

**IDAHO
PUBLIC UTILITIES
COMMISSION**

C.L. "Butch" Otter, Governor

P.O. Box 83720, Boise, Idaho 83720-0074

**Jim D. Kempton, President
Marsha H. Smith, Commissioner
Mack A. Redford, Commissioner**

May 27, 2009

Via Certified Mail

David J. Meyer, Esq.
Senior Vice President and General Counsel
Avista Corporation dba Avista Utilities
1411 E. Mission Ave.
Spokane, WA 99220

Re: Case No. AVU-E-09-05

Dear Mr. Meyer:

Enclosed please find a Summons and Complaint issued against Avista Utilities. As directed in the Summons, you are to file a written answer or motion in defense of said Complaint with this Commission within 21 days of the service date on the Summons. Your answer may be in a narrative form and describe the facts, circumstances, and rules/laws that apply.

I have also enclosed a copy of Staff's Decision Memorandum regarding the Complaint and additional correspondence from Mr. Pawlik.

Sincerely,

Jean D. Jewell
Commission Secretary

Enclosures

Cc: Herbert Pawlik
Linda Gervais, Manager, Avista Regulatory Policy

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

HERBERT PAWLIK,

Complainant,

vs.

AVISTA UTILITIES,

Respondent.

SUMMONS

CASE NO. AVU-E-09-05

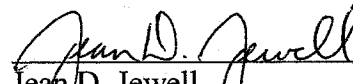
THE STATE OF IDAHO SENDS GREETINGS TO THE ABOVE-NAMED RESPONDENT.

YOU ARE HEREBY NOTIFIED that a Complaint has been filed with the Idaho Public Utilities Commission by the above-named Complainant; and

YOU ARE HEREBY DIRECTED to file a written answer or written motion in defense of said Complaint within twenty-one (21) days of the service date of this Summons; and

YOU ARE HEREBY NOTIFIED that unless you do so within the time herein specified, the Idaho Public Utilities Commission may take such action against you as is prayed for in the Complaint or as it deems appropriate under Title 61 or Title 62 of the *Idaho Code*.

WITNESS my hand and the seal of the Idaho Public Utilities Commission this 27th day of May, 2009.



Jean D. Jewell
Commission Secretary

(SEAL)

DECISION MEMORANDUM

**TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
LEGAL
WORKING FILE**

FROM: MARILYN PARKER

DATE: MAY 21, 2009

**RE: FORMAL COMPLAINT OF MR. AND MRS. HERBERT PAWLIK
AGAINST AVISTA UTILITIES**

On February 19, 2009, the Commission received a letter from Mr. and Mrs. Herbert Pawlik of Harrison, Idaho. The letter accused Avista of practicing "unethical and perhaps criminal procedures" related to its rebilling of the Pawliks after the Company discovered that its metering equipment serving the Pawliks failed to operate correctly for 5 months. The customer's letter was forwarded to the Consumer Assistance Division to be handled as an informal complaint.

THE COMPLAINT

From September 2008 to December 2008, Avista's computer billing system prepared 4 months of estimated monthly billings for the Pawliks. Avista's billing system flags a customer's account if the customer receives an estimated bill for 4 consecutive months. On December 30, 2008, Avista issued a work order for a field technician to investigate the metering problem at the Pawlik's residence. The technician checked the residence meter on January 19, 2009. At that time, the technician discovered that the meter had been working properly but that the TWACS (Two Way Automated Communication System) unit that transmits the meter readings automatically back to the office for billing had ceased to function. The TWACS malfunction was the reason for the 4 months of estimated billings. Both meter and TWACS unit were replaced immediately. Because the meter had continued to operate properly, the technician was able to see precisely how much electricity had been used by the customer during the four months (plus a part of January 2009).

The last undisputed meter reading was on August 8, 2008; the reading on that date was 64004. On January 19, 2009, when the meter was removed and replaced, the meter reading was 85839. Because the billing should have been to January 12, 2009 and the actual reading was taken on January 19, the Company prorated the meter reading back from the 19th to the 12th and billed to a reading of 82507. Between August 8, 2008 and January 12, 2009, the customer was billed for a total of 8883 kilowatt hours. Based upon the actual reading taken on January 19, the customer should have been billed for a total of 18503 kilowatt hours. This represents a billing shortfall of 9620 kilowatt hours between August 2008 and January 2009. Had the Company rebilled for 9620 kilowatt hours, the rebilled amount would have been for \$1,647.30. However, Avista reduced the amount of its rebilling to \$1,433.56; a \$213.74 savings to the customer.

The "old" meter (No. 12093810) was removed and replaced on January 19, 2009. It was tested for accuracy on April 2, 2009. The meter test showed a full load test of 99.79% and a light load test of 99.59%. The "new" meter (No. 12151537) was installed on January 19, 2009, and at the request of the customer, was tested on April 10, 2009. Those test results were: full load 99.96% and light load 99.84%. Staff asserted these test results are within acceptable limits.

In an effort to further appease the customer, Avista credited an additional \$200 on April 3, 2009, as a good faith PR (public relations) gesture to mitigate the customer for his time associated with his rebilling dispute. The Company further offered the customer an extended length of time to repay Avista. According the Commission's Utility Customer Relations Rules (UCRR) (Rule 204.04), the utility is required to give the customer the same length of time to repay a rebilled amount as the length of time for which the under billing had accrued. In this case, according to the Rule, the customer should have been allowed 5 months to repay Avista. However, Avista offered the customer 12 months to repay.

After investigating the complaint, the Staff investigator determined that Avista had complied with the Commission's UCRR (Rule 204.02) regarding the rebilling of the Pawliks. Avista had given the customer twelve months to repay the rebilled amount, more time than the Utility Customer Relations Rules require. Additionally, Avista had credited the account \$413.74.

Mr. Pawlik was not satisfied with the informal complaint resolution and on May 5, 2009, was provided with the procedures on how to file a Formal Complaint. On May 18, 2009, the Commission received another letter from Mr. Pawlik indicating that his initial letter of February 12, 2009 should have been interpreted as a Formal Complaint.

STAFF RECOMMENDATION

The Pawliks are not satisfied with the outcome of their informal complaint. Consequently, they have requested that their complaint be handled as a formal complaint. Staff recommends that the Commission open a case and process it under modified procedure.

COMMISSION DECISION

Does the Commission wish to accept Mr. and Mrs. Pawlik's Formal Complaint? If so, does the Commission wish to issue a Summons to the Company or issue some other proceeding?



Marilyn Parker

Attachments

iudmemos/Formal Complaint of Herbert Pawlik against Avista Utilities

Pawlik

Rachel & Herbert Pawlik

RECEIVED

2009 FEB 19 AM 8:26

IDAHO PUBLIC
UTILITIES COMMISSION

February 12, 2009

Idaho Public Utilities Commission
472 West Washington
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Avista metering and billing practices

Dear Madame, dear Sir:

Enclosed, please find copies of several documents reflecting some questionable practices employed by Avista. We believe the Idaho Public Utility Commission ought to be made aware of those unethical, perhaps criminal procedures.

In summary, Avista notified us in late January 2009 about a 'communication problem' they had with their power meter at our property. It turned out the problem had persisted since August 2008. Instead of replacing the defective meter in a timely manner, Avista opted to 'estimate' our power usage over the next six billing cycles. The faulty meter was finally replaced on January 19, 2009.

Avista now claims to have "under estimated." our power consumption by \$1,466.51 and demands payment. Aside from the fundamental question of a defective meter's viability to properly record power usage, there are several additional issues with the way Avista determined the resultant amount:

- (a) Avista did not include the 'underestimations' of August and September '08 in their final calculation. Consequently, the vast majority of the alleged shortfall is allotted to those billing cycles in which Avista had raised the utility rates. In other words, Avista tries to use its own incompetent dealing with the broken meter to fleece the customer for additional profits.
- (b) Avista pretends billing accuracy by showing kWh-usage fractions to the fifth decimal for the purpose of applying different rates. Fact is, however, all these calculations are based on pure conjecture and substandard guesswork, as Avista is not even able to determine power usage from month to month.
- (c) In its 'corrected bill' for November, December and January, Avista refers to 'estimated' usage based on meter #12151537. This meter is currently (since January 19, 2009) installed on our property and shows a total recording of approximately 5,000 kWh. This discrepancy between reality and billing veracity is just another example of Avista's shoddy record keeping practices.

It needs to be noted, our household consists of two adults. No one else resides on our property. Our home is a residence, only; there is no commercial use of any kind, not even a 'home office'. Over the past four years, we have ardently invested in energy conserving measures, such as, installation of low-E windows, replacing 95% of our light bulbs with compact fluorescent bulbs, changing to more energy efficient appliances, such as a 13 SEER heat pump, a new refrigerator, etc. In light of those efforts, Avista's contrived claim of a shortfall of \$1466.51, above and beyond the utility amounts we already paid during the periods in question, is absurd at best.

As the enclosed document copies affirm, Avista has pulled out every stop to baffle customers with the facade of a valid claim, when in fact Avista has failed to maintain the minimum accuracy and reliability necessary to legitimize their dubious demand.

It is our hope, the Idaho Public Utilities Commission has the authority to protect consumers like ourselves from Avista's monopolistic utilities supply position by stopping Avista from pursuing its questionable claims. Please feel free to contact us with any questions or concerns you may have regarding this matter.

Respectfully,


Herbert Pawlik

Enclosures

Rachel & Herbert Pawlik

RECEIVED

2009 MAY 18 PM 12:04

IDAHO PUBLIC UTILITIES COMMISSION
Via Facsimile transfer

to # 208-334-3762

5/13/09, 0925

May 15, 2009

Idaho Public Utilities Commission
472 West Washington
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Avista metering and billing practices

Dear Ms. Parker,

Thank you for your letter of May 12, 2009.

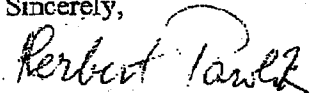
As you are well aware, we filed a complaint with IPUC on February 12, 2009, substantiating in writing an enumerated and detailed account of Avista's mismanagement and its deceiving and fraudulent practices. Our complaint had all the hallmarks of 'formal' as described in 'Rule 54'. You responded to our complaint on the authority of IPUC. We had no cause or reason to doubt your position as an authorized agent of IPUC, and we had no cause or reason to believe IPUC would consider our complaint anything less than formal.

Before even recognizing or comprehending the ramifications of Avista's processes and procedures in view of general consumer protection, you sided with line and supervisory staff at Avista customer service, dismissed our complaint, and validated the legitimacy of Avista's disputed claim. Encouraged and backed by your concurring decision, Avista abandoned our dispute mid-way and threatened us with power shut-off, sequaciously pointing to your affirmation of their practices.

In our complaint case you acted as an agent of IPUC. In this capacity you made a "ruling" affecting the parties involved. Consequently, we must insist on receiving from IPUC a formal, actionable statement regarding your decision. For details, please refer to our letter of May 5, 2009.

Your immediate attention and response to this matter is expected.

Sincerely,


Herbert Pawlik

Rachel & Herbert Pawlik
10276 South Caribou Ridge Road
Harrison, Idaho 83833

RECEIVED

2009 MAY -8 AM 8:15

IDAHO PUBLIC
UTILITIES COMMISSION

May 5, 2009

Idaho Public Utilities Commission
472 West Washington
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Avista metering and billing practices

Dear Ms. Parker,

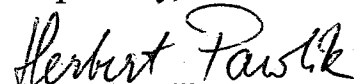
In our most recent telephone conversation you affirmed Avista's claim and dismissed our points and arguments to the contrary without due consideration. As foreseeable then, Avista has now issued a shut-off notice on our account, in accordance with, and backed by, your position in this case.

In order to pursue this matter beyond your agency in the court system, we ask to provide us with a formal written, actionable version of your decision including at least, but not limited to,

- an assertion of your legitimacy as an authorized or assigned signatory for the Idaho Public Utilities Commission in our case,
- your decision per se, and
- your reasoning and conclusions underlying your decision in our case.

With the impending shut-off notice in mind, we ask for your prompt attention to this matter. As time is of the essence, we request your response to be mailed to us no later than May 15, 2009.

Respectfully,


Herbert Pawlik

Rachel & Herbert Pawlik
10276 South Caribou Ridge Road
Harrison, Idaho 83833

RECEIVED

2009 APR -8 AM 8: 23

April 6, 2009

IDAHO PUBLIC
UTILITIES COMMISSION

Idaho Public Utilities Commission
472 West Washington
P. O. Box 83720
Boise, Idaho 83720-0074

Re: Avista metering and billing practices

Dear Ms. Parker,

Thank you for your correspondence of March 18. We have not received any of your phone messages. Do you have our correct number? (208) 676-1603.

Nonetheless, Avista responded by offering us a credit of \$200, as you mentioned in your letter. They obviously do not understand our intentions. We do want to pay for our realistic consumption, but we do not want to be fleeced by Avista as a result of their flawed equipment and operational practices.

Here are some data for your comparison:

We moved into our home in April 2004. Since mid-2005 we utilized the entire 3000 sq ft of the home. We have all heating/A/C vents open, as our contractor explained this would ensure the most efficient operation of our heating equipment (all electric). Our home has great insulation which makes it quite cost effective to maintain a constant temperature in the house.

The winter seasons here in Coeur d'Alene have been similar from year to year in view of snow fall and temperatures. Avista's blanket excuse of "severe winter conditions" can be applied to any year and has no particular meaning for any one year. The only different winter season happened in early 2008 when snow fell till the first week of June in our area. This is clearly reflected in the higher energy consumption during that period.

Our new appliances have been installed properly by service technicians, successively over the past four years. It is very unlikely they all started malfunctioning in November 2008.

When comparing our average power usage of three prior years to the alleged consumption claimed by Avista for the read dates 11/7, 12/10/08 and 1/12/09, the results are staggering:

for November: +286%,

for December: +255%,

for January: +242%.

There is no reasonable explanation for the tremendous increase in power consumption suggested by Avista's billing, with one exception: the meter (#12093810) which had stopped transmitting data to the Avista office between August 8 and September 10, 2008, was defective in more than one way.

Of course, Avista maintains the meter had just a 'communication' problem, but this is the statement of a company which does not take the term integrity too seriously. Their own gross under estimations of our consumption speak for a faulty meter. The way Avista handled the entire case, from not replacing the defective meter for five months, to exchanging it in an almost covert operation in the middle of winter, does not fill us with confidence when it comes to believing Avista's statements.

In order for us to accept Avista's claimed power consumption, we expect Avista to prove the correctness of the meter by providing the instrument to us for a check of its calibration. Otherwise, Avista shall reduce its claim to the most likely scenario of our consumption, being congruent with the average consumption in prior years.

The enclosures include our most recent correspondence with Avista. Please feel free to contact us regarding this matter.

Respectfully,


Herbert Pawlik

Enclosures