

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: COMPLAINT OF MR. JOHN DARLINGTON)	DOCKET NO. 890918-GU
AGAINST GAINESVILLE GAS COMPANY REGARDING)	ORDER NO. 21884
HIGH BILL FOR GAS CONSUMPTION)	ISSUED: 9-13-89
)	

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 REFUND

BY THE COMMISSION:

Notice is hereby given by the Florida Public Service 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 formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

The facts indicate that on June 30, 1988, Mr. Darlington had replaced his 20 gallon water heater with a 50 gallon 65,000 BTU water heater for the purpose of both heating water and supplying a space heating system. The purpose of both heating and water first bill reflecting a higher consumption than usual was based on a meter reading taken November 5, 1988. Gainesville Gas Company (Gainesville Gas), noting the atypically high bill, had the meter reread on November 11, 1988. That rereading indicated that the earlier reading had been correct. As a precaution, however, on November 16, 1988. That rereading the gas lines were tested for leaks; none were found. The next bill, based on a misreading taken on December 4, 1988, rendered an under-reading and a resulting under-billing. The next reading, taken on January 6, 1989, was again atypically high and, therefore, placed on an error list and lowered for billing purposes. It was assumed, based on the account's usage history, that the meter had been overread. The

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company scheduled a rereading on January 12, 1989. The rereading again indicated that the January 6, 1989 reading had been correct and should not have been lowered prior to billing.

The next bill, ostensibly reflecting only a reading taken on February 6, 1989, was again atypically high. This bill for \$149.14, however, was intended to compensate for both the December 4, 1988 misreading and the altered January 6 underreading. With this bill, the account was brought current. Again, however, the gas lines were checked for leaks and none were found. Mr. Darlington contacted Gainesville Gas questioning the February 6 bill. A Gainesville Gas representative indicated that the bill reflected that the company had under-read Mr. Darlington's meter one month and adjusted a correct meter reading downward the following month. Therefore, two meter readings or billing mistakes were corrected on the February bill to reflect his actual gas consumption.

On March 6, 1989, the Division of Consumer Affairs of the Commission received a consumer request letter from Mr. Darlington requesting that the staff investigate an alleged \$112.96 overbilling resulting from the February 6, 1989 gas bill. On March 8, 1989, Mr. Darlington and Mr. Carlton, Oliver, an officer manager for Gainesville Gas, met in an attempt to resolve the dispute. A test of the gas meter conducted on March 15, 1989, indicated that the results were within the accuracy limits prescribed by commission rules.

On March 31, 1989, a consumer affairs analyst, having processed the request pursuant to Rule 25-22.032, Florida Administrative Code, relating to customer complaints, wrote Mr. Darlington indicating that his account had not been overbilled and suggested that the higher usage from November through February probably resulted from the installation of the new 50 gallon water heater and space heating system served by that heater.

On March 14, 1989, a new meter was installed by Gainesville Gas at Mr. Darlington's request. On April 11, 1989, the division received a letter from Mr. Darlington expressing dissatisfaction with the analyst's findings. On April 24, 1989, the division received a second letter from Mr.

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Darlington indicating that he believed Gainesville Gas owed him \$112.96 because his April 5, 1989 bill, including 21 days on the new meter, was much lower than the previously and disputed bills. On May 9, 1989, representatives of Gainesville Gas wrote the division indicating that the high gas consumption recorded on Mr. Darlington's account prior to the installation of the new meter was due to increased gas use for space heating purposes.

On May 10, 1989, a consumer analyst wrote Mr. Darlington explaining that the decrease in his April gas bill probably reflected reduced gas use due to warmer weather and not the installation of the new meter. Mr. Darlington responded by telephoning the analyst and indicating he was due the refund. Upon being advised of his right to an informal conference with a division representative, Mr. Darlington requested one which was scheduled for July 13, 1989. An informal conference was held in Gainesville, after which the dispute remained unresolved. On July 17, 1989, the division representative requested that a staff engineer investigate the complaint and submit findings and the docket was opened. On July 20, 1989, the engineer's investigation into the complaint was begun which included interviews with Clay Davis, Senior Vice President of Operations; Jim McDowell, Measurement Supervisor; and Carlton Oliver, Office Manager. The engineer also visited Mr. Darlington at home and attempted to inform him of the increased gas consumption that could be anticipated from using hot water for space heating purposes instead of simply for household purposes.

On August 11, 1989, division staff advised Mr. Darlington by letter of staff's recommendation to deny his request for a refund and that his complaint had been scheduled for review at the Commission's August 29, 1989 agenda conference, as requested, at which the Commission would recommend a proposed agency action on his complaint. By letter dated August 15, 1989, Mr. Darlington requested a "hearing before the 5 Commissioners." By letter received August 24, 1989, however, addressed to Chairman Wilson, Mr. Darlington indicated he would not attend the agenda conference suggesting that the impartiality of staff was doubtful and intimating he would not be able to obtain a fair hearing.

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A review of the foregoing indicates that both the representatives of Gainesville Gas and Commisison staff not only made good faith attempts to investigate and resolve Mr. Darlington's complaint that he was entitled to a \$112.96 refund for the billing period from October 6, 1988 to February 6, 1989, but accomodated and indulged him at every juncture. A review also indicates that after having pushed his complaint to its procedural limits, as is his right, Mr. Darlington then declined to appear and pursue his complaint at the scheduled August 29 agenda conference intimating the impartiality of division staff is doubtful.

We find that a review of the facts indicates that the natural gas consumption billed to Mr. Darlington's account by Gainesville Gas for the period from October 6, 1988 to February 6, 1989 reflects, not overbilling, but the increased amount used by Mr. Darlington's recently installed 50 gallon, 65,000 BTU hot water heater used to not only heat the domestic water supply, but to heat the space of the residence during the disputed period. We further find

That the gas meter was in proper working order and registering within the Commission's prescribed accuracy limits as determined by the March 15, 1989 meter test. We further find

That Mr. Darlington is not entitled to a refund of \$112.96 or any amount for gas usage billed by Gainesville Gas. We further find

That if no substantially affected person timely files a protest to the Commission's proposed agency action, this docket should be closed. It is, therefore,

ORDERED that Mr. Darlington's complaint requesting a \$112.96 refund from Gainesville Gas for the billing period from October 6, 1988 to February 6, 1989 is denied. It is further,

ORDERED that this docket shall become final and this docket closed unless a petition or formal proceeding is received by the close of business day on October 4, _____, 1989.

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By ORDER of the Florida Public Service Commission,
this 13th day of SEPTEMBER, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

BAB

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 October 4, 1989.

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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.