

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Odyssey Scuba	)	DOCKET NO. 900034-WS
Center against KINGSLEY SERVICE COMPANY	)	ORDER NO. 22696
in Clay County regarding high bill.	)	ISSUED: 3-19-90
	)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, CHAIRMAN  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTIONORDER DENYING COMPLAINANT RELIEF FROM HIGH BILL

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature, and as such, 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.

Kingsley Service Company (Kingsley or Utility) is a water and sewer service utility in Clay County.

On October 24, 1989, a customer of the Utility, Odyssey Scuba Center (Odyssey), filed a complaint with this Commission alleging that the Utility had overbilled Odyssey for water consumption during the period May 22, 1989 through August 21, 1989. Specifically, Odyssey alleged that normally its water bill averaged \$26.50 per quarter, however, its bill for the above quarter was \$505.83, representing some 297,000 gallons of water.

On November 1, 1989, in response to our request for information, the Utility filed a written response to Odyssey's

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complaint with this Commission. Kingsley's response alleged that on August 9, 1989, while routinely recording water meter readings, one of Kingsley's meter readers noticed that based on the present readings, Odyssea's next bill would be significantly higher than normal. Kingsley's response further alleged that when its meter reader pointed this out to an employee of Odyssea, the employee showed the meter reader a leaking toilet. Kingsley also said that on September 22, 1989, it received a letter of protest and a partial payment of \$95.03 from Odyssea. The Utility's response further stated that on October 18, 1989, representatives from Kingsley and Odyssea met and agreed to have the meter removed and tested for accuracy, and a new meter installed in its place. Kingsley said that the meter test results were received on October 24, 1989 from Precision Meters, Inc. and such results reflected that the meter was 100% accurate at the highest rate of flow, 79% accurate at the medium rate of flow, and the meter did not turn at all at the lowest rate of flow. In short, the Utility's response alleged that Odyssea was not overbilled for its water consumption, therefore Odyssea was not entitled to an adjustment of its bill.

Since the parties were unable to resolve their dispute over the bill, we scheduled an informal conference pursuant to Rule 25-22.032, Florida Administrative Code, and such conference was held on December 7, 1989 in Orange Park. The dispute remained unresolved at the conclusion of the informal conference.

On January 10, 1990, we received a post-conference filing from Odyssea in the nature of a letter from Nelson Plumbing Company. The letter advised that an inspection of Odyssea's premises on December 18, 1989 revealed no leaks. The letter further stated that Odyssea's new replacement meter dial fluctuated back and forth when no water was being used, inferring that the new replacement meter was somehow defective. Kingsley was afforded the opportunity to respond to the letter. On January 25, 1990, we received a response from Precision Meters, Inc., regarding the meter dial fluctuations observed by the employee from Nelson Plumbing Company discussed above. Precision Meter's letter reads, in pertinent part, as follows:

The meter leak detector located on the meter dial face will be in motion whenever the water within the meter and service line is in motion.

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Water motion may be created by pressure variance within the system and normally will be indicated as a bi-directional movement of the leak detector. The meter components lack sufficient mass to have motion in a static system.

Thus, the fact that the meter dial fluctuated did not, in itself, indicate that the Odyssey's new meter was defective, according to the Utility and Precision Meters.

Rule 25-30.262, Florida Administrative Code, provides that to be within acceptable standards, water meters must register between 98.5% and 101.5% accuracy on the maximum and intermediate rates of flow, and between 95% and 101.5% accuracy on the minimum rate of flow. In the instant case, the accuracy of the original meter's intermediate and minimum flow rates was not within the limits prescribed by the above-cited rule, which resulted in the meter recording less than the number of gallons actually passing through the meter. Further, there was insufficient evidence presented that the new replacement meter was defective or that it otherwise inaccurately recorded Odyssey's actual water consumption during the period in dispute.

Accordingly, based on our review of the evidence, we find that Odyssey Scuba Center's original and replacement water meters did not record more than Odyssey's actual consumption during the period February 20, 1989 through November 20, 1989, thus Odyssey was not overbilled for water and sewer service during such period of time. We further find that Odyssey's request that it be granted relief from paying the balance of \$506.19 for water and sewer service should be denied.

It is, therefore,

ORDERED by the Florida Public Service Commission that the high bill complaint of Odyssey Scuba Center against Kingsley Service Center in Clay County is hereby denied. It is further

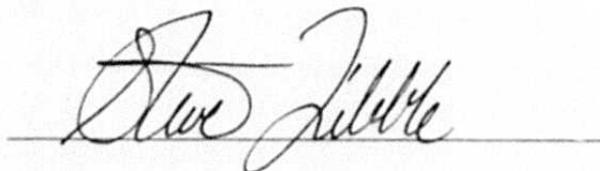
ORDERED that the provision of this Order, issued as a proposed agency action, shall become final unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by close of

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business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event that this Order becomes final and effective, this docket shall be closed.

By ORDER of the Florida Public Service Commission  
this 19th day of MARCH, 1990.



STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

JRF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at

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101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on April 9, 1990.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

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

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.