

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint No. 1139452W by Ahman
Atshan against Pluris Wedgefield, Inc. for
alleged overbilling.

DOCKET NO. 140153-WS
ORDER NO. PSC-16-0076-PAA-WS
ISSUED: February 18, 2016

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman
LISA POLAK EDGAR
ART GRAHAM
RONALD A. BRISÉ
JIMMY PATRONIS

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING FORMAL COMPLAINT

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 (F.A.C.).

Case Background

After initially pursuing an informal complaint, on August 14, 2014, Ahman Atshan, filed a formal complaint against Pluris Wedgefield, Inc. (Utility), a Class B utility providing service to approximately 1,598 water and 1,567 wastewater customers in Orange County. While Mr. Atshan filed the complaint, the account for the residence at 2813 Village Terrace, Orlando, Florida, was actually in the name of Rabeha Beatneh, his wife.¹ In the complaint, the Customer asserts that he was overcharged for services for the months of August and September, 2013, as the result of a defective water meter. On August 26, 2014, the Utility provided our staff with the Utility's work orders documenting various meter readings for the Customer's meter. On September 15, 2014, the Utility filed the same information with the Commission's Clerk. On December 29, 2015, the Utility advised this Commission that the Customer has sold his property in the Utility's service area, is no longer a customer of the Utility and that, after applying the \$40 deposit, the Customer left owing the Utility \$1,218.64. We have jurisdiction pursuant to Chapter 367, Florida Statutes.

¹ For purposes of this recommendation "Customer" refers to Mr. Atshan and /or the service account at his residence.

Discussion of Issues

The Customer asserts that the Utility: violated Rule 25-30.263, F.A.C., which requires water meters to be tested on at least three different rates of flow; violated Rule 25-30.264, F.A.C., by failing to perform testing and calibration of his meter; and, did not test his meter until he requested a meter test on October 17, 2013. As a remedy, the Customer asks that we remove the overcharges for the months of August and September 2013,² and impose a financial penalty upon the Utility.³

The informal complaint reflects that the Customer's meter was field tested and the Utility determined that the Customer had been billed correctly. The Customer was present during this test; however, because the Customer was not satisfied with this test result, the meter was subsequently removed and sent to a third party⁴ for additional testing. Third party testing indicated that the meter was registering slowly and therefore, failed the test.⁵ This means that the Customer was being billed for less water than he was receiving. As it relates to Rule 25-30.263, F.A.C.,⁶ the Utility has provided documentation⁷ that it followed appropriate testing and calibration protocols including testing the meter at three different rates of flow.

The Customer also complained that the Utility violated Rule 25-30.264, F.A.C.,⁸ by not testing the meter every 60 days and not calibrating the meter. The Customer asserts that the Utility did not test his meter until he requested the testing. This Rule establishes how a utility is to maintain a meter that is used for testing. The Customer's meter is not a testing meter but a regular residential meter. Therefore, Rule 25-30.264, F.A.C., is not applicable to the Customer's meter and is not dispositive of this matter. Rule 25-30.265, F.A.C.,⁹ describes the maximum interval between tests on different meters and only requires a sample of the meters to be tested. For a typical residential 5/8 inch meter, such as the Customer's meter, the testing interval is ten years.

Upon review, there is no indication the Customer was overbilled for the water he received; therefore, removal of \$1,000 in "overcharges" is not warranted. Similarly, because no violation of rule, statute, or order has been identified, there is no basis for the imposition of the requested "financial penalty." Finally, because the basis for the Customer's request for a financial penalty is partially based upon an alleged \$4,000 loss of "lawn investment," it is possible that the financial penalty is intended as a request for damages. This Commission lacks

² Totaling one thousand dollars.

³ Based upon the magnitude of the violations and the Customer's loss of a \$4,000 lawn investment related to his turning off sprinklers "trying to gauge the water consumption at my residence to a minimum."

⁴ MARS Company, Inc.

⁵ See Document No. 05154-14: The documentation indicated that the meter was tested on an American Water Works Association approved test bench.

⁶ Meter Test Methods.

⁷ See Document No. 05154-14

⁸ Meter Testing Equipment.

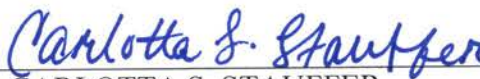
⁹ Periodic Meter Tests.

jurisdiction to award damages.¹⁰ If the Customer believes that he is entitled to monetary compensation related to damage to his lawn, the venue for pursuing such a remedy is in the appropriate court. Based upon the foregoing, we shall deny the relief requested by the Customer.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the relief requested by Mr. Ahman Atshan is denied. It is further,

ORDERED that, if there is no timely protest by a substantially affected party, this docket shall be closed upon the issuance of a consummating order.



CARLOTTA S. STAUFFER
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

CWM

¹⁰ See e.g., Order No. PSC-99-1054-FOF-EI, issued May 24, 1999, in Docket No. 981923-EI, *In re: Complaint and petition of John Charles Heekin against Florida Power & Light Company*, p.6 (finding that the Commission lacked subject matter jurisdiction to award monetary damages for alleged property damage to a customer's gate, and dismissing the complaint because the requested relief could not be granted).

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 10, 2016.

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.