

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Proposed Amendment of) DOCKET NO. 920792-PU
Rule 25-7.089, F.A.C.)
Prohibiting Refusal or Dis-) ORDER NO. PSC-92-1068-NCR-PU
continuance of Service for)
Nonpayment of a Dishonored) ISSUED: 09/25/92
Check Service Charge Imposed)
by the Utility)
_____)

NOTICE OF RULEMAKING

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-7.089, F.A.C., relating to refusal or discontinuance of service by utility.

The attached Notice of Rulemaking will appear in the October 2, 1992 edition of the Florida Administrative Weekly.

9:30 a.m., November 5, 1992
Room 122, Fletcher Building
101 East Gaines Street
Tallahassee, FL 32399-0850

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399, no later than October 23, 1992.

By ORDER of the Florida Public Service Commission this 25th day of September, 1992.



STEVE TRIBBLE, Director
Division of Records & Reporting

(S E A L)

257089.CC

DOCUMENT NUMBER-DATE

11195 SEP 25 1992

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FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 920792-PU

RULE TITLE: RULE NO.:

REFUSAL OR DISCONTINUANCE OF SERVICE BY UTILITY 25-7.089

PURPOSE AND EFFECT: The purpose in amending Rule 25-7.089 is to codify a Commission Order and policy prohibiting utilities that charge a dishonored check service charge pursuant to section 832.07(1)(a), F.S., from discontinuing service for failure to pay that extra charge. The rule is also amended to address fraudulent conduct by customers and to make the rules applicable to each industry the Commission regulates consistent.

SUMMARY: Rule 25-7.089 is amended to prohibit gas utilities from refusing or discontinuing service to a customer for nonpayment of a dishonored check service charge imposed by the utility. Rule 25-7.089(6)(a) is also amended to state that the current applicant must have resided at the premises when the delinquency in payment occurred before that delinquency can be used as a basis for refusing service to the current applicant.

RULEMAKING AUTHORITY: 366.05, F.S.

LAW IMPLEMENTED: 366.05(1), F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

DOCUMENT NUMBER-DATE
11135 SEP 25 1992
FPSC-RECORDS/REPORTING

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HEARING: IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE,
A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., November 5, 1992

PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THIS RULE AND THE ECONOMIC
IMPACT STATEMENT IS: Director of Appeals, Florida Public Service
Commission, 101 East Gaines Street, Tallahassee, Florida 32399.

THE FULL TEXT OF THE THIS RULE IS:

25-7.089 Refusal or Discontinuance of Service by Utility.

(1) Until adequate facilities can be provided a utility may refuse to serve an applicant if, in the best judgment of the utility, it does not have adequate facilities and/or supply of gas to render the service applied for, or if the service is of a character that is likely to affect unfavorably service to other customer.

(2) If the utility refuses service for any reason specified in this subsection, the utility shall notify the applicant for service as soon as practicable, pursuant to subsection (5), of the reason for refusal of service. If the utility will discontinue service, the utility shall notify the customer at least ~~five~~(5) working days prior to discontinuance that service will cease unless the deficiency is corrected in compliance with the utility's regulations, resolved through mutual agreement, or successfully disputed by the customer. The 5five-day notice

provision does not apply to paragraphs (h)(i) or (j). In all instances involving refusal or discontinuance of service the utility shall advise in its notice that persons dissatisfied with the utility's decision to refuse or discontinue service may register their complaint with the utility's customer relations personnel and to the Florida Public Service Commission at 1-800-342-3552 which is a toll free number. As applicable, each utility may refuse or discontinue service under the following conditions:

(a) For noncompliance with or violation of any state or municipal law or regulation governing gas service.

(b) For failure or refusal of the customer to correct any deficiencies or defects in his piping or appliances which are reported to him by the utility.

(c) For the use of gas for any other property or purpose than that described in the application.

(d) For failure or refusal to provide adequate space for the meter and service equipment of the utility.

(e) For failure or refusal to provide the utility with a deposit to insure payment of bills in accordance with the utility's regulations provided that written notice, separate and apart from any bill for service, be given the customer.

(f) For neglect or refusal to provide reasonable access to the utility for the purpose of reading meters or inspection and

maintenance of equipment owned by the utility provided that written notice, separate and apart from any bill for service, be given the customer.

(g) For nonpayment of bills or noncompliance with the utility's rules and regulations, and only after there has been a diligent attempt to have the customer comply, including ~~five~~(5) working days' written notice to the customer, such notice being separate and apart from any bill for service. For purposes of this subsection, "working day" means any day on which the utility's business office is open and the U.S Mail is delivered. Upon request of the customer, the utility shall give a copy of the notice of discontinuance to a designated third party in the service area of the utility. A utility shall not, however, refuse or discontinue service for nonpayment of a dishonored check service charge imposed by the utility.

(h) Without notice in the event of a condition known to the utility to be hazardous.

(i) Without notice in the event of tampering with regulators, valves, meters or other facilities furnished and owned by the utility.

(j) Without notice in the event of unauthorized or fraudulent use of service. Whenever service is discontinued for fraudulent use of service, the utility, before restoring service, may require the customer to make at his own expense all changes

in piping or equipment necessary to eliminate illegal use and to pay an amount reasonably estimated as the deficiency in revenue resulting from such fraudulent use.

(3) Service shall be restored when cause for discontinuance has been satisfactorily adjusted.

(4) When service has been discontinued for proper cause, the utility may charge a reasonable fee to defray cost of restoring service provided such charge change is set out in its approved tariff on file with the Commission.

(5) In case of refusal to establish service, or whenever service is discontinued, the utility shall notify the applicant or customer in writing of the reason for such refusal or discontinuance.

(6) The following shall not constitute sufficient cause for refusal or discontinuance of service to an applicant or customer.

(a) Delinquency in payment for service by a previous occupant of the premises unless the current applicant or customer occupied the premises at the time the delinquency occurred and the previous customer continues to occupy the premises and such previous customer occupant will receive benefit from such service.

(b) Failure to pay for appliances purchased from the utility.

(c) Failure to pay for a different type of utility service,

such as electricity or water.

(d) Failure to pay for a different class of service.

(e) Failure to pay the bill of another customer as guarantor thereof.

(f) Failure to pay a dishonored check service charge imposed by the utility.

(7) No utility shall discontinue service to any noncommercial customer between 12:00 noon on a Friday and 8:00 a.m. the following Monday or between 12:00 noon on the day preceding a holiday and 8:00 a.m. the next working day unless such discontinuance is at the request of the customer or is necessary in the interest of safety. Holiday as used in this subsection shall mean New Years Day, Memorial Day, July 4, Labor Day, Thanksgiving Day, and Christmas Day.

(8) Each utility shall submit, as a tariff item, a procedure for discontinuance of service when that service is medically essential.

Specific Authority: 366.05 F.S.

Law Implemented: 366.05(1) F.S.

History: Amended 10/20/73, 12/15/73, 1/8/75, 5/4/75, 1/3/77, 11/26/80, 9/29/82, formerly 25-7.89, Amended 1/1/91.

NAME OF PERSON ORIGINATING PROPOSED RULE: Joe McCormick

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:

Florida Public Service Commission.

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DATE PROPOSED RULE APPROVED: 09/15/92

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 488-8371 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).