

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Pasquale Morrone)	DOCKET NO. 891270-WU
against Century Utilities, Inc.)	ORDER NO. 23688
regarding water bill in Palm Beach)	ISSUED: 10-29-90
County)	
_____)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, CHAIRMAN
 THOMAS M. BEARD
 BETTY EASLEY
 FRANK S. MESSERSMITH

Pursuant to notice, an administrative hearing was held before Michael M. Parrish Hearing Officer, on May 22, 1990 in West Palm Beach, Florida, in the above-captioned matter.

APPEARANCES:

For Petitioner,
 Pasquale Morrone

Jeffrey S. Gerow, Esquire
 Drexel Building, Suite 101
 5554 North Federal Highway
 Fort Lauderdale, Florida 33308

For Respondent,
 Century Utilities, Inc.

Mr. Gary Mishoe
 Century Utilities, Inc.
 Post Office Box 170569
 West Palm Beach, Florida 33417-4384

For Intervenor,
 Florida Public
 Service Commission

James R. Frier, Staff Counsel
 Florida Public Service Commission
 101 East Gaines Street
 Tallahassee, Florida 32399-0863

The Hearing Officer's Recommended Order was entered on July 27, 1990. No exceptions thereto were filed. After consideration of the evidence, we now enter our order.

DOCUMENT NUMBER-DATE

09704 OCT 29 1990

FPSC-RECORDS/REPORTING

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**FINAL ORDER DENYING
RELIEF REQUESTED**

BY THE COMMISSION:

BACKGROUND

Mr. Pasquale Morrone filed a complaint against Century Utilities, Inc. (utility), in which he alleged that his water bill for the month of December 1988, was exorbitant. His bill normally is about \$12.00 per month. For the period of December 3, 1988, to January 7, 1989, the bill was \$790.32, representing some 322,750 gallons of use. Commission Staff was unable to bring the parties to compromise on the terms of an informal settlement. Mr. Morrone's complaint was brought before the Commission and a proposed agency action order, Order No. 22336, dated December 26, 1989, denied the relief which Mr. Morrone requested. Order No. 22336 was protested timely by Mr. Morrone. The matter was referred to the Division of Administrative Hearings for a formal hearing pursuant to Section 120.57(1), Florida Statutes.

As indicated previously, the case was heard on May 22, 1990, and the Hearing Officer's Recommended Order was entered on July 27, 1990. No exceptions were filed with the Commission regarding the findings of fact contained in the Recommended Order. The full text of the Recommended Order is set forth below.

PRELIMINARY STATEMENT

At the formal hearing in this case the Petitioner testified on his own behalf and presented the testimony of two other witnesses. The Petitioner also offered eight exhibits. The Respondent presented the testimony of one witness and the parties stipulated regarding the testimony of another of the Respondent's witnesses. The Respondent also offered eleven exhibits. The Intervenor did not present witnesses, but did offer one exhibit. At the conclusion of the hearing the parties requested and were granted twenty days from the filing of the transcript within which to file their proposed recommended orders.

The transcript of the hearing was filed with the Hearing Officer on June 4, 1990, and all parties were advised by

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memorandum that the deadline for their respective proposed recommended orders was June 25, 1990. All parties filed timely proposed recommended orders containing proposed findings of fact and conclusions of law. All proposed findings of fact are specifically addressed in the Appendix to this Recommended Order.

FINDINGS OF FACT

1. Mr. Pasquale Morrone owns an apartment in the Century Village complex in West Palm Beach, Florida, and is a customer of Century Utilities, Inc., a water utility whose certificated territory includes Century Village. Mr. Morrone's normal monthly water bill is approximately \$12.00. For the service period of December 3, 1988, to January 7, 1989, Mr. Morrone received an abnormally high water bill in the amount of \$795.14, representing 322,750 gallons of use. During the service period of December 3, 1988, to January 7, 1989, neither Mr. Morrone nor anyone else was in his Century Village apartment.

2. As a result of Mr. Morrone's complaint about the high bill, his water meter was removed and tested. The tests revealed that the meter performed within the accuracy standards prescribed by the Florida Public Service Commission in Rule 25-30.262, Florida Administrative Code. The water meter at Mr. Morrone's apartment accurately measured the water passing through the meter during the subject billing period. There was no error in reading the meter at Mr. Morrone's apartment. The meter at Mr. Morrone's apartment did not "skip" to a higher number, or otherwise malfunction. In view of the manner in which water meters are designed, water meters cannot register a flow of water unless a flow is actually going through the meter.

3. The large amount of water passing through the meter at Mr. Morrone's apartment during the subject billing period was caused by the flapper valve on Mr. Morrone's toilet remaining open. Mr. Morrone did not shut off the water supply to the toilet in his Century Village apartment before leaving the apartment in November of 1988, even though it is often his practice to do so. The

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large amount of water usage during the subject billing period was not caused by a leak in the pipes.

4. If a toilet flapper valve malfunctions and remains open during a one-month period it is possible for more than 322,750 gallons of water to flow through the toilet tank. If a flapper valve malfunctions and remains open, it is also possible for the flapper valve to eventually fall shut and stop the flow of water.

5. Century Utilities, Inc., has an established policy for dealing with complaints about high water bills. The policy provides for reducing high bills under some circumstances. Pursuant to this policy, Century Utilities, Inc., sent Mr. Morrone an adjusted bill for the period in question. The adjusted bill was in the amount of \$414.36.

CONCLUSIONS OF LAW

1. The Division of Administrative Hearings has jurisdiction over the parties to and subject matter of this proceeding. See Section 120.57(1), Florida Statutes.

2. Utilities such as Century Utilities, Inc., are regulated by the Florida Public Service Commission pursuant to Chapter 367, Florida Statutes. Pursuant to the Commission's statutory powers, it has adopted rules governing utilities such as Century Utilities, Inc., which rules appear at Chapter 25-30, Florida Administrative Code. Rule 25-30.340 specifically addresses the subject of adjustment of bills for meter error. Pursuant to that rule, a utility is required to adjust a bill following a meter test only when the test shows that the meter registers fast in excess of the tolerance permitted under Rule 25-30.262. In this case there is no such showing. To the contrary, the testing of the meter at Mr. Morrone's apartment revealed that the meter registered within the tolerances permitted by Rule 25-30.262.

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3. Mr. Morrone has failed to prove that the meter reading for water consumption at his Century Village apartment during the subject billing period was inaccurate. Mr. Morrone has failed to prove any other type of error in the computation of his water bill for the subject billing period. Absent such proof, there is no basis upon which the relief sought by Mr. Morrone can be granted.

RECOMMENDATION

On the basis of all of the foregoing, it is **RECOMMENDED** that the Florida Public Service Commission enter a final order in this case denying the relief sought by Mr. Morrone, and concluding that the adjusted bill in the amount of \$414.36 is a correct bill for the subject billing period.

Upon consideration, we find the Hearing Officer's findings to be supported by competent substantial evidence in the record, and therefore, adopt his Recommended Order. Accordingly, we hereby deny the relief requested by Mr. Morrone and conclude that the adjusted bill in the amount of \$414.36 is correct.

Since this docket was opened to resolve the complaint of Mr. Morrone and the proceedings are concluded, there is no further action to be taken in this docket. Therefore, this docket may be closed.

Based on the foregoing, it is


ORDERED by the Florida Public Service Commission that the relief requested by Mr. Pasquale Morrone regarding his water bill from Century Utilities, Inc., for the service period of December 3, 1988, to January 7, 1989, is hereby denied. It is further

ORDERED that the adjusted bill of \$414.36 rendered by Century Utilities, Inc. is a correct bill. It is further

ORDERED that this docket is hereby closed.

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By ORDER of the Florida Public Service Commission this 29th
day of OCTOBER, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

NSD

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.