

Decision No. R14-0321-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 14F-0129E

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ANN MARIE DAMIAN AND JOHN M. TAYLOR, JR.,

COMPLAINANTS,

V.

MOUNTAIN PARKS ELECTRIC, INC.,

RESPONDENT.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
PAUL C. GOMEZ  
GRANTING MOTION TO  
VACATE PRE-HEARING CONFERENCE**

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Mailed Date: March 24, 2014

I. **STATEMENT**

A. **Background**

1. On February 12, 2014, Ann Marie Damian and John M. Taylor, Jr. (Complainants) filed a Formal Complaint against Mountain Parks Electric, Inc. (Respondent). Complainants allege that Respondent's increase of its Time of Use rates (TOU), as well as other rates, was improper and without proper notice to its customers. Complainants also allege that the off-peak hours originally established by Respondent were improperly curbed. Finally, Complainants allege that Respondent improperly elected members to its Board of Directors without a proper quorum of co-operative members in attendance at annual meetings where the elections took place. Complainants provide no claim for specific relief in the Formal Complaint.

2. On March 4, 2014, Respondent filed its Answer to the Complaint in the form of a Response. Respondent denies any allegations of wrongdoing on its part. In addition, Respondent asserts several defenses including failure of Complainant to comply with statutory requirements regarding cooperative electric associations; the Commission may not impose requirements on Respondent regarding member voting rules; the Complaint is barred by applicable statutes of limitation and “any other applicable rule of equity for failure to timely pursue these claims;” and, that the Complaint is barred by *res judicata* and collateral estoppels because the issues raised have been decided in a previous Commission proceeding. Respondent also seeks to recover its costs and reasonable attorney’s fees.

3. Because Respondent did not file a formal motion to dismiss the Complaint, a pre-hearing conference was scheduled for March 26, 2014 in this proceeding by Interim Decision No. R14-0276-I, issued on March 12, 2014.

4. On March 14, 2014, Respondent filed a formal Motion to Dismiss Complaint and Request for Attorney’s Fees (Motion to Dismiss), as well as a brief in support of its Motion to Dismiss.

5. On March 21, 2014, legal counsel for Complainant filed an Entry of Appearance and Motion to Vacate Pretrial Conference (Motion), indicating that due to a prior commitment out of state, Complainant’s attorney will not be available on March 26, 2014.

6. Respondent filed a response to the Complainant’s Motion in which Respondent opposes the relief sought by Complainant.

7. Pursuant to 4 *Code of Colorado Regulations* 723-1-1400(b) of the Commission Rules of Practice and Procedure, a party has 14 days to respond to a motion. Therefore, Complainants have until March 28, 2014 to file their response to the Motion to Dismiss.

Procedural efficiency dictates that the pre-hearing conference scheduled for March 26, 2014 be vacated pending a decision on Respondent's Motion to Dismiss. Should the Motion to Dismiss be granted, the proceeding will be closed. In the event the Motion to Dismiss is denied, the proceeding will go forward and a pre-hearing conference will be subsequently scheduled. Therefore, good cause is found to grant Complainant's Motion.

**II. ORDER**

**A. It Is Ordered That:**

1. The Motion to Vacate Pretrial Conference filed by Ann Marie Damian and John M. Taylor, Jr. is granted.
2. The pre-hearing conference in this proceeding scheduled for March 26, 2014 is vacated.
3. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

PAUL C. GOMEZ

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Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director