

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE APPEAL OF THE )  
CONSUMER AFFAIRS DIVISION'S )  
DECISION OF THE COMPLAINT OF OTIS )  
JACKSON AGAINST INDIANA-AMERICAN )  
WATER COMPANY )

CAUSE NO. 43822

APPROVED:

AUG 04 2010

**BY THE COMMISSION:**

**Larry S. Landis, Commissioner**

**David E. Veleta, Administrative Law Judge**

This matter comes to the Indiana Utility Regulatory Commission ("Commission") as an appeal from a decision of the Commission's Consumer Affairs Division ("CAD"). On October 13, 2009, the CAD issued an Informal Complaint Resolution ("CAD Decision" or "Decision") regarding a consumer complaint presented by Otis Jackson ("Complainant") against the Indiana-American Water Company ("Indiana-American"). The initial complaint was filed because the Complainant thought that his March water bill was higher than usual. The CAD ruled that the Complainant's meter accurately captured the volume of water that passed through the meter. Therefore, the CAD found that Indiana-American had not violated any rules or regulations of the Commission. On October 30, 2009, the Complainant appealed the CAD Decision.

Pursuant to notice duly published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, an Evidentiary Hearing was held in this Cause on January 4, 2010, at 11:00 a.m., in Room 224, National City Center, 101 West Washington Street, Indianapolis, Indiana. The Complainant represented himself at the Evidentiary Hearing. Indiana-American and the Indiana Office of Utility Consumer Counselor ("OUCC") participated by counsel. During the hearing, the Presiding Officers took administrative notice of the documentary record compiled by the CAD during its investigation of this complaint. In addition, at the request of the OUCC, the Presiding Officers took administrative notice of the American Water Works Association ("AWWA") Manual, Third Edition. All parties were afforded the opportunity to present oral argument at the Evidentiary Hearing and the Complainant, Indiana-American and the OUCC presented oral argument in this matter.

Based upon the applicable law and the record before the CAD, the Commission now finds that:

- 1. Notice and Jurisdiction.** Due, legal, and timely notice of the public hearings conducted in this Cause was given as required by law. Indiana-American is a public utility as described by Ind. Code 8-1-2-1 *et seq.*, and is subject to the jurisdiction of the Commission as provided in the Public Service Commission Act. The Commission has specific statutory authority to review any decision of its CAD upon request pursuant to Ind. Code § 8-1-2-34.5. The Commission has jurisdiction over the parties and subject matter of this proceeding.

2. **Background.** In March 2009, the Complainant contacted the CAD in order to dispute his water bill dated March 23, 2009. The Complainant alleged that the consumption on the March 23, 2009 bill was seven times higher than his normal usage. Indiana-American confirmed that the Complainant's bill was high and dispatched a Field Service Representative ("FSR") to the Complainant's residence to conduct an investigation. The FSR did not detect a leak at the Complainant's residence. In April 2009, the FSR made a second trip to the Complainant's residence and informed the Complainant that he heard water running through the pipes and there was movement on the meter, indicating a leak. The Complainant does not believe that he had a leak at his residence. The FSR removed the Complainant's meter for testing on June 6, 2009. The Complainant's meter was tested on June 8, 2009 and the results indicated that the meter was accurately reporting water flows within AWWA guidelines. The CAD investigation found the meter serving the Complainant's residence was accurately recording the volume of water that passed through and that Indiana-American had not violated any rules or regulations of the Commission.

3. **Standard of Review.** The complaint filed in this Cause is an appeal of an issue that was considered and decided by the Consumer Affairs Division pursuant to Ind. Code § 8-1-2-34.5 and 170 IAC 1-1.1-5. A record of information upon which that decision was based already exists (the "Record"). Most of the Record consists of information supplied by the Complainant and Respondent and considered by the Consumer Affairs Division in reaching its decision. Therefore, consistent with the Commission's authority as set forth in Ind. Code § 8-1-2-34.5 and 170 IAC 1-1.1-5, the record to be considered in this proceeding shall be based on: (1) a review of the Record; and, (2) consideration of argument by the parties and the OUCC based on the existing Record.

4. **Arguments Presented by the Parties.** As reflected in the Record of the CAD Decision, there is one issue for the Commission to determine on appeal, which we restate as follows: whether the Complainant's meter accurately captured the volume of water that passed through the meter for the March 2009 bill.

A. **Argument Presented by the Complainant.** The Complainant alleges that the water meter at his residence was not working properly in March 2009. In addition, the Complainant does not believe that he had a leak at his property during the time period in question.

B. **Argument Presented by Indiana-American.** Indiana-American agrees that the Complainant's bill was high and therefore sent representatives to the Complainant's property to investigate the possible cause of the higher bill. The representative of Indiana-American notified the Complainant that he may have a leak at his property. In addition, Indiana-American removed the Complainant's meter for testing. The Complainant's meter was tested and the results indicated that the meter was accurately reporting water flows within AWWA guidelines.

5. **Commission Findings.** In considering the issues presented in this matter, we start with a review of the Commission's rules regarding meter testing. Pursuant to 170 IAC 6-1-8, meters for measuring a quantity of water must be in good mechanical condition, adequate size

and design for the type of service they measure, and accurate to within generally accepted standards. 170 IAC 6-1-8(b) adopts the AWWA standards for testing cold water meters.

As an initial matter, the Record indicates that the meter involved in this dispute tested within AWWA limits for water meters. The Complainant alleges that the meter at his residence was not working properly in March 2009. The evidence in the Record of this cause indicates that the Indiana-American made two trips to Complainant's residence. During the second visit to Complainant's residence the FSR informed the Complainant that he heard water running through the Complainant's pipes and there was movement on the meter indicating a leak. Complainant denies that he had a leak at his residence. The FSR removed the Complainant's meter for testing on June 6, 2009. The Complainant's meter was tested on June 8, 2009 and the results indicated that the meter was accurately reporting water flows within AWWA guidelines.

Based on the evidence in the Record, the meter located at the Complainant's residence was accurately reporting water flow within the AWWA guidelines. Additionally, the FSR informed the Complainant that he had observed signs of a leak at the residence. During the Evidentiary Hearing Complainant testified that he had not hired anyone to come out to his residence and check for a leak. The Complainant offered no evidence that the meter at his residence was not working properly. The Complainant relied entirely on the fact that a large amount of water was measured by his meter as evidence of the meter being inaccurate. We cannot conclude, from the evidence presented, that the amount of water measured by the water meter could not have actually flowed through the meter. The CAD based its decision on the evidence provided by the parties involved. The only reasonable conclusion that can be reached, based on the record and the arguments of the parties, is that the meter at the Complainant's residence was working properly in March 2009. We therefore uphold the finding of the CAD.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. The Informal Complaint Resolution issued by the Commission's Consumer Affairs Division in this matter on October 13, 2009, is hereby affirmed by the Commission in its entirety.
2. This Order is effective on and after the date of issuance.

**LANDIS, MAYS AND ZIEGNER CONCUR; HARDY AND ATTERHOLT ABSENT:**

**APPROVED: AUG 04 2010**

**I hereby certify that the above is a true and correct copy of the Order as approved.**

  
**Brenda A. Howe,**  
**Secretary to the Commission**