

Decision 88 02 045

**ORIGINAL**

FEB 24 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JIMMIE AGUILAR, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 SOUTHERN CALIFORNIA GAS )  
 COMPANY, )  
 )  
 Defendant. )

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Case 87-07-038  
(Filed July 24, 1987)

Joel S. Cahn, for Jimmie Aguilar,  
 Complainant.  
Peter N. Osborn, Attorney at Law, for  
 Southern California Gas Company,  
 Defendant.

OPINION

Complainant Jimmie Aguilar (Aguilar) disputes a gas bill from defendant Southern California Gas Company (SoCal) in the amount of \$3,205.81 for the monthly billing period ending March 4, 1986, stating that this bill is ten times the normal bill. Aguilar contends that the weather was not particularly cold in February, and the electric bill was normal for that period; he believes that high gas usage would cause overuse of air-conditioning to compensate for the excessive heating. Aguilar alleges that the electricity bill for the period of January to May 1986 was constant and consistent, ranging from \$2,000 to \$3,000 per month. Aguilar further states that he represents Plaza Del Sol (Plaza), which operates a large warehouse type facility that rents spaces to a number of small underfinanced retail business people who are responsible for the common area gas bills, and who would find this bill to be an unacceptable and unmanageable burden.

Aguilar requests that the bill in question be reduced to a "normal" average amount for that month.

Aguilar deposited a check in the amount of \$3,263.71 on July 30, 1987.

Attached to the complaint are two appendixes: Appendix I is a summary of billing from 1-02-86 to 9-29-86 from SoCal to Steven K. Jones dated October 17, 1986; Appendix II is a copy of a bill from the Department of Water and Power City of Los Angeles (LADWP) to Steven K. Jones Jr. & Frank D. Boren Roy McNeil, apparently to the same facility, i.e., Plaza Del Sol, for the period from 12-26-85 to 6-25-86. The amount of the bill is \$42,678.06; hand written notes on the bill indicate a range of electric usage of 6,000-7,500/month, and average 7,000/month. The units appear to be dollars since the average bill for the six month period is slightly over \$7,000 per month.

SoCal's answer to the complaint stated that the complainant's gas meter was tested on January 14, 1987 and found to be accurate, that gas fired equipment on the complainant's premises has the capacity to use the amount of gas billed, and that construction activity at the site caused usage in excess of historical levels.

At the hearing on October 13, 1987 Aguilar was represented by Joel S. Cahn (Cahn) who is a tenant at Plaza. Cahn stated that such a high level of usage could not have occurred, and that there must be an error of some type.

SoCal presented four witnesses, SoCal employees Cynthia Sue Stone (Stone), John Delgado (Delgado), Manuel J. Silva (Silva), and LADWP employee Henry Meinke (Meinke). Testimony focused on the sequence of events at Plaza regarding natural gas service, with Stone explaining the various service orders issued by SoCal to the Plaza address. She testified that SoCal records indicated that the gas service began on December 13, 1985, with the service order of that date indicating that Plaza had a gas-fired central boiler

system with a rated input of 1,666,000 British Thermal Units (btu) per hour. A leak test was performed before service was established; there was zero leakage for 10 minutes, verifying that the system was leak-free.

However, nobody representing Plaza had subscribed for the service until February 5, 1986 when SoCal employee Delgado went to the premises. Delgado testified that he had a read/verify order for Plaza which required him to determine whether there was usage on the meter, since according to SoCal records, it was turned off. If the meter was on, he was to find someone to sign for and be responsible for the service. Otherwise, he was to turn it off. Gerald R. DeMill signed for service on that date. While at Plaza, Delgado noticed construction activity including drywall sheets that showed signs of wetness, and a comfortably warm inside temperature, indicating that heat may have been used to assist in drying the drywall.

At a later date Steven K. Jones of the Plaza address requested SoCal to test the meter for accuracy. Silva tested the meter on January 14, 1987, finding it to be accurate within the allowable tolerances of General Order (GO) 58-A, i.e., plus or minus 2% of actual delivery.

Meinke testified that LADWP serves electricity to Plaza, and that the monthly electric bills were in the range of \$7,000 to \$8,600.

Cross-examination of the SoCal witnesses by Cahn concentrated on possible explanations for the high usage in question, such as unreliable recollection of events by service people, inaccurate meters and/or gas leaks.

#### Discussion

The complainant is questioning a bill that is substantially in excess of normal. His case rests on the possibility of a billing error, leakage, or an inaccurate meter, yet he offers no affirmative showing that the billing was

inaccurate or that the gas was not consumed. The central boiler is rated at 1,666,000 btu/hour and consumes 16.66 therms per hour at rated output. Based on a daily operation of 10 hours at full output and a 32-day billing period, the usage would be 5,331 therms. This compares to the 4,482 therms billed for the 32-day period in question, January 31 to March 4, 1986, which confirms that the usage billed is possible. Billing error is not likely considering the number of times SoCal checked and reread the meter. Leakage does not appear to be a contributing factor to the high usage, since the system was tested and found to be leak-free prior to the period in question, and there is no indication of subsequent leakage. The meter was tested at the request of complainant and found to be accurate within allowable limits of the Commission's GO 58-A. Therefore, none of the causes mentioned by complainant appear to be responsible for the high usage.

The final question the Commission must answer is, "Is it likely that Plaza consumed the amount of gas billed for the monthly period ending March 4, 1986?" The Plaza facility is similar to a warehouse type of operation in which at least one large vertical loading dock type door is normally open, which adds to the heating requirement due to heat loss to the outside. Testimony that the facility was comfortably warm and that wet or damp drywall had apparently been dried was not refuted by complainant. The construction activity at the site is apparently responsible at least in part for the unusually high gas usage. Under the conditions that existed at Plaza during the billing period in question, it is not unusual to have a much higher than normal heating bill. Subsequent usage returned to historically normal levels, confirming that leakage and meter reading are not the cause. There is no evidence of any other reasonable explanation for the high usage, therefore we conclude that the gas usage billed was consumed by complainant.

The issue of affordability of the gas billing by tenants of Plaza is not relevant to the Commission's decision in this matter. If the gas was consumed it must be paid for, whether by extended payments or by normal billing. The complainant did not request an extended payment plan for the billing in question in the event the Commission determined the billing to be proper. Therefore, complainant is liable for payment to SoCal in the amount of \$3,205.81.

Findings of Fact

1. Aguilar filed a complaint on behalf of Plaza seeking adjustment of a \$3,205.81 bill rendered by SoCal for the monthly billing period ended March 4, 1986.
2. Aguilar deposited a check in the amount of \$3,263.71 with the Commission on July 30, 1987.
3. Except for the period in question, recent monthly gas bills for Plaza have been less than \$300.
4. SoCal tested the gas service at Plaza for leakage prior to beginning service on December 13, 1985.
5. Plaza has a central boiler rated at 1,666,000 btu/hour.
6. Construction occurred at Plaza during the billing period in question.
7. Drywall sheets at Plaza on February 5, 1986 exhibited signs of dampness.
8. SoCal verified the meter readings during the billing period in question.
9. SoCal tested the gas meter on January 14, 1987 and found it to be accurate within the tolerances allowed in GO 58-A.
10. Plaza is a warehouse type building with a large loading dock type door that is typically open during business hours.
11. Plaza has a number of individual tenants who are jointly responsible for the utility bills.
12. The average recent monthly electric bill to Plaza has been more than \$7,000.

Conclusions of Law

1. Plaza consumed natural gas in the amount of \$3,205.81 for the monthly billing period ending March 4, 1986.
2. Complainant Aguilar and Plaza are not entitled to any adjustment in their bill for the monthly period ending March 4, 1986.
3. This complaint should be denied.

ORDER

IT IS ORDERED that:

1. Case 87-07-038 is denied.
2. The Commission shall disburse complainant Jimmie Aguilar's deposit in the amount of \$3,263.71 to Southern California Gas Company.

This order becomes effective 30 days from today.

Dated February 24, 1988, at San Francisco, California.

STANLEY W. HULETT  
President

DONALD VIAL  
JOHN B. OHANIAN  
Commissioners

Commissioner Frederick R. Duda,  
being necessarily absent, did  
not participate.

Commissioner G. Mitchell Wilk,  
being necessarily absent, did  
not participate.

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

  
Victor Weissor, Executive Director  
AW

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1. Case 87-07-038 is denied.
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Dated FEB 24 1988, at San Francisco, California.

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