

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

RECEIVED-FPSC

10 DEC -2 AM 8:59

COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: December 2, 2010

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Jaeger) *Jaeger*
Division of Economic Regulation (Kummer, Thompson) *K* *CS*

RE: Docket No. 090551-GU – Complaint by Gregory L. Spatz against Peoples Gas System for allegedly turning off service without notice.

AGENDA: 12/14/10 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\090551.RCM.DOC

Case Background

Peoples Gas System (PGS) provides gas service to 338,790 customers in the following counties: Bay, Broward, Charlotte, Clay, Collier, Dade, Duval, Gilchrist, Hernando, Highlands, Hillsborough, Lafayette, Lake Lee, Levy, Liberty, Manatee, Marion, Martin, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, Seminole, St. Johns, Sumter, Volusia, Wakulla, and Union. Mr. Gregory Spatz is a seasonal resident, normally leaving his Florida home in the summer months. On June 30, 2009, Mr. Spatz's gas service was disconnected for nonpayment.

On September 21, 2009, Mr. Spatz filed an informal complaint with the Commission. Subsequently, on December 28, 2009, Mr. Spatz filed a formal complaint against PGS, alleging improper disconnection, lack of notice of disconnection, and improper charge for reconnection.

DOCUMENT NUMBER DATE

09689 DEC -2 09

FPSC-COMMISSION CLERK

Docket No. 090551-GU
Date: December 2, 2010

The reconnection charge was removed from his account and is no longer an issue in the complaint.

Staff had originally planned to file its recommendation on this complaint on July 22, 2010. However, upon request of the complainant to be given more time to conduct discovery, staff delayed the filing of its recommendation for approximately four months.

This recommendation addresses the customer's complaint and whether PGS improperly disconnected gas service. The Commission has jurisdiction pursuant to Sections 366.04 and 366.05, Florida Statutes (F.S.). Further, Rule 25-7.089, Florida Administrative Code (F.A.C.), governs the disconnection of service and is the applicable rule.

Discussion of Issues

Issue 1: Did Peoples Gas System (PGS) improperly disconnect Greg Spatz's gas service in violation of Rule 28-7.089(2)(g), Florida Administrative Code (F.A.C.)?

Recommendation: No. PGS properly disconnected Mr. Spatz's gas service for failure to pay for utility service for the month of May 2009, including providing proper notice of disconnection. Mr. Spatz's complaint should therefore be dismissed. (Thompson)

Staff Analysis: In his complaint, Mr. Spatz states four basic concerns: 1) that the utility had no right to discontinue his service; 2) that the utility failed to give proper notice prior to disconnection; 3) that the utility unfairly charged a reconnection charge; and (4) that the utility unfairly charged a deposit for the new account.

History: According to PGS's records, Mr. Spatz failed to pay his May 2009 bill (for usage in mid-April to mid-May) for \$58.07 by the due date of June 10, 2009. As a result, PGS sent a final notice on June 15, 2009, with a termination date of June 23, 2009. On June 24, 2009, PGS sent an employee out to deliver a 48-Hour Final Notice. The Final Notice stated that if payment was not received in 48 hours, the service would be disconnected. There is a \$20 fee normally assessed for this Final Notice delivery, pursuant to Tariff Sheet 5.101-1.

On June 26, 2009, Mr. Spatz contacted PGS, stating he was aware of the nonpayment and would be paying his bill that day, but that the payment would be done electronically through SunTrust, and reception of the payment might be delayed a few days. He states that he was told that this would be no problem, and his service would not be disconnected. PGS then waived the \$20 trip charge to deliver the 48-Hour Final Notice. However, when no payment was received by June 30, 2009 (four days later), Mr. Spatz's gas service was terminated on that date for non-payment of the bill due June 10, 2009.

Even though termination actions had been initiated, a regular June bill was issued for service from May 19, 2009, to June 17, 2009, due on or about July 9, for \$61.37. On July 2, 2009, PGS received payment of \$120.41. This amount satisfied both the May and June 2009 bills. On July 21, 2009, a regular bill was issued for usage during the period of June 18, 2009, to June 30, 2009, the date the service was disconnected, in the amount of \$34.94. This bill was timely paid by the customer on August 10, 2009.

On August 18, 2009, a computer-generated review of Mr. Spatz's meter noted that service was still disconnected and PGS noted there had been no customer contact asking for reconnection of service, following the June 30, 2009, disconnection. On August 20, 2009, a regular computer-generated bill for \$24.77 was issued showing only the customer charge, as no usage had occurred. PGS then closed Mr. Spatz's account on August 21, 2009, because no request for reconnection had been received. On September 9, 2009, PGS received payment that satisfied the August bill.

As a general practice, PGS continues to read all meters each month at the customer's premises until the meter is removed. On September 16, 2009, during a regular read, the meter reader noted that Mr. Spatz's meter showed consumption, even though the account had not been

reactivated. PGS states that Mr. Spatz admitted to turning his gas meter back on when he returned to his home (sometime that summer, and prior to September 16, 2009), without contacting the utility.

Mr. Spatz states that when he returned to his home, he thought everything was okay as he had paid all bills and had, through SunTrust, remitted the past due amounts on June 26, 2010 (but not received by the Utility until July 2, 2010). However, when he tried to use the gas, he noticed that it was turned off, and went out and inspected the meter and turn-on valve. Upon inspection, he noticed that the valve, though turned off, was not locked, i.e., “the male part was there, but the female part was not there” (takes both parts to lock the mechanism). Therefore, Mr. Spatz thought that PGS had started the turn-off procedure, but upon receiving payment in full, had not completed the locking of the valve. Therefore, Mr. Spatz says he merely turned the valve, and had gas again. Mr. Spatz argues that in response to his data requests, PGS indicated that they did not own the valve that he turned to restore service.

To this assertion that “PGS indicated that they did not own the valve,” PGS responded as follows:

Mr. Spatz has misinterpreted Peoples’ response to his POD No. 1. The Service Cards attached to that response reflected the service line and riser to his premise, but not the actual valve (riser shut off), meter and regulator equipment. Because they are not shown on the service cards does not mean that they are not owned by Peoples. Peoples owns all meters, valves, piping, etc., used to provide natural gas service to its customers. Customer ownership begins behind the company meter, and includes any and all piping downstream of the meter outlet, at a customer premise.

When PGS noted that gas was being used at the residence, it immediately returned to Mr. Spatz’s property and turned the meter off and locked it . Mr. Spatz stated that when service was disconnected in September, it was done without notice and while he was in the midst of a barbeque.

On September 23, 2009, Mr. Spatz contacted PGS and opened a new account. PGS issued him a new account number, and charged him a \$50 residential turn-on fee, pursuant to Tariff Sheet 5.101. On September 24, 2009, gas service was restored at Mr. Spatz’s property. Mr. Spatz’s concern of an unfairly assessed reconnection charged was resolved when PGS credited his account on June 8, 2010, for the \$50 turn-on fee.

For all PGS customers, a deposit is required in the amount of two times the average charges for gas service at the premises, per PGS’s tariff Section 5.301-1(C) (see also, Rule 25-7.083, F.A.C.). Mr. Spatz paid an initial deposit on the account, which had already been credited back to him, due to an established good payment history (has been a customer at that location since February 1997). For the new account, PGS calculated the deposit in the amount of \$295 and billed Mr. Spatz accordingly. Staff believes the requirement for a new deposit was

appropriate.¹ Further, staff believes that PGS has used the correct methodology to calculate the amount of the deposit.²

Conclusion: The issue concerning the reconnection fee has been resolved by crediting the customer's account. Similarly, the charge for delivery of the Final Notice on June 24, 2009, was not charged to the account. The remaining issues are the actual disconnection, whether proper notice of the disconnection was provided, and whether a deposit is appropriate. Staff believes that the documentation provided by PGS and Mr. Spatz indicates that PGS properly noticed and disconnected Mr. Spatz's gas service for failure to timely pay for utility service. The original termination notice was issued June 15, 2009, for a bill due June 10, 2009, with a termination date of June 23, 2009. This appears to comply with Rule 25-7.089(2)(g), F.A.C., which requires a five-day written notice prior to termination of service. In addition, PGS sent a service technician to the residence to deliver a 48-Hour Final Notice on June 24, 2009. Service was terminated six days later on June 30, 2009. Rule 25-7.089(2)(g), F.A.C., only requires one notice with a five-day grace period. PGS provided two notices and a fifteen-day grace period following the initial notice on June 15. Staff believes PGS properly disconnected Mr. Spatz's gas service for failure to pay for utility service for the month of May 2009, including providing proper notice of disconnection. Staff also believes that because the old account was disconnected for nonpayment on June 30, 2009, and the new account was not opened until September 23, 2009, the deposit for the new account was justified and billed properly.

As regards the second disconnection, staff notes that Rule 25-7.071, F.A.C., requires that "[a]ll gas sold to customers shall be measured by . . . measuring devices owned and maintained by the utility . . ." Further, Rules 25-7.089(2)(i) and (j), F.A.C., provide that service may be discontinued "[w]ithout notice in the event of tampering with regulators, valves, meters or other facilities furnished and owned by the utility," or "in the event of unauthorized or fraudulent use of service. . . ." Staff believes that it was inappropriate for Mr. Spatz to turn on the service himself and that this constituted both a tampering with the meter or valve and an Unauthorized Meter Turn-On as set forth in Section 38, page 1, of PGS's Operating and Maintenance Procedures. Therefore, staff believes that the "second disconnection" without notice in September 2009 was appropriate pursuant to the above-noted rules.

Even if it could be said that there was a "second" disconnection of service in September that was improper, staff believes that PGS has not charged for any reconnect service or billed Mr. Spatz for any actions taken for the disconnection other than the charge for a deposit, which staff believes is appropriate. Also, staff believes this was all a misunderstanding, and that no further actions should be taken against Mr. Spatz for his apparent unauthorized meter turn-on. Therefore, staff does not believe that there are any further actions the Commission should require PGS to take, and recommends that the complaint of Mr. Spatz be dismissed.

¹ See Rule 25-7.083(6)(c), (d) and (e), F.A.C., which provide that a new deposit may be required if service has been disconnected for non-payment, or if there has been a tampering with the meter or using of service in an unauthorized manner.

² See Utility's tariff and Rule 25-7.083(3), F.A.C., which provides that the new deposit "shall not exceed an amount equal to the average actual charges for gas service for two billing periods for the 12-month period immediately prior to the date of notice."

Docket No. 090551-GU
Date: December 2, 2010

Issue 2: Should this docket be closed?

Recommendation: Yes. If no timely protest is received from a substantially affected person upon expiration of the 21-day protest period, the Proposed Agency Action Order will become final upon issuance of a Consummating Order, and the docket should be closed. (Jaeger)

Staff Analysis: If no timely protest is received from a substantially affected person upon expiration of the 21-day protest period, the Proposed Agency Action Order will become final upon issuance of a Consummating Order, and the docket should be closed.