMMISSION FINDINGS AND DECISION**

Reconsideration affords parties an opportunity to bring to the Commission’s attention any matter previously determined and provides the Commission opportunity to rectify any mistake before the matter is appealed to the Supreme Court. *Washington Water Power Co. v. Idaho Public Utilities Comm’n*, 1980, 101 Idaho 567, 617 P.2d 1242. Any person or public utility has the right

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<sup>2</sup> The January 25, 2023, letter stated that her credit would be \$1,262.52. The “Adjustments” portion of the Petitioner’s second attached bill lists a “+1,621.08” number, which appears to be where the Petitioner arrived at her \$1,620.08 request for compensation. Petition, Exhibit 2-2.



to petition for reconsideration in respect to any matter determined in a Commission order. *Idaho Code* § 61-626(1). The petitioner has 21 days from the date of the final order in which to ask for reconsideration. *Id.* The Commission has 28 days from the filing of the petition for reconsideration to enter an order on the matter. *Idaho Code* § 61-626(2).

Commission Rule of Procedure 332 authorizes the Commission to grant reconsideration on its own motion by the motion of an interested party. This Rule also allows the Commission to dismiss issues on reconsideration when those issues are not supported by a specific explanation relevant to the case. IDAPA 31.01.01.332.

Idaho Public Utilities Commission Rule of Procedure 331 states that petitions for reconsideration “must specify (a) why the order or any issue decided in it is *unreasonable, unlawful, erroneous or not in conformity with the law*, and (b) the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted.” IDAPA 31.01.01.331.01 (emphasis added). Further, “the petition . . . must state whether the petitioner . . . requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories.” IDAPA 31.01.01.331.03.

Having reviewed the Petition, the arguments of the parties, and all submitted materials, the Commission finds that the Petition does not meet the substantive requirements for a petition for reconsideration.

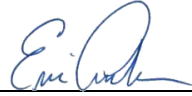
The Petition largely reiterates information that was already in the Complaint—including information that shows that, at one point, the Company believed that the Petitioner’s meter was cross-connected and provided the Petitioner with a bill credit. After investigation, the Company determined that no cross-connection occurred and reversed the bill credit. Staff’s analysis corroborated the Company’s assertion that there was no cross-connection. These facts regarding the Company’s previous actions were already known by the Commission and factored into the Commission’s decision in Order No. 35856. The Petitioner has not presented sufficient evidence to show that her meter was cross-connected, or that she was overcharged for electric service. Nothing that the Petitioner has presented provides grounds for the Commission to decide that Order No. 35856 was “unreasonable, unlawful, erroneous or not in conformity with the law.” IDAPA 31.01.01.331.01. Therefore, the Petition is dismissed.

**ORDER**

IT IS HEREBY ORDERED that the Petition is dismissed.

THIS IS A FINAL ORDER DENYING RECONSIDERATION. Any party aggrieved by this Order, or other final or interlocutory Orders previously issued in this case, may appeal to the Supreme Court of Idaho within forty-two (42) days pursuant to the Public Utilities Law and the Idaho Appellate Rules. *Idaho Code* § 61-627; I.A.R. 14.

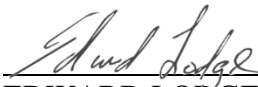
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 22<sup>nd</sup> day of August 2023.



ERIC ANDERSON, PRESIDENT

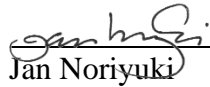


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>SHERRY COLE,</b>	)	<b>CASE NO. PAC-E-23-12</b>
	)	
<b>PETITIONER,</b>	)	<b>ORDER NO. 35856</b>
	)	
<b>vs.</b>	)	
	)	
<b>PACIFICORP, d/b/a ROCKY MOUNTAIN</b>	)	
<b>POWER COMPANY,</b>	)	
	)	
<b>RESPONDENT.</b>	)	
	)	

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On March 16, 2023, Sherry Cole (“Petitioner”) filed a formal complaint (“Complaint”) with the Idaho Public Utilities Commission (“Commission”) alleging that Rocky Mountain Power, a division of PacifiCorp (“Company”), overcharged her while her meter was cross-connected with her neighbor’s meter. The Petitioner asserted that she was billed for her neighbor’s power consumption. While acknowledging some remedial actions and compensation by the Company, the Petitioner believed further compensation was necessary to be made whole.

On May 18, 2023, the Commission issued a Summons with the Complaint attached. The Company filed an Answer and Motion to Dismiss on June 8, 2023. The Petitioner submitted a reply in the form of a Public Comment on June 12, 2023.

The Commission now issues this Order dismissing the Complaint.

**THE FORMAL COMPLAINT**

The Petitioner stated that she has been arguing with the Company for approximately five years—apparently starting when the Company moved her meter banks. At some point not clearly specified in the Complaint,<sup>1</sup> the Petitioner alleges that the Company inspected the Petitioner’s meter and informed her that it was cross-connected with her neighbor’s meter. The Petitioner represented that, as part of the inspection, the Company tried to turn off her power; instead, the neighbor’s power was turned off. The Petitioner asserted that the Company then told her that a workman would come to fix the issue. The Petitioner explained that no one came out until she called the Company in January 2023. The Petitioner stated the Company then sent someone out

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<sup>1</sup> The Company stated that the Petitioner initially raised her concerns with the Company on January 3, 2023.

who fixed the allegedly cross-connected meters. The Petitioner stated that she was then provided a written report that was dated January 25, 2023.<sup>2</sup> The Petitioner also stated that a \$1,620.08 credit was subsequently applied to her bill in January. Regarding her issue with the Company, the Petitioner stated that “[w]e were good at this point.” Complaint at 1.

However, the Petitioner explained that when she received her bill for February, she saw that the \$1,620.08 credit had been reversed. The Petitioner stated that the Company told her that the Petitioner’s meter had actually never been cross-connected with her neighbor’s meter. The Petitioner stated that her neighbor also called the Company because the neighbor’s bill was also “different” than expected. *Id.* The Petitioner stated that the Company ignored her after the meters in question were allegedly fixed. The Petitioner stated that the Company offered her \$450.00 as a sign of good will. However, the Petitioner explained that the \$1,620.08 credit (which she stated was a credit for six months of usage) should have remained in place. The Petitioner requested that the Commission order the Company to reinstate the \$1,620.08 credit.

#### **THE COMPANY’S ANSWER**

On June 8, 2023, the Company filed an Answer and Motion to Dismiss (“Answer”). The Company stated that its technician visited the Petitioner’s property on January 13, 2023, and that this technician did not initially utilize the proper process to accurately read the Petitioner’s meter; this led to an erroneous belief that the meter had been cross-connected. The Company stated that the initial net credit provided to the Petitioner was \$1,256.45. The Company provided supplemental exhibits to support the Company’s position.

The Company stated that a February 8, 2023, breaker test showed that the Petitioner’s meter was working properly and never cross-connected with her neighbors’ meter. The Company thus stated that the previous credit was provided in error. The Company stated the Petitioner contacted the Company on March 2, 2023; the Petitioner was very upset at the reversal of the previous credit. The Company stated that a meter reader revisited the property on March 13, 2023, and again confirmed the accuracy of the meters in question. The Company stated that on March 15, 2023, it offered the Petitioner a \$450.00 credit for any inconvenience. Despite this goodwill credit, the Company maintained that the Petitioner had not identified any legal authority that would require the Company to provide the Petitioner with any compensation. The Company thus requested that this case be dismissed with prejudice.

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<sup>2</sup> The January 25, 2023, report referenced by the Petitioner was not included as part of the record.

## PETITIONER'S REPLY

On June 12, 2023, the Petitioner filed a public comment in which she expressed that she “need[ed] to talk to the judge [*sic*] about some issues with the procedures with this case. . . .” Public Comment at 1. The Petitioner expressed displeasure regarding the veracity and presentation of the evidence in this case and stated that she was seeking an attorney.

## COMMISSION DISCUSSION AND FINDINGS

The Commission has jurisdiction over this matter under Idaho Code Title 61 and IDAPA 31.01.01. Having reviewed the Complaint, Answer, and the Petitioner’s reply, we dismiss the Complaint. Other than her statements, the Petitioner has not provided anything in the record to substantiate that she was overcharged. Despite the lack of a clear duty to do so, the Company has provided the Petitioner with \$450.00 for the inconvenience it caused. The Commission finds that this Complaint should be dismissed.

In matters like these the Commission’s Utility Customer Relations Rules provide guidance and direction. *See* IDAPA 31.21.01. The Commission believes that consistent application of these rules can help to prevent these situations from occurring.

## ORDER

IT IS HEREBY ORDERED the Complaint filed by the Petitioner is 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. *Idaho Code* § 61-626.

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DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 24<sup>th</sup> day of July 2023.



ERIC ANDERSON, PRESIDENT

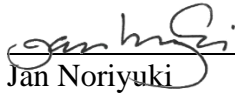


JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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