

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Mr. Steve) DOCKET NO. 930098-WU
Jarosz Against BROADVIEW PARK) ORDER NO. PSC-93-0516-FOF-WU
WATER COMPANY in Broward County) ISSUED: 04/05/93
Regarding High Water Bill.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION ORDER
DENYING RELIEF REQUESTED IN CUSTOMER COMPLAINT

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein are 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.

BACKGROUND

On September 4, 1992, Mr. Steve Jarosz (customer) complained to the Commission about a high August, 1992, water bill which he received from Broadview Park Water Company (Broadview or utility). Our staff corresponded with and received information from the customer and the utility, and on January 8, 1993, our staff conducted an informal conference with the parties in an effort to resolve the dispute. Broadview would not accept the compromise our staff suggested. This necessitated our consideration of this matter.

COMPLAINT

The facts as represented by the parties during various conversations, correspondence, and the informal conference with our staff may be summarized as follows.

DOCUMENT NUMBER-DATE

03683 APR-5 93

FPSC-RECORDS/REPORTING

On August 28, 1992, Broadview's meter reader read the meter at the customer's duplex. The meter showed that 103,000 gallons had been consumed. The meter reader double checked his reading and found it to be correct. Judging from the rapid movement of the meter and the high reading, the meter reader concluded that the excessive usage must be the result of a bad leak or a stuck toilet flapper valve inside the apartments. The meter reader knocked on both doors of the duplex, but no one was home. Later in the afternoon, the meter reader went back to the duplex and left signs on the doors advising the occupants of a possible leak. Broadview presented a notarized statement from the meter reader who avers that he verified the reading, checked for occupancy, and, at the time of his reading, the meter box was dry. According to Broadview, the customer's duplex normally consumes 7,000 to 20,000 gallons of water a month, which is about average for a duplex with one meter.

The customer confirms that there was a notice posted at his property about a possible leak. He checked both apartments for leaks and found none. He telephoned Broadview on Monday, August 31, to discuss the problem. A utility representative asked him if he had checked to see if the meter was turning. He returned to the apartments that evening and checked the meter. He observed that the meter was turning. He turned off the main valve to the apartments and noted that the meter was still turning, so he believed that there must be a leak between the meter and apartments. He dug near the meter and found water coming out of the coupling that holds the pipe to the meter. He tightened the coupling, but water was still dripping out.

Two days later, the customer went to the utility's office and explained that the meter coupling was loose. The customer complained that the meter was improperly installed two years ago and that the meter box was seated too high. The customer stated that water was gushing from the customer side of the coupling and that the water was being absorbed into the ground as fast as it came out. On September 3, the utility tightened the coupling; however, it observed that only an insignificant amount of water passed through the loose coupling.

The customer maintains that his meter was improperly installed two years ago and the improper installation caused the leak at the coupling. The meter box was not properly buried, the customer argues, as it protrudes three inches above ground level rather than being seated at or below ground level. Further, he contends, since

the utility did not properly connect the new meter to his line, he should not be held responsible for the resulting leak. The customer notes that his tenants had not complained about leaks, and he points out that the duplex's septic tank only holds 6,000 gallons. The customer therefore requests an adjustment to his bill.

Broadview argues that the meter box was definitely dry when the meter reader took the reading on August 28. An internal leak, probably caused by a toilet flapper valve, is, in the utility's view, the only possible explanation for the high usage. Broadview also asserts that when a septic tank fills up, water continues to run down the overflow into a drainage field and, therefore, the capacity of the customer's septic tank is not a relevant consideration in determining whether the water registered by the meter leaked out onto the ground or entered the customer's wastewater disposal system. In addition, Broadview's manager explained that almost all of the meter boxes in its service area are a little bit above ground level and that this should not cause a problem.

DISPOSITION

As stated above, the parties make different representations on the question of whether a leak at the meter coupling caused the registered use. In his affidavit, the meter reader avers that when he read the meter on August 28, the meter box was dry and the dwelling unoccupied. The customer claimed that he found that water was leaking from the meter coupling several days later and that the water was being absorbed into the ground as fast as it came out. On September 3, the utility tightened the coupling.

We conclude that it would be impossible for 103,000 gallons of water to flow from a coupling leak without the surrounding area being completely flooded. If there was a leak inside the dwelling or between the meter and the dwelling, 103,000 gallons of water would have been conspicuously visible somewhere. Notably, neither the customer nor the utility reported any observations consistent with such a leak. In addition, we believe it unlikely that a leak of the magnitude involved here would develop at the coupling two years after the meter's installation without noticeable flooding and without any variation in water consumption for the months prior to August. We note from the company's records that usage for the 20 months before August was in the range which the utility reported

as being normal. Further, although Mr. Jarosz did not request a bench test of the meter, and none was performed, we believe that a meter malfunction is improbable since usage before August and for the 4 months after has been normal. The only reasonable explanation here is that a toilet flapper was stuck in an upright position in the dwelling.

We note that in a previous case, we decided to equally divide a disputed bill between a customer and a utility. See Order No. 25398, issued November 25, 1991, Docket No. 911028-WU, In re: Complaint of Mrs. Helen Knieriemen against Forest Hills Utilities, Inc. in Pasco County regarding high water bill. In the Knieriemen case, the customer was billed \$398.24 for 152,540 gallons of use during a period when the customer's dwelling was unoccupied and up for sale. We found that the facts represented were both confusing and conflicting. Moreover, we expressed concern with the utility's record keeping because it could not definitively state whether or when it had replaced the complainant's shut-off valve and because it did not explain why the subject bill was received late. In consideration of these problems, we decided that the disputed bill should be split between customer and utility.

However, we believe that the situation in this case is more akin to what is described in Order No. 23688, issued October 29, 1990, Docket No. 891270-WU, In re: Complaint of Pasquale Morrone against Century Utilities, Inc. regarding high water bill in Palm Beach County. There, a customer was billed \$795 for 322,750 gallons of use registered while the customer's apartment was unoccupied. The utility subsequently rendered an adjusted bill of \$414.36. We agreed with the findings of the Hearing Officer that the high water usage could only be explained by a stuck toilet flapper, since the meter registered properly, no leaks were visible, and the customer did not turn off the water supply prior to leaving his apartment. Accordingly, we held that the customer was responsible for the entire adjusted bill.

Although there are conflicting representations from the parties in this case with respect to the coupling leak, this conflict does not, in our minds, create a doubt sufficient for us to question the conclusion we have reached above. In consideration of the above, we find that the customer's meter was registering correctly and that the customer is responsible for the entire amount consumed and billed for August, 1992.

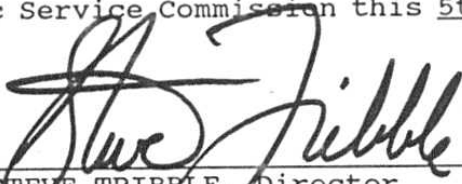
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Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the provisions of this Order are issued as proposed agency action and shall become final, unless an appropriate petition in the form provided by Rule 25-22, 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 the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that the complaint of Mr. Steve Jarosz against Broadview Park Water Company for relief from an August, 1992, water bill is denied as set forth in the body of this Order.

By ORDER of the Florida Public Service Commission this 5th day of April, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on April 26, 1993.

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.

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 wastewater 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.