

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint Nos. 512346W
and 533120W contesting high
water and wastewater bills for
December 2002 and April 2003,
respectively, filed by Mr.
Harold Shriver against Terra Mar
Village Utilities, Inc., in
Volusia County.

DOCKET NO. 030828-WS
ORDER NO. PSC-03-1248-PAA-WS
ISSUED: November 5, 2003

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING COMPLAINTS AND CLOSING DOCKET

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

On January 14, 2003, Mr. Shriver (customer) contacted this
Commission and complained that his water bill from Terra Mar
Village Utilities, Inc. (Terra Mar or utility) for the month of
December 2002 increased from an average daily usage of
approximately 25 gallons (approximately 750 gallons per month) to
more than 365 gallons per day, or 10,953 gallons per month, for a
total water and wastewater bill of \$196.91. The usage recorded by

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the meter was actually for the period October 28, 2002, through November 22, 2002. This complaint was assigned Complaint No. 512346W and will be referred to as the First Complaint.

Approximately five months after filing the First Complaint, Mr. Shriver was billed for 4,602 gallons of water use in April 2003. He again filed a complaint which was assigned Complaint No. 533120W, and will be referred to as the Second Complaint.

An informal conference that addressed both complaints was held on July 30, 2003, but no resolution was reached. Therefore, our staff opened this docket for us to consider the above-noted complaints.

Our staff filed its initial recommendation dated September 4, 2003, for our consideration at the September 16, 2003, Agenda Conference. However, this recommendation was deferred at Mr. Shriver's request.

On September 29, 2003, the Complainant filed a response to our staff's initial recommendation. Subsequent to this response, our staff filed a revised recommendation on October 9, 2003.

We have jurisdiction pursuant to Sections 367.011, 367.081, and 367.121, Florida Statutes.

COMPLAINTS

Customer Allegations

In his First Complaint, Mr. Shriver states that he could not have used over 10,000 gallons from October 22 through November 22, 2002, especially when he did not even arrive in Florida until November 9, 2002. He further alleges that there was no leakage of water during that time, otherwise the street and surrounding homes would have been flooded. Mr. Shriver does admit that on November 10 and 11, 2002, he had new water pipes installed, but that during the installation, either very little (less than a pint) or no water was lost as the project was under close supervision and the water was shut off at the meter. He suspects that the meter is either faulty or was misread or for some other reason he was given false usage figures.

The customer requested a full investigation from the utility and a thorough explanation and justification for the alleged water usage. Also, on November 11, 2002, Mr. Shriver requested a meeting with Mr. Frank Uddo of the utility to discuss this discrepancy, but did not receive a response from the utility.

At the request of Terra Mar, a new meter was installed by Wekiva Utility of Central Florida, Inc. (Wekiva), on March 26, 2002. Wekiva is an unrelated utility and provides meter installation and repair service to Terra Mar. Mr. Shriver states that he did not request the new meter, and did not know of its installation in time to have someone there to observe its installation. He thinks that Terra Mar singled him out in replacing his meter, and that there was some other purpose for replacing his meter.

For this First Complaint the amount in dispute was listed as \$196.91. However, Mr. Shriver recognizes that the utility is entitled to collect the base facility charge of \$29.22, and so the actual amount in dispute for this First Complaint is \$167.69.

Mr. Shriver states that he paid the \$196.91 amount under protest with a \$200 cashiers check (received change of \$3.09). However, Mr. Shriver indicated that his wife had also sent a check in the amount of \$29.22 for the basic service, and that, therefore, at the very least, he had paid the basic facility charge twice.

Mr. Shriver remained in Florida from November 9, 2002 through March 24, 2003, when he returned to his home in Maryland. For the months when he was in Florida his water usage was as follows:

October 28, 2002, through November 22, 2002	10,953 gallons
November 22, 2002, through December 30, 2002	1,147 gallons
December 30, 2002, through January 28, 2003	598 gallons
January 28, 2003, through February 24, 2003	496 gallons
February 24, 2003, through March 28, 2003	775 gallons

Four days after Mr. Shriver left to return to his home in Maryland, the utility read his meter (and the meter reading on March 28, 2003, was "14,015," for a use of 775 gallons in that period). However, after he had been gone a little over a month, the next meter reading on April 28, 2003, jumped from the 14,015

figure to 18,617, for a usage of 4,602 gallons, and a bill of \$99.67.

Mr. Shriver stated that he had insured all water was off to his mobile home and that it was not possible to have used that much water when he was not even there. Therefore, he again contacted this Commission and registered his Second Complaint contesting the \$99.67 bill. He states that he has not paid this bill in an attempt to force the utility to cut him off again so that he would at least not have to worry about any more outrageous usage amounts, and that he would rather pay the reconnect fee than have to worry about these huge bills. The 99.67 amount includes the \$29.22 base facility charge.

Utility's Response

On February 4, 2003, the utility provided a reply to the First Complaint. The utility states that a monthly meter reading was conducted on November 20, 2002 (bill shows November 22, 2002, as the reading date), and a noticeable high water usage was observed. The utility investigated and found evidence of repair work that had been done prior to the meter reading, which extended from the meter box to Mr. Shriver's house. The utility further stated that the meter was read a little earlier than usual because of the Thanksgiving holiday.

Also, on January 20, 2003, a Flow Meter Accuracy Test was conducted by the Florida Rural Water Association, an independent testing company. The meter was found to be accurate. Mr. Shriver confirms that the test was done and that the meter was accurate.

The utility states that Mr. Shriver visited the company's office to pay his bill and agreed to pay the amount charged. The utility further states that Mr. Shriver admitted that he had a leak, had very low water pressure in the shower, and had made repairs. He paid his bill with a cashier's check on December 26, 2002. Also, the utility admits that it did initially receive a check from Mr. Shriver's wife, but that the double payment of the base facility charge was refunded and had already been taken into account.

In further response, the utility sent ten photographs of the customer's mobile home, lawn, and meter. These photographs showed what was purported to be the ground which had been dug up leading to Mr. Shriver's mobile home (indicating a pipe replacement), and also what appeared to be a commode and old rotted wood in the carport (indicating a water leak). The utility indicated that no adjustment to the bill would be made.

Actions of Commission Staff Prior to Informal Conference

For the First Complaint, our Consumer Affairs (CAF) staff reviewed the company report on May 12, 2003, and shared its findings with the Complainant on May 13, 2003. However, the Complainant was not satisfied with the proposed resolution of the case, and stated that he checked the site prior to digging (and there was no obvious leak). He did admit to staff that 41 gallons were lost during the repair of his pipes (later changed this figure to as much as 63 gallons). The reason for the repair was that the customer could not get water to his shower, and required the replacement of one pipe in the home.

By letter dated May 22, 2003, Mr. David Hanna, State Circuit Rider District 3 of the Florida Rural Water Association, contacted CAF staff and stated the following with regard to the Second Complaint:

At the request of . . . Terra Mar Village Utilities, I performed a visual inspection of the service of Mr. Harold Shriver. Upon arrival, I immediately noticed the service line from the meter to the house had been repaired or replaced and that the ground had been disturbed recently and new plumbing installed. The service line was shutoff when I arrived so I opened the valve and noticed an obvious leak in the new plumbing installed and turned the service valve off immediately. No further investigations were possible due to this leak.

Based on this letter and the test showing the meter to be accurate, by letter dated May 30, 2003, CAF staff proposed to close the Second Complaint of Mr. Shriver. However, he again disagreed with our staff's conclusions and requested an informal conference for both complaints.

On July 14, 2003, Mr. Uddo from Terra Mar Village Utilities, contacted our staff to discuss the case. Upon request of our staff, the utility immediately provided a billing usage history. Also, upon request of our staff, the utility provided documentation showing that there is a steady process of changing out meters and that Mr. Shriver was not singled out.

Our staff contacted Mr. Shriver on July 15, 2003, and he alleged that the water never flowed through his meter, and that an extra 10,000 gallons were added to the meter when the meter was installed. The customer said he believes the additional gallons were added to his meter to compensate the utility for credits it applied to his account (in another complaint made by Mr. Shriver, the utility had agreed that it would not collect approximately eight months worth of base facility charges which would have totaled a little over \$200).

The informal conference was held on July 30, 2003, but the utility chose not to participate. However, both Mr. Frank Uddo and Mr. Joe Uddo of the utility did request staff counsel to pass along an offer of settlement.

Informal Conference

During the informal conference, staff notes that Mr. Shriver admitted making some 22 repairs to his mobile home. However, in his response dated September 29, 2003, Mr. Shriver states that these 22 repairs had "nothing to do with the flow of water." He also states that the repairs "had nothing to do with the innuendo that a commode leaked," that the washing machine had a cut-off valve, and that when he leaves the home, "the in-flow valves are shut off to prevent a leak."

The first and most obvious repair was made on or about November 10 and 11, when Mr. Shriver, working with a plumber, replaced the old and corroded pipe that led to his home. He also said that he could not get water to his shower and that, to do so, he had to replace a pipe in his mobile home. Mr. Shriver also admitted that a screw was cracked on his commode and that it was leaking and could not be made to seal, and that he replaced both the commode and the floor in the bathroom. Further, Mr. Shriver admitted that he was having problems with his washing machine such

that he could not get the water to spin out and the water was backing up, and so he replaced the washing machine. These later repairs and replacements were made in the time period from January through early March 2003.

In addition, Wekiva confirmed that it had replaced Mr. Shriver's meter on March 26, 2002, and that the meter had been zeroed out. Moreover, Mr. David Hanna of the Florida Rural Water Association confirmed that he had done a meter test on January 20, 2003, and that the meter was accurate (he ran 5 gallons through the meter and it actually only read 4.9 gallons). Finally, by letter dated May 22, 2003, Mr. David Hanna said that he performed a visual inspection of the service of Mr. Shriver, and that he observed a leak in the new service lines which had been installed by a plumber hired by Mr. Shriver.

Notwithstanding all the above, Mr. Shriver alleges that Mr. Frank and Joe Uddo have manipulated the meter on both occasions to show the excessive use of over 10,000 gallons in November of 2002, and 4,602 gallons in April of 2003. Whether there has been meter tampering is a criminal action over which this Commission has no jurisdiction.

We, however, do have jurisdiction over Mr. Shriver's billing disputes. Based on the above, we have determined that both complaints filed by Mr. Shriver should be denied. The results of our staff's investigation show that the meter appears to have started at zero and is accurate, and the rates charged appear to be correct. Moreover, there is evidence that Mr. Shriver was having problems with his piping, his commode, and his washing machine which might account for excessive usage.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Complaints Nos. 512346W and 533120W filed by Mr. Harold Shriver are denied. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is

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received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order shall be issued, and the docket closed.

By ORDER of the Florida Public Service Commission this 5th Day of November, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 26, 2003.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.