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Decision No. 41480

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into disputed bill matters, billing practices, construction and application of rates, rules and regulations, metering, and water main extensions of SAN GABRIEL VALLEY WATER COMPANY, a corporation.	Case No. 4892

PAUL OVERTON, for San Gabriel Valley Water Company.

J. J. DEUEL and EDSON ABEL, by Edson Abel, for the California Farm Bureau Federation, the Los Angeles County Farm Bureau, and the San Bernardino County Farm Bureau.

WAYNE WILLIAMSON, Chairman of the Water Committee, representing California Motor Court & Trailer Park Owners Association, Ltd.

O P I N I O N

This investigation was instituted May 20, 1947, on the Commission's own motion. Such action was occasioned by the filing by San Gabriel Valley Water Company of a formal protest to the Commission's informal disposition of four disputed bill or water service rate complaints filed by its water customers. As a number of similar informal complaints against this utility were then before the Commission for disposition, the scope of the investigation thus instituted was made sufficiently broad to encompass all claimed infractions of its filed and effective rates and of its service rules and regulations.

Public hearings in this investigation were held both at El Monte and at Fontana, these being the two service areas of the San Gabriel Valley Water Company from which such complaints arose.(1)

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(1) San Gabriel Valley Water Company will usually be referred to in this opinion as the "Company".

The questions presented for decision relate primarily to the Company's construction and application of the flat rate schedules applicable to the service of water in its El Monte District. A statement of the facts surrounding the four complaints upon which the Company petitioned for a formal hearing and decision will serve in large part to explain the issues involved in nearly all of those complaints arising from the application of flat rate charges. They were the complaints of Donald Holmes, Frank Coosens, Lester Stevenson, and George H. Austin. They will be considered in this order.

Complaint of Holmes - Collection of Undercharges

This complainant had been receiving water service for a number of years at a flat rate of $2 per month. In November 1946, he was presented with a statement to the effect that he should have been paying an additional sum monthly for each of two dwellings erected on his premises, one erected twenty-three months and the other eleven months previously. Accordingly, his current monthly bill was increased from $2 to $4, and he was billed $34 additional to cover past charges on two extra dwellings. Complainant thereupon deposited the full amount of the bill ($38) with the Commission under its informal disputed bill procedure. The Commission's informal ruling thereon was that the Company might correctly assess $4 monthly on all bills rendered for future service, but that it should not make the increased charges retroactive to the dates the extra dwellings were constructed.

The Company disputes such ruling of the Commission. It claims that inasmuch as the monthly charges were computed in accordance with the filed rates, it had the right to collect the charges accrued during the period in question at the established rates in accordance with Section 71 of the Public Utilities Act.

The Company's residential flat rates provide that for each residence, including a lot of 1/2 acre or less, the charge is $1.50 monthly. The rates also provide that a further charge of 50 cents will be made for each additional 1/4 acre, and a charge of $1 for "each additional residence." As the total amount, including the increase, in complainant's monthly billing appears to be in accordance with the filed rates, the only question to be decided is whether the Company,

upon making a survey of a consumer's premises and discovering that its billings for previous months were not in accordance with its rate schedules, should be permitted to bill the customer for the accrued undercharges.

The legal right of a utility to charge a patron for services actually rendered at the rate set forth in its filed schedules has been established by judicial opinion and has been recognized by many decisions of this Commission. Even though the utility has negligently failed to render bills for the correct amount due, it has the right to collect the full charge specified in its rate schedules. Such right is a correlative of its obligation to make reparation to a customer of any charge exacted in excess of those authorized by the rate schedules.

It follows, therefore, that the Company may collect undercharges from this customer, and any others who have been rendered bills covering correctly computed charges for water service rendered in the past, providing the actual period for which the undercharges are due can be definitely ascertained and the revised billing does not exceed the period specified in any applicable rule. The Company has on file the standard Rule 15 applicable to adjustments of past bills upon ascertainment of an incorrect meter reading, but does not have a corresponding rule relating to flat rate billings. The Commission's engineer recommended that such a rule be filed. Such a rule would permit the collection of accrued undercharges from the actual date on which the error occurred if that date is definitely ascertained, but would permit revised billings for three months only if the date is estimated. The Company expressed its willingness in the future to make a resurvey of consumer premises at three month intervals and it offered no objection to a rule for the future which would limit the collection of undercharges for a period not exceeding six months. We interpret the statements of the Company in this regard as an offer to revise any back bills involved in the instant complaints so as to limit undercharges to six months prior to the time the customer was advised that the higher rate was applicable. As most of the disputed bills were for a lesser period of time, and the record does not clearly indicate the exact dates when the higher monthly charges actually became due, the Commission believes that the Company should limit to six months the back billings rendered to complainant Holmes

and any other customers from whom it sought to collect undercharges for a longer period. The Company will be expected in the future to survey consumers' premises at three month intervals and will be required to file a rule making the provisions of its Rule 15, as far as appropriate, to the adjustment of flat rate bills.

Complaint of Coesens - Construction of Flat Rate Schedule

Although this complaint also involves a billing by the Company of an additional $1 monthly charge covering ten months' previous water service, it presents another question which demands our consideration.

The Complainant theretofore had been billed at $1.50 per month for residential service. A survey of his premises by the Company revealed that an automobile trailer, with wheels removed, had been placed on his premises and this trailer had been rented to and occupied by a tenant. The Company viewed this structure as an "additional residence" which required the assessment of $1 per month. It appears, however, that piped water facilities were not provided within such living quarters. The only water available to the tenant was that from a nearby hydrant on complainant's premises.

The flat rates applied by a water company for those particular types of structures or classes of water use designated in its rate schedules must be taken as intended to reflect the fair charge for the average-use customer within each designated class. If a customer falls within a particular class, the application of the filed rate to his service is required even though his actual use of water be greater or less than the average of the class. However, each such rate classification must be strictly construed. The utility may not properly impose an extra flat rate charge upon a given customer because of his larger use unless that extra charge is clearly provided for in one of its rate classifications.

In the situation under consideration, the Company appears to have improperly charged for the trailer room located on complainant's premises as an "additional residence." We believe that this designated classification must be taken to apply only to a structure not adjoining the main residence and which, regardless of its permanency or size, is equipped for the use of water by those who may occupy it as a dwelling place. If the addition of that secondary struc-

ture was not accompanied by any extension of the customer's existing piped water facilities to that structure, it cannot be classified as an additional residence. The Company will be required to adjust all bills rendered to this customer so as to eliminate the additional charge of $1 per month for the trailer room.

Complaint of Stevenson - Construction of Flat Rate Schedule and Application of Meter Rate Schedule

Complainant Stevenson questions the correctness of an increase made in his water bill from $1.50 to $4 monthly. Complainant receives water service for his garage and is supplied with water in his living quarters located over the garage. A paint shop also is located on his property, but the only water available to this paint shop is from a nearby hydrant.

The composition of the $4 monthly charge made by the Company for this service was stated to be $3 for the garage and $1 for the apartment above. Its filed commercial flat rates do not contain any classifications expressly applicable to a garage. They do provide for a charge of $3 monthly for an "automobile dealer" and a like charge for a "gasoline service station." They also provide for a charge of $5 for a "car laundry." If complainant's garage business actually involves the uses of water for the filling of radiators and such other purposes customarily associated with one or more of the above mentioned rate classifications, the right of the Company to collect a charge of $3 a month for such commercial water use cannot be questioned. It appears also, that inasmuch as only $1 additional charge was made for water service afforded complainant's living quarters, the total charge of $4 monthly would be the lowest combination domestic and commercial rate that could be applied consistently with the Company's filed flat rate schedules. Although the Company may not be permitted to bill a customer for a type of water service not clearly falling within one of the classifications specified in its filed rate schedules, the disclosed facts surrounding the water use of this complainant do not justify the conclusion that the charges assessed by the Company are necessarily inconsistent with its filed rates.

The second issue here presented is whether the Company is under a duty, upon demand of a customer, to install a meter and thereafter bill the customer at

the metered rate. Although both flat rate and metered rate schedules are on file, no rate provision or rule expressly declares when a customer may demand one class of service or another. The president of the Company, Mr. Nicholson, stated that because a great majority of the water consumers within the El Monte Division have heretofore been served at flat rates and would prefer to continue on a flat rate basis, he did not wish to adopt the policy of according every consumer the right to have a meter installed. He testified also that the Company had been experiencing difficulty in obtaining a sufficient quantity of meters needed for its Fontana Division where all customers' services are on a metered rate basis. On the other hand, the Commission's engineer expressed the view that the mere existence of both flat rate and metered rate schedules applicable to the same service area would seem to afford the customer, as well as the utility, a choice between the two rates. He also expressed the opinion that such conflicts between the utility and its customers as have here arisen over the application of flat rate schedules to particular water users could be greatly reduced if the complaining customers were placed upon a metered rate basis.

The Commission is further of the opinion that the Company should file a revised rule in form substantially as suggested by its engineer, which rule will call for the installation of a meter at the option of either the Company or the consumer. Requests for meters undoubtedly will be primarily by those now billed under the commercial flat rates. The Company will be ordered to file such a rule, and thereafter, within thirty days after request of a customer, to install a meter and apply the metered rate.

Complaint of Austin - Construction of "Trailer Park" Rates

The complaint of G. H. Austin likewise involves a question of the correct application of the Company's flat rate commercial schedules. Prior to the time the Company resurveyed Mr. Austin's premises, a bill of $2.50 per month had been rendered for a single residence and excess acreage. Upon resurvey of his premises it was found that an additional residence had been erected and three trailers were being used as dwellings. The Company rendered a revised bill of

$7.50 per month for four preceding months. It later suggested that such charge should be revised to $6.50 per month. The bill first rendered by the Company was based upon its "trailer park" rate which calls for a charge of $3.50 for the "office and utility building" and 50¢ "for each trailer unit." The Company appears to concede, and it is our belief, that this complainant has not been engaged in the business of operating a trailer park and that his monthly bills should have been computed at the residential rates. Accordingly, the charge of $2.50 per month originally rendered to this consumer should have been increased $1 per month for each additional residence located on his premises. It appears that each trailer unit was supplied with water and was used as a residence. If that was the true situation, the rate applicable for an "additional residence" was chargeable for the added permanent residence and for each of the trailer units.

Although the Commission concludes that the trailer park rates could not be applied to the service rendered to Mr. Austin, it is appropriate to consider at this point the several informal complaints filed by those who were engaged in this class of business.

The question presented by such complainants involves the interpretation of the meaning of the words "trailer unit." The Motor Court and Trailer Park Owners Association appeared to protest charges made by the Company on a rentable space unit basis rather than the actual trailer occupancy basis. The phrasing of the tariff is not explicit as to what is intended by the words "trailer unit." However, the Company has stipulated that it will accept the suggestion made by the chairman of the Water Committee of the Motor Court and Trailer Park Association that the flat rate charges for this type of water service be computed upon the basis of average monthly occupancy instead of the number of units available. The members of the Association offered to submit certified records showing such occupancy. The Commission will accept the stipulation. Therefore, the order herein made will grant authority to the Company to adjust its billings for this class of service to those who present certified statements of the actual trailer space occupancy during each calendar month.

The Commission, however, questions whether such flat rate service is practical and strongly urges that all such services be metered. Those who request metered service henceforth may do so in accordance with the meter rule which the Company is directed to file.

The facts presented relative to a considerable number of other disputed bill complaints now informally before the Commission raise issues similar or identical in principle to one or another of the four complaints above discussed. They need not here be reviewed separately. The Company will be directed to submit a statement showing what adjustment is necessary, if any, in conformity with the principles above expressed in the billings of each customer whose informal complaint is now pending. Unless further investigation is required, the Commission can then dispose of such complaints in the customary manner upon the record now before us.

The Commission's engineer also made recommendations with respect to the need for the clarification or amplification of certain of the Company's rules and regulations. The rules to which he referred relate generally to the form of a customer's application for service and notice of changes made in his use of water under flat rate schedules, deposits by applicants for service to secure payment of bills, and temporary service rates and rules. Although no attempt will be made in this proceeding to prescribe specific rules covering these subjects, the record justifies the conclusion that the insufficiency of some of the Company's rules and rate provisions has occasioned disputes with its customers that might be avoided if such rules were properly revised. The Company will be required to submit for approval appropriate amendments or additions to its rules and regulations covering the subjects just mentioned.

Extension Rule Complaints

Those complaints against the Company which arose in its Fontana service area relate mainly to the application of the Company's rule and regulation governing the extension of service to new customers. The Commission's engineer questioned the correctness of the interpretation which the Company has been giving its

existing extension rule and also suggested a revision of the rule itself.

The several disputes of this class, which were covered by the testimony presented by the Commission's engineer and by complaining parties, are of a fairly uniform pattern. The disputes raise questions as to the manner of determining the amount demanded by the Company as a deposit to cover the whole or part of the cost of extending distribution main facilities to provide water service to the proposed customer.

Because of the rapid growth of population within the Fontana District, the Company has been called upon to make many extensions of its distribution system. Its Rule No. 19 makes provision for both general service extensions and subdivision extensions. An applicant for a general service extension receives a free footage allowance. An applicant for a subdivision extension does not receive a free footage allowance but must advance the full estimated cost. In either case the amount deposited is refundable in annual installments equivalent to 35% of the gross revenue then being received from the extension. As the distinction between a general extension and a subdivision extension is not clearly defined in the rule, some applicants for service have disputed the Company's classification of the particular extension requested as one falling under the subdivision portion of the rule.

There were some cases where the applicant for the extension was the owner of a relatively small parcel of land which he proposed to divide into homesites, and asked that water service be made available to each lot in advance of sale or the construction of houses thereon. In each such case, as far as the evidence reveals, the application for the extension was in anticipation of a real estate development. Therefore, the need for water service was not that of the applicant personally, but was the anticipated need of prospective purchasers of his subdivided property. Under such circumstances, it cannot be said that a rule covering water service extensions to subdivisions would be inapplicable. However, as recommended by the Commission's engineer, it would be desirable for the Company to amend its existing rule so as to state more specifically when and how the subdivision extension rule is to be applied. It will be directed to submit a revised

rule for our approval.

No order will here be made with respect to the informal complaints filed by the two applicants for extensions whose applications had not yet been accepted by the Company at the time this matter was heard. Although considerable testimony was given relating to their situations, the facts developed in this proceeding are insufficient to permit us to make formal disposition of such complaints. If an agreement has not yet been reached as to the type of extension required, the facts must be ascertained by an actual inspection of their premises, after which the disputes can then be adjusted, if possible, by informal recommendations.

It appears to the Commission, as before indicated, that it is unnecessary also to make specific findings pertaining to each of the informal complaints reviewed in this record relating to flat rate billings in the El Monte Division. The facts surrounding the four complaints upon which the Company has challenged those rulings heretofore informally made, clearly reveal the general nature of the issues involved in each of the matters that have been presented to us under the disputed bill procedure. Many deposits have been made with the Commission. Those remaining on hand should be disposed of promptly. Each such complaint requires its own accounting disposition. Therefore, it appears that the most appropriate form of order that should now be made would be a direction to the Company to submit for approval a detailed statement of its proposed revised billings to each complainant after recomputation of his monthly bills for the full period in dispute in accordance with the general principles and interpretations of the flat rate schedules as above set forth. Such statement should show the basis of the charges made, the resulting balances and the amounts now on deposit with the Commission which will become due either to the Company or to the respective complainants. The statements should be verified and be in sufficient detail to permit the Commission to dispose of all such disputed bill complaints.

O R D E R

A hearing having been had by the Public Utilities Commission in the above entitled proceeding, the evidence fully considered, and basing its order on the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that San Gabriel Valley Water Company, a corporation, be and hereby is directed as follows:

1. To adjust flat rate billings where back bills have been rendered for undercharges for a period not exceeding six months, and to file within a period of thirty (30) days from the effective date of this order a certified statement or statements showing the billings by months actually rendered, as well as the adjusted billings to those customers who have filed informal complaints and which complaints remain unsettled. Such billings should carry out the intent and requirements of this order.

2. To file for the Commission's review and approval within a period of thirty (30) days from the effective date hereof:

   a. A revision of its Rule 15 covering adjustments. Such revised rule shall cover both metered and flat rate services and the provision covering back billing shall be limited to a three months' period, unless the actual period of error can be definitely determined.

   b. A revised rate schedule or rule relating to the computation of flat rate service rendered to motor courts or trailer parks as may be appropriate to develop the charges for monthly occupancy as contemplated in the opinion preceding this order.

   c. A rule which will make it permissive for an existing flat rate customer to be placed upon a metered rate schedule within thirty (30) days from the date of his application for such change, and likewise a provision that a new applicant for service may

choose and the Company will be required to render either a flat or a metered rate service.

3. To file within a period of sixty (60) days for the Commission's review and approval for all service areas, revised rules and regulations relating, among other items, to customer deposits to secure payment of bills, temporary service, and extensions of service.

This proceeding will be held open for such further hearing or order as may appear to the Commission necessary and proper.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 20th day of April, 1948.

R. E. Mittelstaedt

Justus F. Craemer

Everett C. Powell

Henrietta Wolter

Commissioners.