

ENTERED MAY 19 2016

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UCR 179

L.B.¹,

Complainant,

vs.

PORTLAND GENERAL ELECTRIC
COMPANY,

Defendant.

ORDER

DISPOSITION: COMPLAINT DISMISSED; DOCKET CLOSED

I. OVERVIEW

This case involves a dispute between complainant, L.B., and Portland General Electric Company (PGE) regarding the extent of damage to PGE's property and the amount, if any, that complainant owes to PGE for repair. Because we conclude that we lack jurisdiction over this matter, we dismiss the complaint and close this docket.

II. COMPLAINT AND MOTION TO DISMISS

Following an informal complaint process, complainant filed a formal complaint against PGE on April 7, 2016. On April 25, 2016, PGE filed a motion to dismiss the complaint, with prejudice. On May 4, 2016, complainant filed a response to the motion to dismiss.

Complainant challenges amounts PGE has billed him for damage sustained to a guy wire and transformer. Complainant admits that, while clearing brush on his property with a large vehicle, he hit and broke a PGE guy wire. Complainant asserts, however, that the guy wire was not properly marked and reports that his electric service was not interrupted. Complainant states he notified PGE, and observed that the guy wire was repaired by the next day.

Complainant disputes the bill he received from PGE, five months later, seeking \$3912.76 for the repair of the guy wire, as well as the cost of a new transformer (minus depreciation expense) and overtime labor and expense to install it. Complainant denies

¹ The Commission uses the complainant's initials in consumer complaint cases to protect consumer privacy.

that he damaged the transformer and challenges its replacement, and asks the Commission to direct PGE to drop the request for payment for damage to the transformer.

PGE moves for dismissal of the complaint with prejudice on the grounds that: (1) the Commission lacks subject matter jurisdiction; and (2) that the Complaint fails to state a claim that PGE violated a law, statute, rule, or tariff provision that the Commission has the ability to redress.

While PGE acknowledges that the Commission has broad authority to regulate public utilities in matters related to utility rates and services, PGE contends that the complaint concerns neither, because it relates to damage to utility property and seeks to stop PGE from pursuing restitution from complainant. PGE asks the Commission to dismiss the complaint, allowing both parties to pursue remedies in civil court.²

III. DISCUSSION

PGE is a public utility subject to our jurisdiction over disputes that primarily concern rates and service.³ As we have previously stated, however, we do not “have jurisdiction over each and every activity of a utility, its employees, or its agency.”⁴ Our regulatory authority does not, therefore, interfere with the liabilities and rights of a public utility and its customers under common law, statutes, or rules.⁵

PGE’s claims and complainant’s defenses do not involve our jurisdiction over the rates or services of PGE and should instead be pursued in a court of law. Resolving any ambiguities in the complaint in favor of the complainant and reading PGE’s motion in a light that is most favorable to complainant, we conclude that we do not have jurisdiction to address the merits of the complaint. We dismiss the complaint for lack of jurisdiction, and do not render any opinion on the merits of the complaint—i.e., the extent of damage to PGE’s property and the amount, if any, that complainant owes to PGE for repair—which can be more properly addressed by a civil court.

² In its motion to dismiss, PGE states that complainant’s collision with the guy wire dislodged and damaged the transformer, which was replaced.

³ ORS 756.040(1).

⁴ *In the Matter of K.S. v. Qwest Corporation*, Docket No. UCR 98, Order No. 08-112 (Jan 31, 2008).

⁵ ORS 756.200.

V. ORDER

IT IS ORDERED that the complaint of L.B. against Portland General Electric Company is dismissed and this docket is closed.

Made, entered, and effective MAY 19 2016.



Susan K. Ackerman
Chair



John Savage
Commissioner



Stephen M. Bloom
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.