

**ORIGINAL**

Decision No. **82-04-086** APR 2-1-1982

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Mrs. Hal Goldstein and  
Mr. Hal Goldstein,**

**Complainants,**

**(ECP)  
Case 82-01-01**

**vs.**

**(Filed January 4, 1982)**

**So. California Gas Co.,**

**Defendant.**

**Rosetta Goldstein, for herself and**

**Hal Goldstein, complainants.**

**Rupert E. DeLeon, for defendant.**

**O.P.I.N.I.O.N.**

Complainants allege that their gas energy billing for \$115.68 for the period from August 19 to September 18, 1981, is incorrect due either to an improperly read meter or an improperly working meter. They seek an adjustment of this bill. Defendant Southern California Gas Company denies the billing is incorrect and requests that the complaint be dismissed.

A hearing as prescribed by Public Utilities Code Section 702.5 was held before Administrative Law Judge William A. Turkish on February 25, 1982, and the matter was submitted on that date.

Mrs. Goldstein is of the opinion that since defendant made an adjustment in her bill for the similar period a year earlier, it should do so again.

Defendant's position is that complainants have been properly billed for energy which they consumed and that no adjustment to their bill was warranted or appropriate.

Defendant's witness sponsored three exhibits and testified essentially as follows:

1. In response to complainants' high bill complaint, defendant conducted an investigation, which was completed on October 6 and which found no evidence of leaks either at the meter or in the house lines.

2. The meter reading of 7780 verified the September 18 reading of 7707.

3. The gas appliances on the premises which consist of a 75,500 Btu, 80-gallon water heater (water temperature was found to be 135 degrees), a 30,000-Btu barbecue, a 150,000 Btu thermostatically controlled forced air heating unit, a 40,000 Btu log lighter, and a 240,000 Btu pool heater (found off with a water temperature of 65 degrees) were inspected, serviced, and found to be operating satisfactorily.

4. The meter was changed for testing, tested, and found to be registering within the acceptable limits of accuracy prescribed by the Commission (Exhibit 6).

*CORRECTION*

# CORRECTION

THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY

**ORIGINAL**

Decision No. **82-04-086** APR 21 1982

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Mrs. Hal Goldstein, and  
Mr. Hal Goldstein,**

**Complainants,**

(ECP)  
Case 82-01-01

vs. **So. California Gas Co.,**

**So. California Gas Co.,**

**Defendant.**

**Rosetta Goldstein, for herself and**

**Hal Goldstein, complainants, and**  
**Rupert E. DeLeon, for defendant.**

**O P I N I O N**

Complainants allege that their gas energy billing for \$115.68 for the period from August 19 to September 18, 1981, is incorrect due either to an improperly read meter or an improperly working meter. They seek an adjustment of this gas bill. Defendant Southern California Gas Company denies the billing is incorrect and requests that the complaint be dismissed.

A hearing as prescribed by Public Utilities Code Section 702.5 was held before Administrative Law Judge William A. Turkish on February 25, 1982, and the matter was submitted on that date.

Rosetta Goldstein, testifying on behalf of complainants, stated that she and her husband reside alone in their single-family residence and could not have possibly used the amount of gas energy for which they were billed by defendant during the period in issue.

She stated that their home has an electric stove, electric freezer and refrigerator, and electric washer and dryer, and that gas is used only for space heating, water heating, and a pool heater pilot light. According to Mrs. Goldstein, the pool and pool heater had not been used all summer of 1981 because her husband had twice undergone serious surgery recently. She testified that for the same billing period a year previous, she had received an excessively high bill of \$204.82 for 405 therms of gas and that after filing a formal complaint, defendant made an adjustment in complainants' bill because something was obviously wrong. She described various conversations she had with defendant's employees regarding her high bill and also introduced some correspondence from defendant. She stated her pool heater has not been used for two years and was informed in one of the letters from defendant that if she shut off the pool heater pilot, it would reduce her monthly bill by approximately \$15. She also testified that she followed this advice and her bill went up instead of down. She later had the pilot relit when another of defendant's representatives, who came to the house, told her it should be left on. She indicated she did no entertaining during the period in issue and had no house guests during the time.

Mrs. Goldstein is of the opinion that since defendant made an adjustment in her bill for the similar period a year earlier, it should do so again.

Defendant's position is that complainants have been properly billed for energy which they consumed and that no adjustment to their bill was warranted or appropriate.

Defendant's witness sponsored three exhibits and testified essentially as follows:

1. In response to complainants' high bill complaint, defendant conducted an on-site investigation, which was completed on October 6 and which found no evidence of leaks either at the meter or in

the house lines.

2. The meter reading of 7780 verified the September 18 reading of 7707.

3. The gas appliances on the premises which consist of a 75,500 Btu, 80-gallon water heater (water temperature was found to be 135 degrees), a 30,000 Btu barbecue, a 150,000 Btu thermostatically controlled forced air heating unit, a 40,000 Btu log lighter, and a 240,000 Btu pool heater (found off with a water temperature of 65 degrees) were inspected, serviced, and found to be operating satisfactorily.

4. The meter was changed for testing, tested, and found to be registering within the acceptable limits of accuracy prescribed by the Commission (Exhibit 6).

5. On October 6, 1981, the low temperature for the day was 60 degrees and at 9:00 a.m. the serviceman found the pool water temperature to be 65 degrees and defendant believes it is an indication that the water may have been warmed.

6. The adjustment made to complainants in 1980 was because of a possibility that the meter may have been underread the previous month which precluded alerting complainants to how much gas had been used by the pool heater at an earlier date, although the meter had tested properly at the time of the high bill complaint.

Defendant introduced as Exhibit 8 a history of complainants' gas energy consumption since April 23, 1979. This shows total therm consumption of 2,394 for the period April 23-December 20, 1979, or an average of 266 therms per billing period; total therm consumption of 2,052 from April 22 to December 19, 1980, or an average of 228 therms per billing period, and total consumption of 1,323 therms from April 22 to December 21, 1981, or an average of 147 therms per billing period.

The meter was changed for testing and found to be registering within the acceptable limits accuracy prescribed by the Commission (Exhibit 8).

Discussion

The thrust of complainant's position is that the amount of the bill in dispute is much too high and that since defendant made an adjustment in the bill for the same billing period a year ago, another adjustment should be made this year. Complainants feel that since they have not used the pool heater since sometime in 1980, they could not have used as much gas energy to produce a bill of \$115.68.

We are confronted with the classic burden of proof issue in a complaint matter. In such cases the burden of proof is always imposed upon the complainant to prove that he or she did not or could not have consumed the amount of energy for which they were billed. In this case, the complainants believe they could not have used the gas energy to produce a bill of \$115.68 since they did not use their pool heater and they used no gas only for space heating. However, defendant tested the meter and found it to be operating within the prescribed acceptable limits of the Commission's general orders and found no leaks or malfunctioning gas appliances. That being the case, there is a rebuttable presumption that the amount of gas registered by the meter was used. To expect the utility to determine the manner in which the energy was used would require an unacceptable intrusion into the lives of its customers. The meter was tested on September 18, 1981. This leaves us, finally, with the question of how to apportion the amount of gas consumed between the pool heater and the space heater. It should be pointed out that the bill also contains a three-tier charge. The third tier is the most expensive tier and it is possible that some of the gas was used for space heating.

It should also be pointed out that the bill also contains a three-tier charge. The third tier is the most expensive tier and it is possible that some of the gas was used for space heating.



When a bill dispute exists over the amount of gas energy billed for, only the following possibilities exist:

- 1. The meter is faulty.
- 2. A gas leak exists somewhere after the meter.
- 3. The previous month's meter reading was underread by the meter reader.
- 4. The meter reading for the month in dispute was overread.
- 5. The gas was actually consumed.

The evidence effectively rebuts possibilities 1 and 2. As to possibility 3, if the previous month's meter was underread, then complainants received more gas energy than they were charged for in that month, but the high reading in the next month, which is in dispute plus the underread amount in the previous month would equal the amount of gas actually consumed for those two months. Likewise, if only the meter reading for the month in issue was overread, the following month would necessarily not reflect a lower reading than the amount of gas actually consumed and the two months' usage would exactly equal the total number of therms registered on the meter for those two months. However, the fourth possibility is effectively rebutted by the fact that the special October 6, 1981 reading of 67780 verifies the accuracy of the meter reading of 7707 on the meter reading date of September 18, 1981. This leaves us, finally, with the conclusion that complainants actually consumed the amount of gas for which they were billed.

It should also be pointed out that defendant's tariff contains a three-tier charge. The third tier is the most expensive charge per therm and is more than double the first or lifeline tier

... This third tier charge is responsible for 82% of the total commodity charge on complainant's bill in issue and each additional tier causes a sharp increase in cost. Complainants failed to rebut this presumption and have failed their burden of proof. ...

3. The complaint should be denied.

The accuracy of the meter was established by a rebuttable presumption that the gas was used. We cannot make any determination. **ORDER** IT IS ORDERED that the complaint in Case 82-01-01 is denied.

This order becomes effective 30 days from today.

Dated APR 21 1982 at San Francisco, California.

... were billed in view of the number of gas appliances and bills on the premises not believed that testimony overcomes or that the gas was not used in view of the evidence. JOHN W. BRYSON, President; RICHARD D. CRAVELLE; LEONARD M. GRIMES, JR.; VICTOR CALVO; PRISCILLA C. CREW, Commissioners. The fact that defendant made an adjustment in their bill a year prior is not grounds for adjusting this year's bill. ...

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

*Joseph E. Bodovitz*  
Joseph E. Bodovitz, Executive Director

The evidence established a presumption that the gas registered on the meter was consumed at complainant's residence.

charge. This third tier charge is responsible for 85% of the total commodity charge on complainants' bill in issue and each additional therm of gas in this tier causes a sharp increase in the total bill. Complainants would be well-advised to undergo an energy audit to attempt to find ways to cut their gas bills and consumption.

The accuracy of the meter test creates a rebuttable presumption that the gas was used. We cannot make any determination, based upon the evidence in this hearing, of how it was consumed. We do not doubt complainants' sincerity or their sworn testimony that the pool heater was not used, but we cannot share their view that it is impossible to consume the amount of gas for which they were billed in view of the number of gas appliances and pilot lights on the premises. We do not believe that testimony overcomes or rebuts the presumption that the gas was not used in view of the meter test.

Complainants have failed to provide us with any reasonable basis for concluding that they did not consume the energy in dispute. The fact that defendant made an adjustment in their bill a year previous is not grounds for adjusting this year's high bill. Accordingly, we have no alternative but to deny the complaint.

Findings of Fact

1. The gas bill in dispute totals \$115.68.
2. Complainants' meter was removed for testing and was found to be registering within the acceptable limits of accuracy.
3. Gas lines, equipment, and appliance checks revealed no gas leaks.

Conclusions of Law

1. The evidence establishes a presumption that the gas registered on the meter was consumed at complainants' residence.

Discussion

The thrust of complainants' position is that the amount of the bill in dispute is much too high and that since defendant made an adjustment in the bill for the same billing period a year ago, another adjustment should be made this year. Complainants feel that since they have not used the pool heater since sometime in 1980, they could not have used as much gas energy to produce a bill of \$115.68.

We are confronted with the classic burden of proof issue in a complaint matter. In such cases the burden of proof is always imposed upon the complainant to prove that he or she did not or could not have consumed the amount of energy for which they were billed. In this case, the complainants believe they could not have used the gas energy to produce a bill of \$115.68 since they did not use their pool heater and they used gas only for space heating. However, defendant tested the meter and found it to be operating within the prescribed acceptable limits of the Commission's general orders and found no leaks or malfunctioning gas appliances. That being the case, there is a rebuttable presumption that the amount of gas registered by the meter was used. To expect the utility to determine the manner in which the energy was used would require an unacceptable intrusion into the lives of its customers.

September 18, 1981. This leaves us with the conclusion that complainants actually consumed the amount of gas for which they were billed. It should also be pointed out that defendant's bill contains a three-tier charge. The third tier is the most expensive charge for them and is more than double the first or second tier charge.

When a bill dispute exists over the amount of gas energy billed for, only the following possibilities exist:

1. The meter is faulty;
2. A gas leak exists somewhere after the meter;
3. The previous month's meter reading was underread by the meter reader;
4. The meter reading for the month in dispute was overread; or
5. The gas was actually consumed.

The evidence effectively rebuts possibilities 1 and 2.

As to possibility 3, if the previous month's meter was underread, then complainants received more gas energy than they were charged for in that month, but the high reading in the next month which is in dispute plus the underread amount in the previous month would equal the amount of gas actually consumed for those two months. Likewise, if only the meter reading for the month in issue was overread, the following month would necessarily reflect a lower reading than the amount of gas actually consumed and the two months' usage would exactly equal the total number of therms registered on the meter for those two months. However, the fourth possibility is effectively rebutted by the fact that the special October 6, 1981 reading of 7780 verifies the accuracy of the meter reading of 7707 on the meter reading date of September 18, 1981. This leaves us, finally, with the conclusion that complainants actually consumed the amount of gas for which they were billed.

It should also be pointed out that defendant's tariff contains a three-tier charge. The third tier is the most expensive charge per therm and is more than double the first or lifeline tier