

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

-----  
In the Matter of the Formal Complaint of )  
Joseph McLean Durfey against Garkane ) DOCKET NO. 09-028-02  
Energy ) REPORT AND ORDER  
-----

ISSUED: April 30, 2009

By The Commission:

This matter is before the Commission on Joseph McLean Durfey’s formal complaint against Garkane Energy (Company).

BACKGROUND

Mr. Durfey notified the Company on December 18, 2008 that there was a problem with his meter. Apparently, the meter was a “state of the art ‘turtle meter’.” *Garkane Response*, p.1, which are installed in remote locations to reduce meter reading costs. Apparently, the turtle meter “had not been sending the correct reading to Garkane’s office since June 2007.” *Garkane Response*, p.1. Once the meter was changed, the Company obtained a correct reading of the usage and subsequently back-billed Mr. Durfey for under-billed amounts. He was charged \$216.22—which included the monthly premium of \$30.98 for the period from November 21, 2008 to December 24, 2008. The Company contends that under Utah Admin. Code R746-310-8D, it may back-bill Mr. Durfey for any amounts under-billed in the previous 24 months. It contends he owes all amounts owing and that the complaint should be dismissed.

The Division of Public Utilities (Division) also filed its recommendation on April 7, 2009. It also noted that “the turtle meter was recording the correct usage, just

not sending the reading in.” Once the correct reading was obtained from the meter, the Company back-billed Mr. Durfey for the usage. It also recommended dismissal of the Complaint.

#### ANALYSIS

Typically, a utility company may not bill a customer for service rendered more than 24 months before it became aware of the “circumstance, error or condition that cause the underbilling.” The Commission, however, did deal with a similar issue in Docket No. 08-057-11, *In the Matter of the Investigation and the Consolidation of Dockets of the Formal Complaint against Questar Gas Company Relating to Back-billing*. In that Docket, Questar had installed transponders that also failed to correctly transmit the correct usage, even where the usage was being correctly measured by the meter. The problem was not with the reading, as the usage was being measured correctly, but with the transmission of that usage. In that docket, the error resulted in Questar under-billing affected customers for one-half of their actual consumption (pre-divide error). Also, the Commission found that customers that had been under-billed due to pre-divide errors could be back-billed for no more than six months prior to the date the error was discovered. A similar situation exists in this case. Although the usage was correctly recorded, it was not transmitted correctly, resulting in under-billing.

#### ORDER

The Company may only back-bill Mr. Durfey for the six-month period prior to the discovery of the error, i.e. six months prior to December 15, 2008.

DOCKET NO. 09-028-02

-3-

Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing within 30 days after issuance of this Order by filing a written request with the Commission. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the Commission does not grant a request for review or rehearing within 20 days after the filing of the request, it is deemed denied. Judicial review of the Commission's final agency action may be obtained by filing a petition for review with the Utah Supreme Court within 30 days after final agency action. Any petition for review must comply with the requirement of Sections 63G-4-401 and 63G-4-403 of the Utah Code and the Utah Rules of Appellate Procedure.

DATED at Salt Lake City, Utah, this 30<sup>th</sup> day of April, 2009.

/s/ Ruben H. Arredondo  
Administrative Law Judge

Approved and confirmed this 30<sup>th</sup> day of April, 2009 as the Report and Order of the Public Service Commission of Utah.

/s/ Ted Boyer, Chairman

/s/ Ric Campbell, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary  
G#61705