

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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December 6, 2011

[REDACTED]

Mr. Donald Griffin

[REDACTED]

Ms. Rebecca Jarrett
Customer Assistance and Appeals
Rochester Gas & Electric Corporation
89 East Ave., 3rd Floor
Rochester, NY 14649-0002

Re: [REDACTED]

Case No. 037454 Donald Griffin

[REDACTED]

Dear [REDACTED], Mr. Griffin, and Mrs. Jarrett:

An informal hearing regarding the above complaint was held on October 17, 2011 in person at the New York State Department of Public Service conference room in Buffalo, New York. [REDACTED] and Mr. Donald Griffin, the Complainants, were present. Ms. Rebecca Jarrett, the Appeals Analyst, and Mr. John Mason, the subject matter expert, both represented Rochester Gas & Electric Corporation (RG&E). I conclude, based on the discussion at the hearing and review of information in the case, that RG&E is within the rights of its tariff, which was approved by the Public Service Commission, to move the utility's gas meters to the outside of both premises at [REDACTED].

Complainants' Positions

██████████ filed a complaint with the Office of Consumer Services (OCS) on November 8, 2010 to dispute RG&E's requirement to move the gas meter from the inside to the outside front of her home. She wants the gas meter in the back of the house next to her electric meter at the utility's expense. ██████████ stated that RG&E's representative told her that it would be cost prohibitive but she believed that her request should be accommodated by the utility. In her letter dated December 3, 2010, the Complainant stated that RG&E placed a gas meter on the side of the house next door to her (at ██████████), which is only 36 inches from the end of her small driveway and the only place she can park her car, and contended that the placement of that meter is a potential safety hazard. She said RG&E told her that the location of the meter was cost effective for the utility and countered that safety considerations were secondary in the utility's selection of a meter location that was only 36 inches from her driveway. Her letter detailed numerous other reasons she protested the relocation of the meter to the front of her house.

At the hearing, ██████████ stated that all the ramifications of safety have not been addressed; there is a lot of vehicular traffic so she does not want her meter outside because it is too unsafe. As her neighbor's meter is already in her driveway she feels she has one outside already. She disputed the utility's choice of location for the meter, queried where the Public Service Commission (PSC) gave the utility permission to place meters in unsafe locations, contended that the placement of the meters was simply for the convenience of the utility and asked why RG&E could not put the meters in the backyard. ██████████ stated that she is ready to take this case all the way to the U.S. Supreme Court and that she had no idea when she bought her home that her meters could be moved outside.

Mr. Donald Griffin also filed a complaint with OCS on November 12, 2010 to dispute RG&E's requirement to move the gas meter from the inside to the outside front of his home; he wants the utility to leave the meter where it is. In his letter dated December 3, 2010, the Complainant stated that should he allow RG&E to move its meter to the outside of his home, he no longer will have a say as to the appearance or functionality of his home and property as he sees fit. He noted that the only explanation that he can find for RG&E's requirement to move his meter outside is for the utility's convenience of reading its meter and the ability to shut off and/or remove the meter for non-payment for service, which did not apply to his situation. Mr. Griffin further argued that RG&E made no assertion of any safety-related issues specifically in regard to the meter being in his basement but he stated that if the utility moved the meter outside of his home it would actually increase the possibility of third-party damage from malcontent individuals and/or vehicular damage.

At the hearing, Mr. Griffin asked if the utility ever had any reports of meters having been vandalized. He commented that the placement of his meter outside of his home is, in his opinion, a safety issue because he noted that, although unlikely, the possibility does exist that the meter could be hit by a vehicle and noted at least one instance where that had happened. He contended that there is nothing to prevent a vehicle from striking the four gas meters on the front of his neighbor's home; and, if that were to happen, his home would also be involved in the consequences. Mr. Griffin told the hearing officer that he wants the PSC to provide him

with a copy of the law that “compels” him to allow the utility to put the meter outside of his home. When [REDACTED] stated that she is ready to take this case all the way to the U.S. Supreme Court, Mr. Griffin concurred.

Utility's Position

In RG&E's written responses to both cases, the utility stated that it has been mandated by the PSC to replace a minimum of 20 miles of leak-prone gas main lines within its service territory in order to comply with its 2009 Rate Case, previously approved by the Commission. The utility stated that the replacement work and relocation of the gas meters involved in this program has been engineered to comply with PSC Tariff No. 16, Section 3A(4)(b)—Schedule for Natural Gas Service, as well as RG&E's gas construction and installation standards. RG&E noted that the Tariff also states that the route of the service line and the location of the meter shall be satisfactory to the utility. RG&E commented that in order to comply with 16 NYCRR 255.353 (Customer meters and regulators: location), it must install each meter and service regulator in a readily accessible location and each service regulator or new and replacement service lines must be installed outside of the building, unless it is impractical or unsafe.

The utility noted that the gas main line replacement program involves Backus Street, Petrel Street and [REDACTED]. It stated that the work to install the new gas main line and gas meters has been completed on Backus Street and that the gas main line on [REDACTED], where the Complainants reside, ties into the old gas main line on Backus Street. The project requires the gas main line on [REDACTED] to be tied over to the new gas line on Backus Street, which will require a pressure conversion for the line on [REDACTED] from low pressure to 12 pounds per square inch (PSI).

The gas service presently located at the Complainants' homes will not accommodate the upgraded pressure and must be replaced. The work to accomplish this gas main conversion cannot be completed while there is frost in the ground and until the tie over and conversion can be made RG&E will need to keep approximately 1000 feet of cast iron gas main active in order to keep the low pressure feed to the main line on [REDACTED]. RG&E noted that the upgrade from the cast iron gas main line is on hold and that any delay to complete this upgrade could cause a safety risk and the potential for the Complainants to be without gas service. The utility also stated that if the work cannot be completed to upgrade the gas main line and service, then RG&E will be in direct violation of a PSC mandated order.

RG&E responded to [REDACTED] and stated that one year ago she did not bring up safety issues; she did not want her meter outside because it was not aesthetically pleasing. RG&E explained that the gas main on Backus Street is a 1911 cast iron main, which is part of the leak-prone piping that the PSC has asked the utility to replace. It stated that the 1961 steel main is still in good operating condition but the new main provides service at 15 PSI maximum; therefore, the pressure regulators are needed and new plastic service would be installed.

RG&E noted that it needs to move 100 meters outside unless the utility cannot find an acceptable outside location for the meter. RG&E stated it did find an acceptable location;

however, ██████ said that the location did not work for her. RG&E maintains that it is operating within the framework of its approved tariff and a PSC mandated order. ██████ responded that she has property rights and does not want her residence to look like commercial property. In addition, RG&E suggested that if she wants the meter moved to a different location, then she will have to pay for the change in location; the utility explained that the cost to move the meter to the back of the house would be extremely high.

RG&E offered the following response to Mr. Griffin's concern about vandalism: in 34 years it has not had any reports of vandalized meters other than "meter tampering"--a situation where customers manipulate their own meters in a way to affect the meter's registration of gas service for their own benefit. In reference to his argument against the utility's requirement to place the meter outside, RG&E stated that 100 percent of the meters that the utility installs are outside, which includes new construction and system upgrades.

When Mr. Griffin stated that he did not understand high pressure and how it related to this situation, RG&E responded that there is currently a low pressure system and the Complainant's appliances work just fine. However, the utility is upgrading from low pressure to 12 to 15 PSI on the lines which requires a pressure regulator so that the appliances will continue to work fine. RG&E believes it is safer to relocate the meters outside to keep the high pressure from entering into the home. RG&E also explained that for the last ten years there has been a state code requirement to put a "no-flow" device at the service "T" so if a line is hit underground by a contractor strike, then the "no-flow" device will shut the service off. Furthermore, the gas service would be fitted with a safety device so if a car were to hit the meter, the gas flow would stop. When Mr. Griffin queried about lawn restoration the utility responded that it does it at the utility's expense.

Discussion of Facts

As stated above, RG&E has been mandated by the PSC to replace a minimum of 20 miles of leak-prone gas main lines within its service territory in order to comply with its 2009 Rate Case, previously approved by the Commission. The replacement work and relocation of the gas meters involved in this program must be engineered to comply with PSC Tariff No. 16, Section 3A(4)(b)—Schedule for Natural Gas Service. The tariff states that the route of the service line and the location of the meter shall be satisfactory to the utility. In order for RG&E to comply with 16 NYCRR 255.353 (Customer meters and regulators: location), the utility must install each meter and service regulator in a readily accessible location and each service regulator or new and replacement service lines must be installed outside of the building, unless it is impractical or unsafe.

Determination

The hearing officer's decision is bound to be based on supportive documentation. As noted in 16 NYCRR 255.353, the utility must install each meter and service regulator in a readily accessible location and each service regulator or new and replacement service lines must be installed outside of the building, unless it is impractical or unsafe.

It is my determination that the placement of meters outside, in and of itself, is not deemed to be "unsafe." The "safety" concerns raised by the Complainants, such as vandalism and or potential damage by a motor vehicle, pale in comparison to the safety concerns of providing high-pressure service through a low-pressure line and meter. RG&E owns the meters in question. In order to comply with the PSC-mandated order to replace the leak-prone gas lines, the utility requires the relocation of the meters to the outside of both Complainants' homes. If either Complainant requests the utility to locate the meter at a location other than the one designated by the utility, the owner is allowed to pay for the relocation of the meter; the utility is not obligated to relocate the meter to the owner's specified location.

The case will be closed fifteen (15) days from the date of this letter. Therefore, RG&E may begin the process of moving the utility's gas meters outside the premises of [REDACTED], within 15 days of the date of this letter. A copy of the Appeal Procedure follows:

APPEAL PROCEDURE

If you believe that this decision is incorrect, you may appeal to the Commission. The basis for an appeal to the Commission is limited to one or more of the following grounds:

- (1) The hearing officer made a mistake in the facts in the case or in the laws or regulations which affected his or her decision; or
- (2) The hearing officer did not consider evidence presented at the hearing or review, which resulted in an unfavorable decision; or
- (3) New facts or evidence, not available at the time of the hearing, have become available, and could affect the decision on the complaint.

If you choose to appeal, your appeal must be in writing and must contain an explanation of the facts or conclusions in the decision with which you disagree, the reasons for your disagreement, the relief or remedy sought from the Commission, and documentation of your position or legal arguments supporting your position.

The appeal should be filed within fifteen (15) days after the informal hearing or review decision is mailed, and may be filed electronically or by regular mail. To file electronically, e-mail your appeal to the Secretary of the Public Service Commission, Jaclyn A. Brillling, at:

Secretary@dps.ny.gov

If you are using regular mail, send your appeal letter to:

Jaclyn A. Brillling, Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

A copy of the appeal letter should also be sent to the opposing party. Appeals of Informal Hearing Decisions become a matter of public record and are listed on the Commission's website. Both your appeal letter and the informal hearing decision will be available to members of the general public (subject to limited redaction in the case of residential customers).

The Commission may make a determination on your appeal, reject it, return the case to the informal hearing officer for additional consideration, order a formal evidentiary hearing on the complaint or take such other action as it deems appropriate.

Sincerely,

June Ellen Wheeler
Hearing Officer
Office of Consumer Services