

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

HERBERT PAWLIK,)
) **CASE NO. AVU-E-09-05**
 COMPLAINANT,)
)
 vs.)
)
 AVISTA UTILITIES,) **ORDER NO. 30954**
)
 RESPONDENT.)
)

On October 7, 2009, the Commission issued Order No. 30920 granting Avista's Motion to Dismiss the complaint of Mr. Herbert Pawlik. On October 28, 2009, Mr. Pawlik filed a Petition for Reconsideration asserting that the Commission "clearly misinterpreted the nature and intent" of his complaint. Petition for Reconsideration at 2. The Company did not file a response to Mr. Pawlik's Petition.

BACKGROUND

On May 27, 2009, the Commission issued a summons to Avista Utilities (Avista, Company) in response to a formal complaint filed by Herbert Pawlik against the Company for what Mr. Pawlik alleges are "unethical and perhaps criminal procedures" related to Avista's rebilling practices. Specifically, the Company rebilled the Pawliks after discovering a communications failure related to its metering equipment that lasted for approximately five months.

Avista filed its answer on June 17, 2009. The Company requested dismissal of the complaint. On July 20, 2009, Mr. Pawlik filed a reply to Avista's answer asking the Commission to "revoke in its entirety Avista's unsubstantiated claim for utility charges" because the charges were based on a defective meter. Reply at 5. On October 7, 2009, the Commission issued its final Order finding that Avista's actions regarding the TWACS malfunction¹ related to Mr. Pawlik's meter were reasonable and complied with Commission rules and standards.

¹ The Two Way Automated Communication System (TWACS) that transmits meter readings automatically back to the Company had ceased to function.

Consequently, the Commission granted Avista's Motion to Dismiss Mr. Pawlik's complaint. Order No. 30920.

RECONSIDERATION

Mr. Pawlik identified several issues in his request for reconsideration: (1) the validity of the Company's investigation; (2) an assertion that meter testing was done only after the unit was repaired/refurbished; (3) the Commission's failure to consider what Mr. Pawlik claims was a 300% spike in his power consumption during the time the TWACS in his meter was malfunctioning; (4) the unreasonable amount of time that it took for the Company to identify the problem; (5) an assertion that rebilling was lumped into three billing cycles with higher rates when the usage occurred across six billing cycles; and (6) "extortion" by the Company for threatening to shut off the Pawlik's power if payment arrangements were not made.

As set out in greater detail below, the Commission denies Mr. Pawlik's request for reconsideration.

COMMISSION FINDINGS

Reconsideration provides an opportunity for a party to bring to the Commission's attention any question regarding a previous determination and thereby affords the Commission with an opportunity to rectify any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979). Consistent with the purpose of reconsideration, the Commission's Procedural Rules require that petitions for reconsideration "set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted." Rule 331, IDAPA 31.01.01.331.01. "Grounds for reconsideration or issues on reconsideration that are not supported by specific explanation may be dismissed." Rule 332, IDAPA 31.01.01.332.

We find that Mr. Pawlik's Petition for Reconsideration fails to meet the requirements of Rule 331. Based on the facts established by the record in this case, Mr. Pawlik does not identify why Commission Order No. 30920 is unreasonable, unlawful, erroneous or not in conformity with the law. The Company admitted that the TWACS communication on Mr. Pawlik's unit malfunctioned. When it came to Avista's attention that the Pawliks had gone several months with an estimated, rather than an actual bill, the Company implemented new

measures to ensure that similar errors would not occur in the future. Although the TWACS portion of the Pawliks' unit failed, the meter recording actual electric usage tested at 99.79% accuracy. Contrary to Mr. Pawlik's assertion, the record is void of evidence that the Company repaired/refurbished the meter before it was tested and a review of the Pawliks' energy use does not reveal a 300% spike in the Pawliks' power consumption during the time in which the TWACS was malfunctioning. The Company rebilled Mr. Pawlik using the degree days during a warmer billing period – not a colder period as alleged by Mr. Pawlik – amounting to a \$213.74 savings. To further assist with positive Company/customer relations, Avista provided an additional \$200 credit.

Mr. Pawlik has failed to present evidence that Avista has acted unethically or criminally. While Mr. Pawlik may have felt pressure from the Company to pay his outstanding balance, as stated in the previous Order, the Company complied with, and exceeded, the requirements of the Commission's Rules regarding rebilling.

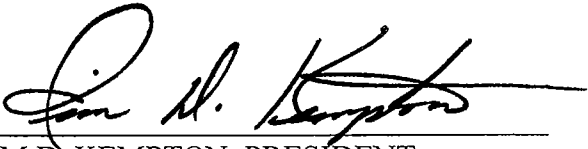
The Commission continues to encourage the Pawliks to accept the Company's offer to provide an on-site weatherization audit of their home. However, based on the foregoing, Mr. Pawlik's Petition for Reconsideration is denied.

ORDER

IT IS HEREBY ORDERED that Mr. Herbert Pawlik's Petition for Reconsideration is denied.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory order previously issued in this Case No. AVU-E-09-05 may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 25th
day of November 2009.



JIM D. KEMPTON, PRESIDENT

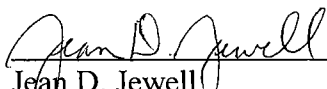


MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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