

ORIGINAL

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

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 :
Jason C. Fidurske v. Equitable :
Gas Company, Billing Dispute : Docket No.
 : C-20054964
 :
 (Initial Telephonic Hearing) :
 :
 ----- x

Pages 1 through 20 Conference Room A
 Commonwealth Keystone Building
 Harrisburg, Pennsylvania

Tuesday, February 7, 2006

Met, pursuant to notice, at 2:34 p.m.

BEFORE:

SUSAN D. COLWELL, Administrative Law Judge

APPEARANCES:

JASON C. FIDURSKÉ, pro se
 28727 Alessandria Circle
 Bonita Springs, Florida 34135
 (Complainant)

DOCUMENT FOLDER

THOMAS S. ANDERSON, Esquire
 Yukevich Marchetti Liekar & Zangrilli PC
 11 Stanwix Street, Suite 1324
 Pittsburgh, Pennsylvania 15222-1324
 (Counsel for Respondent)

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WITNESS INDEX

WITNESSES

DIRECT CROSS REDIRECT RECROSS

Jason C. Fidurske

(By Judge Colwell)

9 -- -- --

(By Mr. Anderson)

-- 10 -- --

FORM 2

P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE SUSAN D. COLWELL:

1
2
3 This is the time and the place set for a telephonic hearing
4 in the matter of Jason C. Fidurske versus Equitable Gas
5 Company, filed at PUC docket number C-20054964. I'm
6 Administrative Law Judge Susan Colwell, appointed by the
7 Pennsylvania Public Utility Commission to preside in this
8 matter.

9 I have on the phone with me Mr. Thomas
10 Anderson, the attorney for Equitable Gas Company, and his
11 witness, Therese Nolfi. I have attempted to contact the
12 Complainant, Jason C. Fidurske, at the phone numbers that he
13 provided to the Commission, area code (239) 267-5895. I
14 called that number twice to make sure that I did not
15 misdial, and both times a I got a recorded message that told
16 me that the phone number was not in service. I also called
17 his work number and left a phone message on the machine that
18 picked up. I don't expect an answer from that.

19 MR. ANDERSON: Your Honor?

20 JUDGE COLWELL: Yes, sir.

21 MR. ANDERSON: If I may ask, who was the work
22 number that you called?

23 JUDGE COLWELL: (239) 598-7718.

24 MR. ANDERSON: Your Honor, I think my duty of
25 candor, I have another number that perhaps you should try.

1 JUDGE COLWELL: All right.

2 MR. ANDERSON: Are you ready?

3 JUDGE COLWELL: I'm ready.

4 MR. ANDERSON: (239) 948-5532.

5 JUDGE COLWELL: Is that his work number?

6 MR. ANDERSON: I cannot say. I believe it
7 is, Your Honor.

8 JUDGE COLWELL: All right. Thank you. I'm
9 going to put you on hold again and try to get him on the
10 phone.

11 MR. ANDERSON: Okay.

12 (Whereupon, Judge Colwell contacted
13 Mr. Fidurske.)

14 JUDGE COLWELL: Mr. Anderson?

15 MR. ANDERSON: Yes.

16 JUDGE COLWELL: And Ms. Nolfi?

17 MS. NOLFI: Yes.

18 JUDGE COLWELL: And Mr. Fidurske?

19 MR. FIDURSKE: Yes.

20 JUDGE COLWELL: All right.

21 Thank you, Mr. Anderson, for providing that
22 number. As a matter of fact, now as it was correct, he is
23 on the phone. We're all on the phone together.

24 I have already opened the hearing, Mr.
25 Fidurske --

1 THE WITNESS: Okay.

2 JUDGE COLWELL: -- when Mr. Anderson told me
3 he had an additional number for you. So we'll continue.

4 During this hearing, both sides will have the
5 opportunity to present evidence in the form of sworn
6 testimony or exhibits. And, following the hearing, I will
7 write and issue a decision which is appealable to the
8 Commission. It is the Commission's policy to encourage
9 settlements.

10 Mr. Anderson, have you contacted the
11 Complainant prior to today to attempt to settle this matter?

12 MR. ANDERSON: Yes, Your Honor, and, in fact,
13 had previously reached a settlement agreement.

14 JUDGE COLWELL: So that's what you're going
15 to report to me?

16 MR. ANDERSON: No. Unfortunately, the terms
17 have not been fulfilled, and so Equitable has requested that
18 we then proceed to hearing. If Mr. Fidurske thinks it's
19 worth it, I'd be happy to, you know, reopen that discussion.
20 That's kind of the history of what brings us here today,
21 Your Honor. We thought we had completely resolved all
22 issues in this complaint; but, for one reason or another,
23 the settlement terms weren't fulfilled. And so Equitable
24 wanted some final resolution to the matter so then we
25 requested that it be set for hearing.

1 We did go through the mediation process, Your
2 Honor; but, for whatever reason, reasons that I'm not quite
3 sure myself, that fell through.

4 JUDGE COLWELL: Okay. Maybe Mr. Fidurske can
5 shed some light on that.

6 Let me just inform you, Mr. Fidurske, that
7 you will present your case first. Since you do not have an
8 attorney, I will be asking you questions but please
9 understand I'm not acting as your attorney. My job is to
10 develop a complete record in the case. My questions will
11 simply help me to do that.

12 When you finish Mr. Anderson may ask you
13 questions, and then he will present a witness and will ask
14 questions of his witness.

15 MR. FIDURSKE: Okay.

16 JUDGE COLWELL: After he is finished with his
17 questions for his witness, you will have an opportunity to
18 ask your questions of his witness.

19 MR. FIDURSKE: Okay.

20 JUDGE COLWELL: Do you have any questions
21 about what I just told you?

22 MR. FIDURSKE: I don't.

23 JUDGE COLWELL: Do you understand this
24 procedure?

25 MR. FIDURSKE: Yes.

1 JUDGE COLWELL: Do you wish to testify?

2 MR. FIDURSKE: I do.

3 JUDGE COLWELL: Okay. Please raise your
4 right hand.

5 Whereupon,

6 JASON C. FIDURSKE,
7 having been duly sworn, testified as follows:

8 JUDGE COLWELL: Thank you. Will you please
9 state your name and address for the record.

10 THE WITNESS: Jason Fidurske. Address is
11 28727 Alessandria Circle. Do you want me to spell that?

12 JUDGE COLWELL: That's a different address
13 than you have on your complaint.

14 THE WITNESS: It is.

15 JUDGE COLWELL: Could you give it again,
16 please, so I know where to send the final papers.

17 THE WITNESS: Sure. It's 28727.

18 JUDGE COLWELL: Okay.

19 THE WITNESS: And it's A-L-E-S-S-A-N-D-R-I-A.

20 JUDGE COLWELL: Okay.

21 THE WITNESS: Circle.

22 JUDGE COLWELL: Okay.

23 THE WITNESS: And it's Bonita Springs,
24 Florida.

25 JUDGE COLWELL: Okay.

1 THE WITNESS: 34135.

2 JUDGE COLWELL: Okay.

3 DIRECT TESTIMONY

4 JUDGE COLWELL: Why don't you go ahead and
5 explain your complaint.

6 THE WITNESS: Sure. The charges is really
7 what I was disputing. It was charges from, I believe,
8 11/19/04 for approximately 11 days of service. Then I
9 believe the bill that I received was approximately \$290.
10 And, further to that, the average temperature, I believe,
11 during that time was 45 degrees during that timeframe. So
12 there wasn't, in my opinion, a huge need for gas; and my
13 contention was, there was some sort of mistake.

14 JUDGE COLWELL: Do you have anything on which
15 you base that other than your belief? Can you show me
16 paperwork in comparisons to other times, other bills?

17 THE WITNESS: No, I can't. Just 11 days'
18 worth of service, almost a \$300 bill, it's just -- I believe
19 common sense tells you something's wrong there.

20 JUDGE COLWELL: Do you have anything else you
21 want to put on the record?

22 THE WITNESS: I don't.

23 JUDGE COLWELL: Mr. Anderson.

24 MR. ANDERSON: Are you permitting me to cross
25 at this time, Your Honor?

1 JUDGE COLWELL: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. ANDERSON:

4 Q. Mr. Fidurske, hello. This is Tom Anderson. How are
5 you?

6 A. Yes, hi, Tom.

7 Q. We've spoken before; do you recall?

8 A. Yes.

9 Q. What were the dates that you were -- I guess you're
10 disputing?

11 A. I believe it's 11/19/04, and I believe it was an
12 11-day service period.

13 Q. Okay. 11/19 is the start date?

14 A. Yes.

15 JUDGE COLWELL: Excuse me. That's not what
16 it says in your complaint, sir. It says --

17 THE WITNESS: What is the date?

18 JUDGE COLWELL: It says 11/08/04 to 11/19/04.

19 THE WITNESS: Okay. So that would be 11 days
20 -- my mistake.

21 BY MR. ANDERSON:

22 Q. So it ended on 11/19; is that correct?

23 A. Yes.

24 Q. Okay. And that was for gas service to what address?

25 A. 2027 Crafton Boulevard.

1 Q. Okay. Did you own the property at that address?

2 A. Yes.

3 Q. And what kind of structure was it? Was it a house?

4 An apartment?

5 A. Duplex.

6 Q. It was a duplex. Side by side or?

7 A. Top bottom.

8 Q. Okay. And is this bill that you're disputing for the
9 top and the bottom or for just one?

10 A. The top. 2027 was the address. There's separate
11 addresses.

12 Q. Oh, they are. I see. They're separately numbered?

13 A. They are.

14 Q. Okay. Did you rent out the bottom?

15 A. Yes.

16 Q. Do you still own the building?

17 A. No.

18 Q. Did you sell it?

19 A. Yes.

20 Q. Okay. And you sold the whole house?

21 A. Yes.

22 Q. Okay. For how long did you own that?

23 A. From December, '96, until December 31st, '04.

24 Q. Okay. Tell me a little bit about the house. What
25 kind of house is it? Is it a brick exterior?

- 1 A. Brick.
- 2 Q. I'm sorry. I didn't hear you.
- 3 A. Brick.
- 4 Q. It's a brick. How old is the house?
- 5 A. Approximately 70 years old.
- 6 Q. Seventy. 7-0?
- 7 A. 7-0.
- 8 Q. How many rooms?
- 9 A. Six.
- 10 Q. Six bedrooms?
- 11 A. The total house is six bedrooms. Each unit is three
12 bedrooms, total of six rooms in each unit. So 12 rooms in
13 the total building.
- 14 Q. Okay. So the top and the bottom are separately
15 metered; is that correct?
- 16 A. Correct.
- 17 Q. Are they separately heated?
- 18 A. Yes.
- 19 Q. There are separate furnaces?
- 20 A. Yes.
- 21 Q. What kind of furnace?
- 22 A. Forced air.
- 23 Q. Gas?
- 24 A. Yes.
- 25 Q. What other gas appliances are in the building?

1 A. There was a gas stove on the 2025 address, which
2 is --

3 Q. For the bottom?

4 A. For the downstairs unit, yes.

5 Q. What about the upstairs?

6 A. None.

7 Q. Nothing?

8 A. No. Wait, wait. I'm just trying to think if it was
9 a dryer. I believe there is a gas dryer, too, for the top
10 unit.

11 Q. Gas dryer for the top?

12 A. Yes. It was in the basement, but it was connected to
13 that service line.

14 Q. Okay. But would the bottom use it as well, though?

15 A. No.

16 Q. Yes?

17 A. No.

18 Q. No, okay. The bottom had a separate gas dryer?

19 A. Correct. I think it was electric actually.

20 Q. What about the hot water? Did you have a gas hot
21 water tank?

22 A. Yes.

23 Q. And that was for the top and the bottom or just the
24 top?

25 A. They were separate.

1 Q. One for each?

2 A. Yes.

3 Q. Okay. Who lived in the top, the 2027 for these 11
4 days that you're disputing?

5 A. I did. Actually, let me think. That's not true. It
6 was empty during that time.

7 Q. It was empty?

8 A. It was.

9 Q. Okay. You had been living there?

10 A. Yes.

11 Q. And you had moved out?

12 A. At the end of October.

13 Q. End of October of '04?

14 A. Correct.

15 Q. Okay. Did you request a final reading, or how did
16 you -- did you terminate service? What happened when you
17 moved out the end of October?

18 A. I did. I terminated service, and then some time
19 later I needed to reinstall service for a home inspection.

20 Q. Do you know when you did that, reestablished?

21 A. Not exactly, no.

22 Q. Is it a matter of days or months later or?

23 A. I think it was a matter of weeks or days.

24 Q. So is it fair to say it happened before December 31,
25 '04?

1 A. Yes.

2 Q. Okay. And you had -- when you reestablished service,
3 you reestablished it in your own name?

4 A. Correct.

5 Q. And for how long was it reestablished?

6 A. I'm not sure.

7 Q. Okay. At some point did you terminate service again?

8 A. Yes.

9 Q. Do you know when you did that?

10 A. I don't.

11 Q. In your direct testimony, Mr. Fidurske, and I jotted
12 it down -- you can correct me if I'm mischaracterizing it --
13 but you said that there was, quote, some sort of mistake; is
14 that accurate, I mean, with regard to the billing for these
15 11 days? Is that your testimony?

16 A. That's correct. I mean, I thought it was extremely
17 high for an 11-day period in November.

18 Q. Okay. I mean, do you have any sort of evidence as to
19 what that mistake is?

20 A. No.

21 MR. ANDERSON: Okay. I don't have any
22 further questions at this time, Your Honor.

23 JUDGE COLWELL: Okay.

24 Mr. Fidurske, do you have a copy of the
25 exhibits that Mr. Anderson has sent to me?

1 THE WITNESS: I did. I was actually just
2 looking for that, and I don't have it in front of me right
3 now. I'm actually at work.

4 JUDGE COLWELL: We may get back to it in a
5 few minutes here. I'm looking forward to having the
6 Equitable witness explain those to me, so hold on. We're
7 going to have Mr. Anderson go ahead and put his witness on.

8 (Witness excused.)

9 MR. FIDURSKE: Is there an opportunity to
10 speak to what Mr. Anderson indicated about how we originally
11 tried to resolve the matter --

12 JUDGE COLWELL: Sure you can do that now if
13 you want.

14 MR. FIDURSKE: -- before going on? I believe
15 Mr. Anderson indicated that it was -- and I'm guessing it
16 was approximately about \$140.

17 Is that right, Tom, Mr. Anderson?

18 MR. ANDERSON: I guess, Your Honor, I simply
19 was just trying to make Your Honor aware of why settlement
20 agreement discussions might not particularly be fruitful.
21 I'm not going to discuss, I guess, the terms of the
22 settlement as they're settlement discussions at this point;
23 and I guess I don't mind, you know, to the extent he feels
24 that I maybe unfairly characterized in my initial statement.
25 That was not my intent with that statement was not to open

1 up our settlement negotiations to discussions on the record.

2 So I guess I'm going to object and move to
3 strike the testimony, Your Honor.

4 JUDGE COLWELL: Mr. Fidurske, do you think
5 that what you were about to tell me is relevant to your
6 case?

7 MR. FIDURSKA: I think it would help resolve
8 it.

9 JUDGE COLWELL: Would you like to have that
10 discussion with Mr. Anderson off the record?

11 MR. FIDURSKA: Sure.

12 JUDGE COLWELL: Okay. Well, we can do that
13 now if you like. I can ask the court reporter to stop
14 transcribing and then you guys can talk either with me
15 present or with me outside the door. It's up to you.

16 MR. FIDURSKA: It doesn't matter to me either
17 way.

18 JUDGE COLWELL: All right, then. We're going
19 to go off the record.

20 (Whereupon, the hearing was recessed.)

21 JUDGE COLWELL: We're back on the record now.
22 The parties have negotiated a settlement.

23 Mr. Anderson, do you want to put the terms
24 on, or do you want to just submit a certificate of
25 satisfaction?

1 MR. ANDERSON: I think a certificate of
2 satisfaction is fine unless Mr. Fidurske has any objection
3 to doing it that way.

4 MR. FIDURSKE: What's the difference? I
5 guess the one thing I'm concerned about is issues with my
6 credit rating concerning this matter.

7 MR. ANDERSON: Okay.

8 MR. FIDURSKE: So would it make a difference
9 either way?

10 MR. ANDERSON: No. The Judge is just asking
11 us, Mr. Fidurske, if we want to just go through the terms on
12 the record or whether we just want to file a simple piece of
13 paper saying that this complaint has been satisfied and
14 resolved.

15 JUDGE COLWELL: Really, it's just a matter of
16 how I get to close out the case.

17 MR. ANDERSON: Right.

18 MR. FIDURSKE: If it doesn't make any
19 difference to anything else, okay, whichever way is easier
20 for you, Tom.

21 MR. ANDERSON: Okay.

22 Let's do the certificate of satisfaction,
23 Your Honor.

24 JUDGE COLWELL: All right. That will be
25 fine. I'll look for that, and we'll close out the case.

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MR. ANDERSON: Okay.

JUDGE COLWELL: All right. Thank you all very much for your participation here today. I'm glad you could come to a resolution.

MR. ANDERSON: Thank you, Your Honor.

JUDGE COLWELL: Okay. Thank you.

(Whereupon, at 2:58 p.m., the hearing was adjourned.)

C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and thereafter reduced to typewriting by me, or under my direction, and that this transcript is a true and accurate record to the best of my ability.

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FORM 2

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