

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Formal Complaint of)
Justin and Steffini Mitchell against Wolf)
Creek Water & Sewer Company)
)

DOCKET NO. 10-071-02

ORDER OF DISMISSAL

ISSUED: October 7, 2010

SYNOPSIS

*The Commission found that the Company did not violate any statute, rule or tariff.
Therefore the formal complaint is dismissed.*

By The Commission:

This matter is before the Commission on the formal complaint of Justin and Steffini Mitchell against the Wolf Creek Water & Sewer Company (Company). The Mitchells filed their complaint on August 18, 2010. They complained they received a bill for \$2,031 (the Company stated it was for \$2,014.98) in October 2009 for a water usage of 200,500 gallons for the month of September 2009 and contested that they never used that many gallons. They claim they were out of town for 11 days that month, have xeriscaped their yard to reduce water consumption, and could not have incurred that much usage even through a leak. They also complain that they were assured they could pay only \$90 a month until the matter was resolved, but that they have incurred late fees of at least \$275. They also complain that the billing structure is designed to protect the Company and not the user. They finally complain that the Company has been unwilling to resolve this matter for over a year and ask the Commission to encourage a speedy resolution.

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The Company responded on September 13, 2010. The details of their response are in the responsive filing and the Commission only summarizes the response here. The Company responded that the irrigation lines were winterized at the end of October until about May, and so the Company was unable to investigate the issue until after May 2010. The Company also stated that although it agreed the Mitchells could pay the \$90 monthly fee until the matter was resolved, it never stated it would remove the overage charge nor did it state it would not assess finance charges or late fees. In May 2010, the Company's water master checked the Company's lines and found no leaks in the Company lines or problems with the meter. The Company then sent the result of its findings to the Mitchell's and requested payment. Soon after, the Mitchells filed their informal complaint with the Division of Public Utilities (Division). The Company filed a response to the informal complaint and conducted further investigation. The Company discovered broken sprinkler pipes, hoses, and exposed wires. The Company also found that many of the broken hoses could have leaked around crevices in the rocks around a common area, and that the leaks could have drained to a creek near the common area. The Company contends that these leaks could have resulted in the 200,500 gallon usage in one month. The Company also responded that their rates are not discriminatory and that their rates are approved by the Commission and reviewed by the Division. Their rates are structured so as to promote conservation and rates simply increase with greater usage. The Company ultimately contends that the Mitchells failed to monitor or repair their system, allowing for the unfettered leakage or flow of water, resulting in the high usage.

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The Division conducted an investigation of its own on August 5, 2010. Division staff, Rea Petersen and Ross Hudson, conducted the investigation. Also present was Rob Thomas, president of the Company, the Company's water master, and Duane Green—representing the meter retailer. The Mitchells could not attend because they had to be out of town, but told the Division that they would “trust their judgment.” The Mitchell's meter was disconnected and connected to a test meter. A water hose had been attached to the Mitchells' water line. The test was to run water from the water hose, to the test meter and finally through the Mitchells' meter. (Both meters were the same model-type, i.e. C700 Positive Displacement meter.) The water was run for fifteen minutes and then shutoff. Meter readings indicated that both meters registered the same amount of flow, indicating the Mitchells' meter was functioning properly. The Division inspected the connection to the Mitchells' meter box and found no obstruction or other anomaly that would give a false reading. The Division also performed a site inspection of the Mitchells' yard and found broken, dripping water pipes, with some of the line coming from under the ground, where further leakage could have taken place. They also found another broken pipe that appeared to be leaking and also protruded from the ground, where further leakage could have occurred. The Company water master showed how with that leakage, and with the slope of the property leading down to the creek, could have leaked and either seeped into the ground or flowed to the creek without significant detection. The Division found the meter read resulting in the high assessment was correct.

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The Division ultimately found that there was no basis for the formal complaint, and no evidence that the Company violated any statute, rule or tariff in assessing the bill. It recommended dismissal of the complaint.

Based on the evidence before the Commission, it cannot find that the Company violated any statute, rule, or tariff.

ORDER

1. This matter is dismissed with prejudice;
2. The Company shall be free to pursue any legal means of collection for the full amount of arrearages owing by the Mitchells;
3. Pursuant to Sections 63G-4-301 and 54-7-15 of the Utah Code, an aggrieved party may request agency review or rehearing of this Order by filing a written request with the Commission within 30 days after the issuance of this Order. 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 requirements of Sections 63G-4-401 and 63G-4-403 of the Utah Code and Utah Rules of Appellate Procedure.

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DATED at Salt Lake City, Utah, this 7th day of October, 2010.

/s/ Ruben H. Arredondo
Administrative Law Judge

Approved and confirmed this 7th day of October, 2010, as the Order of Dismissal
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#69040