

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for initiation of formal proceedings for relief against Utilities, Inc. of Florida regarding over billing and broken meter, by Eugene R. Lopez (Complaint # 1270964W).

DOCKET NO. 20190108-WS
ORDER NO. PSC-2019-0478-PAA-WS
ISSUED: November 13, 2019

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING FORMAL COMPLAINT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission (Commission) that the action discussed herein is preliminary in nature and 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 (F.A.C.).

Background

On February 16, 2018, Eugene Lopez filed an informal complaint against Utilities, Inc. of Florida (UIF or Utility). In his informal complaint, Mr. Lopez alleged that due to a broken water meter, UIF improperly billed him in January and February of 2018 because his meter was not measuring his water usage. He also alleged he was being backbilled for up to 12 months of usage he may or may not have used.

Commission staff advised Mr. Lopez on March 20, 2019, that his informal complaint had been reviewed by this Commission's Process Review Team (PRT), in accordance with Rule 25-22.032, F.A.C., and it appeared that UIF had not violated any applicable statutes, rules, orders, or Utility tariffs. Staff advised Mr. Lopez that if he disagreed with the complaint conclusion, he could file a petition for initiation of formal proceedings for relief against UIF.

Mr. Lopez filed a formal complaint on April 24, 2019, pursuant to Rule 25-22.036, F.A.C. In the complaint, Mr. Lopez states he has never exceeded 8,000 gallons of water usage in any month; over the past ten or so years, he has never paid more than \$90 for his water usage;

over the past several years, he has repeatedly informed UIF that his meter has not been working properly; and UIF claims it has no responsibility for the broken meter. Mr. Lopez claims UIF arbitrarily overcharged him in his January 2018 water bill due to a broken water meter.

On July 11, 2019, Commission staff sent Mr. Lopez a letter requesting any additional information or documentation that might assist this Commission in addressing his complaint. On July 19, 2019, Mr. Lopez told staff he had already provided all the necessary documentation to address his complaint.

Mr. Lopez seeks for us to find that UIF overbilled him and to require UIF to reimburse him \$188.85, the final disputed amount in the case. This Order addresses the appropriate disposition of Mr. Lopez's complaint against UIF. We have jurisdiction over this matter pursuant to Sections 367.011 and 367.081, Florida Statutes.

Decision

On January 9, 2018, UIF sent Mr. Lopez a monthly bill for \$303.79, which represented consumption of 64,480 gallons between December 1, 2017, and January 3, 2018. Because Mr. Lopez was enrolled in Auto Pay, \$250 (the maximum amount) was withdrawn from Mr. Lopez's account. This left a balance of \$53.79. Mr. Lopez contacted UIF stating he did not agree with the January 2018 bill amount and denied the existence of any leaks or additional water consumption at his service address.

On January 29, 2018, at the request of Mr. Lopez, his meter was reread. The meter indicated additional usage of 14,555 gallons since January 3, 2018. On February 1, 2018, a regular meter reading was obtained, which indicated an additional usage of 1,045 gallons since January 29, 2018.¹ Because Mr. Lopez was not satisfied with the meter readings, a field meter test was scheduled for February 8, 2018.

The scheduled field meter test was performed on February 8, 2018. The meter test results reflected zero consumption at flow rates of 15 gallons per minute (GPM), 2GPM, and 0.25GPM. UIF stated that the meter appeared to have stopped working after the February 1, 2018, meter reading.² UIF stated that the non-functioning meter was a benefit to Mr. Lopez because the water consumed between February 1 and February 8 was not billed. UIF also stated Mr. Lopez's meter was a positive displacement meter³ which only slows down over time, it does not speed up (i.e., the meter will not over-record water usage). UIF installed a new meter that same day. UIF sent Mr. Lopez a monthly bill the same day for \$169.65, including current charges of \$109.46, which

¹ On February 6, 2018, Mr. Lopez was sent a final notice to pay the remaining balance of \$53.79 by February 16, 2018, to avoid an interruption in his service. Pursuant to Rule 25-22.032(3), F.A.C., Mr. Lopez became protected from disconnection for nonpayment of the disputed amount when his informal complaint was filed with this Commission on February 16, 2018.

² The meter showed a reading of 1836720, which was the same reading taken on February 1, 2018.

³ A positive displacement meter is a flow meter that directly measures the volume of fluid passing through it. The accuracy of a displacement meter may be impacted by a number of factors, including excessive wear, temperature extremes, corrosion, and suspended solids. These factors may cause the meter to slip or bind, which would result in under-registration.

represented consumption of 15,600 gallons from January 3, 2018, to February 1, 2018, a \$6.40 late payment charge, and a \$53.79 past due balance. Mr. Lopez disagreed that he used 15,600 gallons during the billing period. The \$303.79 from the January bill and \$115 from the February bill (rounding of the \$109.46 and \$6.40) totaled the initial disputed amount of \$418.79.

On February 16, 2018, Mr. Lopez filed an informal complaint with this Commission. On that same day, Commission staff forwarded the complaint to UIF requesting that the Utility investigate the matter and provide Mr. Lopez and staff with a response to the complaint by March 12, 2018, pursuant to Rule 25-22.032(6)(b), F.A.C.

UIF responded to Mr. Lopez's complaint on March 12, 2018, stating that he was only charged for water usage that registered through the meter and that he was not backbilled for unregistered water. UIF also stated that Mr. Lopez was correctly charged for usage that registered on the meter based on Commission-approved rates. However, UIF provided an adjustment credit of \$79.76 and removed the \$6.40 late fee charge. With the adjustment credit and late fee charge removed, Mr. Lopez had a remaining balance of \$139.51.⁴ UIF offered Mr. Lopez a four-month installment plan to pay the balance.

On April 4, 2018, Commission staff sent a letter to Mr. Lopez stating that staff had reviewed UIF's billing of his account and determined that UIF had not backbilled his account and that the meter readings obtained and bills sent in the past 12 months were based on actual meter readings. The letter also stated that Mr. Lopez should contact staff by April 20, 2018, or the case would be considered resolved. The case was closed on April 27, 2018, due to no further contact from Mr. Lopez. Pursuant to Rule 25-22.032(7), F.A.C., the case was reopened and forwarded to the PRT on May 24, 2018, when Mr. Lopez contacted staff stating he objected to the resolution of his case.

On June 29, 2018, Mr. Lopez provided Commission staff and UIF with a spreadsheet concerning billing from January through June of 2018. In his notes, he stated that the average usage with his new meter was 4,300 gallons per month. He estimated his water usage in January and February of 2018 to be 6,000 gallons each. Based on these amounts, Mr. Lopez stated that the total bill amount from January to June of 2018 should be \$392.91, and the \$250 Auto Pay amount reduced his account balance to \$142.91. UIF received a check from Mr. Lopez for \$142.91 on July 2, 2018.

In response to Mr. Lopez's proposal, UIF offered an additional \$45.97 adjustment credit. When Commission staff contacted Mr. Lopez to discuss the additional adjustment, Mr. Lopez refused to take it, stating he had already paid in full for the past six months of water service. The new amount in dispute was established as \$188.85, which is the June bill, \$331.76, minus the \$142.91 check Mr. Lopez sent UIF. Mr. Lopez has since paid the \$188.85, but seeks reimbursement.

⁴ The balance of \$139.51 was determined as follows: \$303.79 (January bill) - \$250 (Auto Pay amount) = \$53.79; \$53.79 + \$109.46 (February bill) + \$6.40 (late fee) = \$169.65; \$169.65 + \$56.02 (March bill) = \$225.67; \$225.67 - \$79.76 (adjustment credit) - \$6.40 = \$139.51.

After further investigation, the PRT concluded on March 20, 2019, that it appeared UIF had not violated any applicable statutes, rules, orders, or Utility tariffs. Mr. Lopez did not agree with Commission staff's finding and filed a formal complaint on April 24, 2019.

Based on the information provided to Commission staff and discussions with both the Utility and Mr. Lopez, there is no evidence that UIF billed Mr. Lopez incorrectly. Mr. Lopez was billed based on actual meter readings and his account was not backbilled. Staff reviewed Mr. Lopez's usage and billing history for the years 2015-2018. While the January 2018 usage is higher than other months, the February 2018 usage is mostly in line with, or lower than, comparable months. As noted by UIF, positive displacement meters tend to under-record, not over-record, usage. Therefore, we hereby deny Mr. Lopez's petition as it does not demonstrate that UIF's billing of his account violates any statutes, rules, orders, or UIF tariffs, or that UIF's calculation of the January and February 2018 bills is unreasonable.

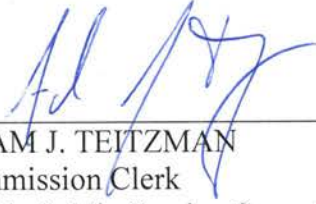
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Mr. Lopez's formal complaint is hereby denied. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

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

By ORDER of the Florida Public Service Commission this 13th day of November, 2019.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KBS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this Order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 4, 2019. In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating 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.