

Decision 84 08 020 August 1, 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mousa Talei,

Complainant,

v

San Jose Water Works,

Defendant.

(ECP)

Case 84-03-09

(Filed March 27, 1984)

Mousa Talei, for himself, complainant.  
Roy L. Kensill, for San Jose Water  
Company, defendant.

O P I N I O N

Statement of Facts

This matter arises out of a dispute over the complainant's July 1983 water bill. Involving a sum less than \$750, it came within the purview of Rule 13.2, the Expedited Complaint Procedure of the Commission's Rules of Practice and Procedure. The complaint was filed March 27, 1984; the answer was mailed April 27, 1984 and was docketed May 2, 1984. Notice of a hearing to be held May 25, 1984 was sent to the parties. Dr. Talei telephoned Administrative Law Judge (ALJ) Weiss on May 17, 1984 requesting a continuance for urgent and compelling personal reasons. Accordingly the matter was reset to June 22, 1984 on which date hearing was held in San Jose, after which the matter was submitted. Talei testified on his own behalf, and Roy L. Kensill and Dick Balocco, Office Manager and General Service and Public Relations Manager, respectively, of defendant, testified for defendant.

Mousa Talei has doctorate degrees in pharmacy and philosophy. He currently is head of the Process Validation Department of Syntex Laboratories in Palo Alto. For the past five

years Talei has made his home at 1080 Maraschino Drive in San Jose. His wife and two small children reside at that address with him. The home is a well-maintained single story residence with front and rear lawns, no swimming pool or hot tub, and contains the usual dish washer and clothes washer appliances. Both lawns have manually activated installed sprinkler systems.

San Jose Water Company is a public utility in the business of providing water service to a population of approximately 700,000 people in a 134-square mile area in the metropolitan San Jose area of Santa Clara County. The utility has provided metered water service to Talei at the Maraschino Drive address since August 20, 1979. Meters are read every second month, with interim months being estimated. Billing on the month the meter is read represents actual usage as registered through the meter for the prior two months, less the interim month's estimated use. Thus usage may occur at any time during the two-month period between meter readings and not necessarily for the month it was billed.

The situation at issue came about as follows. In 1983 Talei's water meter was read in the usual course of business by the utility's meter reader on June 3 and registered 089. The meter was next read on August 2, registering 280 indicating a flow through the meter of 191 Ccf for the two months (6/3-8/2) period. This representing a very marked increase in usage from the 19 to 25 Ccf range incurred over each of the preceding four 2-month periods, on August 17 the utility sent an inspector to check the meter. He found it registered 302. This indicated a flow of 22 Ccf in the past two weeks (8/2-8/17), and also confirmed the August 2 reading of 280. Thereupon the utility billed Talei \$132.14 (which represented the charge for 169 Ccf of the 191 Ccf in the period at issue; the utility already having charged \$20.14 on the July 1 estimated bill for the 22 Ccf estimated thereon).

In 1983 Talei's wife and two children were out of the country and absent from the Maraschino Drive home May through mid-August. Talei himself was in and out during this period, being absent on week-long trips to such destinations as Puerto Rico or Paris on occasion. Therefore, he did not believe that he could possibly have used so much water, and took the matter up with the utility.

On August 31, the reading was 320, indicating a flow of another 18 Ccf in the two weeks since the inspector's August 17 reading.

On September 15 the utility again inspected the meter, this time with Talei being present. The reading of 340 confirmed the earlier readings and showed the flow of another 20 Ccf in the previous two weeks (8/31-9/15). Testing of the meter showed no leaks. On September 28 the meter registered 350, evidencing a flow of another 10 Ccf in the past two weeks (9/15-9/28). Although the Rockwell meter had been in service only one year, after discussion the utility removed it for shop testing and comparison with Commission ordered standards. The testing performed on October 11 indicated 100% accuracy.

Meanwhile, on September 28 another meter was substituted for the Rockwell meter being tested. Subsequently when read December 5 it registered 031, indicating a flow of 31 Ccf over the two months (9/28-12/5) since installation. On February 3, 1984 the meter registered 061, indicating a prior two-month flow of 30 Ccf (12/5-2/3). On April 3, 1984, the reading was 091, indicating a flow of 30 Ccf (2/3-4/3).

Concurrently, insisting that there was no justification for him to pay for water he had not used, Talei on October 20, 1983 complained to the Commission's Consumer Affairs Branch, depositing the disputed \$131.14 with the Commission. After receiving the utility's report, Consumer Affairs concluded that Talei should be held responsible for the water delivered through his meter, and on

November 28, 1983 released the deposit to the utility. Thereafter Talei filed this formal complaint.

In its answer to the complaint and its testimony at the hearing, the utility related facts pertaining to a similar problem which occurred on this account in October 1982. There, Talei objected to a billing for recorded delivery over the two-month period between August 3, 1982 and October 1, 1982 of 182 Ccf of water. Then as with the current situation, checking the meter revealed no explanation as would account for the high intake, although there was indication at the time the meter was being checked of either a possible small leak in the house's water system or some usage in progress. That meter, a Trident meter, was then changed at Talei's request, and replaced by a new Rockwell meter. As a public relations gesture the utility allowed Talei a credit in the amount of \$72.87 for 100 Ccf.

#### Discussion

Charting the bimonthly water flows indicated by the meter readings, exclusive of the two highest readings which were the subject of this and the 1982 complaint, we arrive at the graphic depicted in Appendix A. Average bimonthly flow is 36.5 Ccf. The current complaint of high intake is almost five times that.

Talei insists, his family and his having been away much of the time when the high intake occurred, that they could not possibly have used, and did not use the water. Asked about outside use, he testified that consumption was only moderate; that while he was home he would water the lawns several times weekly; when he was away his friend Joseph would come with his son twice a week and each time water the lawns about 20 minutes. He stated that he even had his Water King water softener checked out as sometimes in the past it had not shut down properly. He testified that he knew his neighbors, that they enjoyed good living standards, and he was certain they would not connect their hoses to his outdoor water faucets during his absences and tap his water supply.

Talei questioned the utility witnesses closely as to the accuracy of their meters. He wondered whether an earthquake or a large magnet passing by in the street could affect the meter. Company witnesses testified that the meters checked out within accuracy limits set by the Commission. Earthquakes would affect all area meters as would any powerful magnet but no others in the area were reported as in question. The utility personnel, while admitting that anything is possible, described the relatively simple mechanical workings of the meters and their general reliability; that the meter valves respond only to water passing through; that when tested no loose dials, no faulty flutter valves, or defective haul drive mechanisms had been found. They conclude that the possibility of defective meters is always remotely possible but highly improbable. In their opinion the quantities of water registered passed through the meter.

Talei was not convinced. He stated that he had not used the water and therefore there was no justification to expect him to pay for it. We cannot agree. Under appropriate circumstances we might conclude that one meter could temporarily become defective, but it strains probability to conclude that several have, and all coinciding with absences of Talei and his family. The weight of the evidence is that complainant has been billed correctly. The meters all test accurate, and we conclude that they accurately measured the volumes of water they registered as passing through into the Talei household system. However, we also have no reason to disbelieve Talei's sworn testimony that he and his family did not use all the water. But the matter cannot end there. If Talei is excused the billing the burden falls upon the rest of the water utility ratepayers. Talei and his family may not have used the water but that does not mean that some other person or persons have not. The evidence is persuasive that the water was delivered through the Talei meter. The Talei family was away for months. Talei is employed in

Palo Alto and necessarily is at work away from home during business hours. He also was away on trips of a week's duration at different times during the period here in issue. Anyone could have tapped his outside faucets with a hose or hoses during these absences.

It is incumbent upon a customer to be responsible for and to monitor the use of his own utility facilities. It is the general rule that a customer must be responsible financially for their use even if that use is unauthorized by the customer (Williams v Pacific Tel. Co. (1976) 80 CPUC 222; L. E. Witt v Gen. Tel. Co. (1966) 65 CPUC 538; Johnson v Gen. Tel. Co. of Southwest (1964) 135 S.E. 2d 854, 856). To avoid a recurrence of this problem, Talei might well consider installation of interior cutoff valves leading to his outdoor faucets.

The complaint should be denied.

O R D E R

IT IS ORDERED that the complaint is denied.

This order becomes effective 30 days from today.

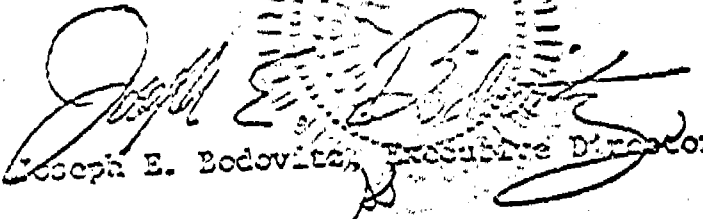
Dated AUG 1 1984, at San Francisco, California.

Commissioner Priscilla C. Grew,  
being necessarily absent, did  
not participate

Commissioner William T. Bagley  
being necessarily absent, did  
not participate.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
DONALD VIAL  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director

ECP CASE NO. 84-03-09  
TALEI VS SAN JOSE WTR. CO.

APPENDIX A

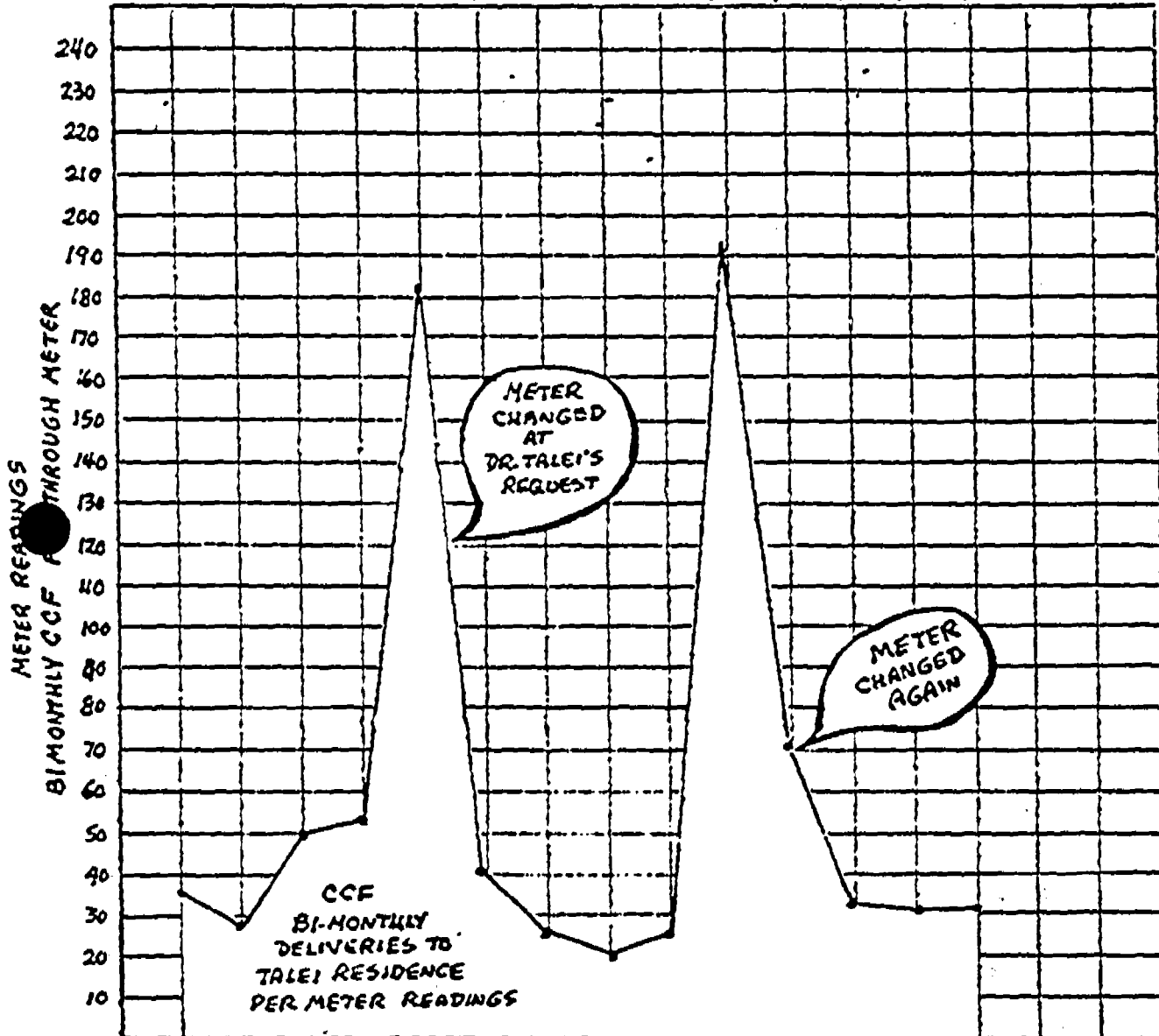
DATES METER WAS READ

1982

1983

1984

2/5 4/5 6/3 8/3 10/1 12/3 2/4 4/5 6/3 8/2 9/28 12/5 2/3 4/3



ALJ/jn

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