

Decision 88 01 019 JAN 13 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

R. Gene Scalf,)
)
 Complainant,)
)
 vs.)
)
 Southern California Water Co.,)
)
 Defendant.)

(ECP)
 Case 87-08-029
 (Filed August 14, 1987)

R. Gene Scalf, for himself, complainant.
Richard F. Gruszka, for defendant.

OPINION

Summary of Complaint

The complaint alleges that:

1. R. G. Scalf's water bills for a duplex at 13037 to 13039 South Paramount Boulevard in Southgate averaged \$41.88 per month over a two-year period.
2. On October 29, 1986, Southern California Water Company (SCW) changed the water meter at that address and his bill increased to \$333.47.
3. As the result of complaints, SCW installed another new meter on February 24, 1987.
4. Between January 8, 1987 and February 24, 1987 of the January 8 to March 10, 1987 billing cycle, he was billed \$114.40.
5. His subsequent bills went back to a normal level.
6. SCW informed him that its meters were correct and he had to pay his bill, or his water service would be turned off.

7. He has a tenant who occupies a two-bedroom apartment with her three children. The other apartment is used by him for storage. It has no water use.
8. His plumber inspected the property on January 26, 1987 for leaks or for problems with his plumbing. The plumber did not find anything out of the ordinary with his plumbing. Subsequently, on February 24, 1987, he inspected the building accompanied by his plumber and a SCW foreman. His plumber stated that the visible leaks could not have used that volume of water; that volume would result in a flow of water down the alley day and night.
9. He reported a leak overflowing the meter box serving his property to SCW on February 29, 1987. On March 17, 1987, he found a 2-foot by 5-foot area paved with blacktop around the meter cover lid.
10. He asked SCW to replace the meter and to test it. SCW did so. SCW's office manager called and stated that SCW ran three tests on the meter with the accuracies of 99.5%, 97%, and 90% respectively.
11. After several unsuccessful efforts to have SCW adjust his high bills, he filed an informal complaint with the Commission's Consumer Affairs Branch (CAB).
12. On a later inspection of the building, a SCW supervisor stated the existing leaks were not large enough to cause the high bills; the SCW supervisor wondered if there had been a billing error.
13. A CAB representative told him that SCW would not adjust his bill. He requested a hearing. Several days later the CAB representative advised him that SCW had offered to reduce his bill by \$150 to settle the complaint. He stated, "No thanks. I'm either ALL right or ALL wrong."

14. A CAB supervisor advised him that he had the burden of proof to prove the allegations in his complaint at a hearing; SCW informed CAB that his bills declined to earlier levels because he had repaired his plumbing. He denies having made plumbing repairs at that time. He asserts that he will not repair his plumbing until the complaint is settled. He believes that those repairs will reduce each of his bills by \$10 to \$12.
15. When he uses the unoccupied apartment, he turns on water fixtures as needed and closes them again when he leaves.

Answer to Complaint

SCW's answer confirms that it had installed new meters (with zero readings) on the dates alleged; it met with Scalf; the above-quoted meter test results were essentially accurate. However, a copy of the meter test results showed the low and intermediate flow measurements were 94% and 99% rather than the 90% and 97% accuracy rates cited in the complaint. (SCW confirmed the test results through testimony at the hearing.) SCW agrees that new meters are accurate; it had offered a nonbeneficial use adjustment for Scalf. SCW denies that its superintendent had minimized the effect of the plumbing leaks on Scalf's bills. SCW asserts it replaced a damaged shutoff valve on its side of the meter and installed new blacktop paving around the meter.

SCW states that there is an automobile repair garage on the premises in front of the duplex served from the same meter as the duplex.

SCW provided the following billing history for Scalf's account in its informal complaint review:

| <u>End of Billing Period</u> | <u>Meter Readings</u> | <u>Consumption (Ccf)*</u> | <u>Amount in \$</u> |
|----------------------------------|---------------------------|-------------------------------|-------------------------|
| 5/7/87 | 0067 | 52 | \$ 44.50 |
| 3/10/87 | 0015 0000 0587 | 149 | 114.40 |
| 1/8/87 | 0453 0000 | 453 | 333.47 |
| 11/4/86 | 618 | 42 | 36.79 |
| 9/5/86 | 576 | 58 | 47.63 |
| 7/8/86 | 518 | 48 | 40.56 |
| 5/8/86 | 470 | 49 | 41.27 |
| 3/10/86 | 421 | 34 | 30.65 |
| 1/8/86 | 387 | 72 | 57.84 |

* Hundreds of cubic feet.

SCW originally replaced Scalf's meter because someone damaged it and it was no longer operable. After receipt of his high bill complaint, the new meter was sent in for testing. The results of two higher flows tests and the three-test average were within allowable limits set by the Commission. However, the low flow test underregistered by 6% which is beyond acceptable standards. The meter test conducted by Neptune Meter Company, the manufacturer of the meter, was performed in Atlanta, Georgia.

In its high bill investigation, SCW was advised that a plumber had shut off some valves, which slowed but did not stop the flow registered by the meter, and that the water had been turned off in the vacant apartment because of leaks. SCW calculated that Scalf's consumption between November 14, 1986 and January 18, 1987 was 453 Ccf or 338,844 gallons; the average daily consumption to the property during that period was 6,005.8 gallons per day or 4.2 gallons per minute. On February 9, 1987, an experienced serviceman found a toilet leak in the auto repair garage; leaks in the kitchen sink, bathroom sink, and bathtub faucets, of the occupied apartment; the house valve for the vacant apartment had been turned

off. SCW concludes that at a system water pressure varying from 50 to 70 pounds per square inch the three faucet leaks and the toilet leak could easily cause registration of the recorded use, aside from beneficial uses of the water.

SCW initially did not offer any adjustment to Scalf, because it found a number of leaks in the duplex and in the garage and Scalf was not overly concerned about correcting those leaks. It reconsidered its position at the urging of a CAB representative and offered to make a "nonbeneficial use" adjustment to settle the complaint. Subsequently CAB advised SCW that Scalf had refused its offer.

SCW's position on this complaint is that no billing adjustment is warranted; the water flowed through Scalf's meter whether or not it was used beneficially.

Hearing

After notice, a hearing was held in Los Angeles under the Expedited Complaint Procedure pursuant to Rule 13.2 of the Commission's Rules of Practice and Procedure and Section 1702.1 of the Public Utilities Code, and the matter was submitted. R. Gene Scalf testified for himself. Richard F. Gruszka, a SCW vice president, testified for SCW.

Scalf testified that he had prepared the complaint and he believed it to be accurate; his average billing over 10 bimonthly billing periods, excluding the \$333.47 and \$114.40 billings in dispute, had increased from the \$41.80 level cited in the complaint to \$42.79. He believed that the two high billings should each be adjusted to the \$42.79 average. Scalf submitted a copy of an invoice from his plumber to confirm that his plumber had checked for a broken pipe under the concrete in his building on January 26, 1987. The invoice showed that plumber found leaks in the kitchen faucets, lavatory, and tub.

Gruszka prepared SCW's answer to the complaint and believed it to be accurate. Gruszka supplied a copy of SCW's original high bill investigation report which provides further details of the information contained in SCW's answer to the complaint. On a second inspection, the serviceman showed Scalf existing leaks and the three closed faucets in the occupied apartment. On his earlier inspection, the tenant told him that a plumber had been there to check for leaks including underground leaks; the plumber shut off one of the valves which slowed down but did not stop the flow of water through the meter.

Discussion

Scalf did not take any action to repair plumbing leaks on his property over an extended period of time. He did not dispute the accuracy of the meter tests performed on his meter. His failure to repair known leaks on his plumbing is an unwarranted waste of water in an area which must import water to survive. We concur with SCW's original assessment that a nonbeneficial use adjustment to Scalf's bill was inappropriate. Scalf did not sustain the burden of proof to demonstrate that he could not have used the quantities of water he was billed for. We require complainants to show that they could not have used the amounts of water in dispute or that other error occurred. If a meter is tested and proven to be accurate within acceptable limits and if the potential water demand exceeds the amount of water usage in dispute, presumption exists that the customer, in one way or another, used the water shown on the meter. SCW's evidence establishes such a presumption in this case particularly in light of the large scale wastage of water caused by Scalf's failure to correct the plumbing leaks on his property. The meter test results show that less water was recorded on the meter than actually flowed through it during the period of dispute. Thus SCW's billing to Scalf could have been understated. At the high continuous rate of

water wasted the quantity of water measured occurred at the acceptable range of meter accuracy.

The record does not indicate when the main valve for the vacant apartment was closed; why the procedure for turning water valves on and off to use water in the unoccupied apartment is necessary; or what contribution, if any, leaks in the unoccupied apartment contributed to the high bills at issue.

SCW's Tariff Rule 11 states in part:

"3. For Waste of Water

- "a. Where negligent or wasteful use of water exists on customer's premises, the utility may discontinue the service if such practices are not remedied within five days after it has given the customer written notice to such effect."

Generally the waste of water by a customer comes to a utility's attention from visually observed excessive irrigation water flowing from a property or from a leak on the property. But waste also occurs inside buildings through owner negligence in repairing faucet or toilet leaks. SCW should determine whether Scalf should be served with written notice under Section 3 of its Tariff Rule 11.

However, there are some aspects of SCW's meter testing practices brought out in this proceeding which warrant further comment. Since the test was done at complainant's request, the Commission's General Order 103 requires SCW to test it at four flow rates, including one at twice the minimum test flow rate. The three-test flow rate procedure is followed for normal testing of meters not requested by a customer. A three-flow rate test is required prior to installing a new meter by either the manufacturer, or the utility, or any reliable organization equipped for meter testing. In the case in point, the excess of underregistration of the meter should preclude putting the meter back into service without adjusting it to meet required accuracy

standards. Where SCW tests meters at locations so remote as to effectively preclude a customer from witnessing the test, i.e. in Atlanta, Georgia, the utility should advise its customers that he or she can request a notarized statement certifying the method used in making the test and certifying as to the accuracy of the meter. SCW should review its customer-requested meter testing practices to bring them into compliance with those requirements of General Order 103.

Scalf deposited \$447.87 with the Commission for his disputed bills of \$333.47 and \$114.40. The \$447.87 should be disbursed to SCW.

ORDER

IT IS ORDERED that:

1. The complaint in Case 87-08-029 is denied.
2. The \$447.87 impounded with the Commission shall be disbursed to defendant, Southern California Water Company.

This order becomes effective 30 days from today.

Dated JAN 13 1988, at San Francisco, California.

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

Commissioner Stanley W. Hulett
being necessarily absent, did
not participate.

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

Victor Weiser
Victor Weiser, Executive Director

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