

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UCB 71

PAUL SPIES, DBA WAVERLY TOWN
HOMES LLC,

Complainant,

vs.

PACIFICORP, DBA PACIFIC POWER,

Defendant.

ORDER

**DISPOSITION: MOTION TO DISMISS GRANTED; COMPLAINT DISMISSED
WITHOUT PREJUDICE; STAFF TO OPEN INVESTIGATION**

On December 28, 2022, complainant filed a complaint against PacifiCorp, dba Pacific Power, regarding the company's tariff for master metering. The complainant stated that PacifiCorp had refused to allow the complainant to install a temporary single meter option to a new apartment complex until the complainant received metering equipment that has been delayed due to supply chain issues. On January 13, 2023, PacifiCorp filed an answer and motion to dismiss the complaint, arguing that the complainant failed to state facts sufficient to constitute a claim.¹ On March 9, 2023, Administrative Law Judge Sarah Spruce held a case management conference with the parties to discuss the motion to dismiss.²

After reviewing the complaint and PacifiCorp's motion and following the arguments from the parties at the case management conference, we find that the complaint should be dismissed without prejudice. Oregon statute requires that complainants state all grounds on which they seek relief or the violation of any law that they claim the defendant has

¹ ORS 756.500(3); ORCP 21(A) (1)(h) (failure to state ultimate facts sufficient to constitute a claim).

² The case management conference followed an extension to reply to the motion to dismiss and no response from the complainant.

committed, as well as the relief to which they are entitled.³ The complaint submitted does not clearly state either the relief sought nor what statute, rule, or tariff may have been violated.

We recognize, however, that consumer complainants are often not attorneys and are typically not represented by legal counsel. If the complaint provides enough information that we can understand the alleged violation and relief requested, we may address the complaint. From the complaint and the discussions at the case management conference, the complainant seeks review of PacifiCorp's decision not to allow temporary master metering at this location.

While it is clear what relief the complainant seeks, the complaint does not state ultimate facts sufficient to state a claim that PacifiCorp violated the law or our rules.⁴ From the information in the complaint and the attached materials, the complainant is not arguing that PacifiCorp has violated any statute, rule, or tariff, nor is the complainant arguing that he does in fact meet the criteria for master metering contained in PacifiCorp's Rule 8 tariff. The complaint does not present any arguments that complainant meets the tariff requirements for master metering, nor any facts that would support that the complainant meets the tariff requirements. Given this, there is no relief that we can provide in this forum, and the complaint is, therefore, dismissed. This dismissal is without prejudice, which means that the complainant is free to file another complaint at any time with additional information.

That said, after reviewing the record in this case and determining that PacifiCorp acted consistently with its tariff, we would like Staff to examine PacifiCorp's tariff to determine whether or not it could be modified to include additional flexibility that would facilitate reasonable solutions to technical challenges similar to what the complainant faced in metering the development in question here. We request that Staff open an investigation to review the tariff, and to consider specifically whether or not more flexibility can or should be included in the tariff to serve public policy goals.

ORDER

1. The motion to dismiss the complaint filed by PacifiCorp, dba Pacific Power, is granted.
2. The complaint filed by complainant is dismissed without prejudice.

³ ORS 756.500(3).

⁴ ORCP 21(A)(1)(h).

3. The docket is closed.
4. Staff is directed to open an investigation to review PacifiCorp's, dba Pacific Power's, Rule 8 tariff as discussed above.

Made, entered, and effective Mar 21 2023.



Megan W. Decker
Chair



Letha Tawney
Commissioner



Mark R. Thompson
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.