

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Thomas R. Day)
 against ST. GEORGE ISLAND UTILITY)
 COMPANY, LTD. regarding removal of)
 water meter in Franklin County)

DOCKET NO. 910768-WU

ORDER NO. 25774

ISSUED: 2/24/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 LUIS J. LAUREDO

ORDER CLOSING DOCKET

BY THE COMMISSION:

On June 26, 1991, St. George Island Utility Company, Ltd. (St. George or the utility) removed the meter of Mr. Thomas Day without notice. Mr. Day filed this complaint against the utility. The basis of Mr. Day's complaint was that at the time of the disconnection, Mr. Day had already corrected the violation, and had shown the correction to the utility employee who was disconnecting the meter. Mr. Day further alleged in his complaint that the utility's action against him was retaliatory in nature because Mr. Day is, "active in the Civic Club and has intervened in the utility's rate case as a Commissioner of the St. George Water and Sewer District." The utility responded to Mr. Day's complaint on July 25, 1991, stating that it is the utility's standard policy to disconnect any service to a customer who is "stealing" water and that Mr. Day was treated no differently than other customers in similar situations. Mr. Day replied to the utility's response on August 7, 1991. He also filed an affidavit of Barbara Sanders' on October 28, 1991. Both of these documents were in support of his position that the utility was unfairly applying its policy to disconnect meters. Neither the complaint nor the utility's response address any fine that Mr. Day may have been charged and we have no evidence that a bill was rendered for the cost of reconnection.

Mr. Day connected PVC pipe at, but behind, his meter. He ran the line across his property line to an adjacent lot which has no house but which does have a dock. The purpose of the line was to provide water to the dock area for washing the neighbor's and Mr. Day's boats. Mr. Day states that he did not believe he was doing

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ORDER NO. 25774
DOCKET NO. 910768-WU
PAGE 2

anything wrong and that since the connection was at the meter, it was clear that he was not trying to hide anything from the utility. On June 26, 1991, a utility employee discovered the illegal connection and informed Mr. Day who promptly disconnected and capped the pipe. However, even after the utility owner had been informed that the pipe had been capped, the utility employee was instructed to cut-off Mr. Day's water service. The disconnection took place at 8:00 p.m., four hours after Mr. Day was notified of the violation and capped the pipe.

We must first determine whether the utility's action was in violation of the utility's tariffs or our Rules. In the utility's tariffs, First Revised Sheet No. 9.0, paragraph 7.0, Limitation of Use, provides that there is an unauthorized use of service if a customer extends his lines across a property line in order to furnish water service for the adjacent property through one meter, except with written consent of the utility. Rule 25-30.320(2)(i), Florida Administrative Code, provides that, in the event of unauthorized use of service, a utility may discontinue service without notice. Therefore, in this instance where Mr. Day ran the water line across the property line, we find that there was an unauthorized use of water and that discontinuance of service without notice was an authorized action.

Further, we find that it was appropriate under the circumstances to discontinue service after the unauthorized extension had been capped. The utility's tariff provision, cited above, provides that the discontinuance of service may continue until the unauthorized extension is discontinued and, "full payment is made of bills for water service... and reimbursement in full made to the Company for all extra expenses incurred for clerical work, testing, and inspections." Therefore, we find that the utility did not act outside the authority of its tariffs or Commission Rules when it disconnected service for Mr. Day, after the unauthorized extension line was capped and after the utility had been informed that the pipe had been capped, because there is no requirement that an immediate reconnection be made after the tariff violation is corrected.

Regarding Mr. Day's complaint that the action taken by the utility against him was retaliatory, we acknowledge that there is dissension between Mr. Day and Mr. Brown. In this instance, it appears that the utility owner may have acted with some other motivation than to protect those utility interests which the

ORDER NO. 25774
DOCKET NO. 910768-WU
PAGE 3

tariffs are designed to protect. We find it appropriate under the circumstances to admonish the utility to enforce its tariffs equitably and to treat all of its customers fairly.

As discussed above, we find that there has been no unauthorized action taken by the utility. Further, in filing this complaint, Mr. Day has not requested recoupment of any expenses he may have incurred as a result of the utility's action. Therefore, we find that no penalty should be imposed.

Based on our findings that the utility did not violate its tariffs, our rules or Florida Statutes in disconnecting service to Thomas Day without notice, and that no fines or penalties are required, there is no Commission action required in this docket. Therefore, this docket may be closed.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that this docket may be closed.

By ORDER of the Florida Public Service Commission, this 24th day of FEBRUARY, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

CB

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

ORDER NO. 25774
DOCKET NO. 910768-WU
PAGE 4

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.