

ORIGINAL

Decision 82 07 037 JUL 21 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Kenneth A. Dionne, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 Southern California Gas )  
 Company, )  
 )  
 Defendant. )

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(ECP)  
 Case 82-04-05  
 (Filed April 12, 1982)

Kenneth A. Dionne, for himself, complainant.  
Robert B. Puckett, for defendant.

O P I N I O N

Complainant alleges that his billing for gas energy for the months of August, September, and October 1981 is excessive and that after his meter was changed on October 20, 1981 his gas energy billing dropped considerably. Complainant alleges that the meter installed on October 20, 1981 averaged approximately .61 therms less per day than the meter which was replaced and therefore contends that the therms registered on his former meter were highly inaccurate for the months of August, September, and October 1981. Based on the calculations of complainant, he feels he was overbilled \$23.62 on the August 1981 billing, \$88.09 for the September 1981 billing, and \$21.45 for the October 1981 billing. The complaint seeks a total of \$133.16 as reparation for the amounts overcharged for those three billing periods.

Defendant Southern California Gas Company denies that complainant's billing was incorrect for the August, September, and October 1981 billing periods and requests that the complaint be dismissed. Defendant affirmatively alleges in its answer that complainant was billed at the appropriate residential rates during the period in question.

A hearing, as prescribed by Public Utilities Code Section 1702.5, was held before Administrative Law Judge William A. Turkish on June 10, 1982, and the matter was submitted on that date.

Kenneth A. Dionne and his wife testified on behalf of complainant. Robert B. Puckett testified on behalf of defendant Southern California Gas Company. The summary of the testimony given by Mr. and Mrs. Dionne is essentially as follows.

The Dionnes moved into their current residence in May 1978. They acknowledged that they moved into a larger home, which included a swimming pool, than their previous residence. Initially, they did not give too much thought to their gas bills as they had nothing to compare the bills with. Some time after May 1978, complainant, in checking with his neighbors, found that his bills for gas consumption were approximately double that of his neighbors. Complainant acknowledges that he had some problem with the pilot light on his gas space heater and, thinking that was the problem, had it repaired in May 1981. The billing for gas consumption did not decrease as a result of that repair and eventually complainant and his wife contacted defendant who initiated an investigation. A representative of the gas company came out to their house and found everything to be working properly.

Sometime after that visit, Mrs. Dionne contacted a gas company representative who suggested that the meter be changed. The meter was changed in October 1981 and complainant's gas energy consumption dropped to 95 therms for the month of February 1982, to 85 therms for the month of March 1982, to 67 therms in April 1982, and to 53 therms in the month of May 1982.

According to the testimony of complainant and his spouse, no changes were made in their living pattern following the change of meters. Complainant believes that several meter readings were estimated rather than actually read by the meterman and complainant states he saw the gas meterman walk by one month without reading the meter but cannot recall the particular month. Complainant shut off his pool heater on September 30, 1981. Prior to this the heater was set to operate four hours in every 24-hour period with the thermostat set at 80 degrees. The pool was allegedly used from the end of June to the end of September 1981. In the month of August 1981 complainant and his spouse were on vacation for one week and everything was turned off.

Defendant's position is that complainant has been properly billed for gas energy which he and his wife consumed and that no adjustment is warranted or appropriate.

Defendant's witness sponsored five exhibits which were received and he testified essentially as follows:

Defendant conducted a high bill investigation on October 7, 1981 and had a company employee go to the residence of complainant where a test for leaks was completed and all known appliances were checked. No leaks were found and all appliances were in operating condition. The meter reading on October 7 was 6318, which verifies the reading of 6280 on September 28, 1981. At the time of the high bill investigation,

the water temperature of complainant's water heater was set at 150 degrees which is approximately 30 degrees higher than necessary for adequate hot water. An examination of the gas appliances was made and it was found that complainant had a water heater rated at 42,000 British thermal units (Btu), a forced air heating unit rated at 80,000 Btu, a pool heater rated at 261,000 Btu, a clothes dryer rated at 18,000 Btu, and a fireplace lighter rated at 20,000 Btu for a total of 421,000 Btu input. This total Btu rating of all appliances indicates that complainant has the capability of using the amount of gas consumption billed for the months in question. The swimming pool heater alone would use 2.5 therms by itself for each hour of operation.

Defendant changed complainant's meter on October 20, 1981 and upon testing, found the meter running 2% fast at 135 cubic feet per hour and 1.5% fast at 400 cubic feet per hour. At the time the meter was replaced, it had a reading of 6354 which is again consistent with the September 28 and October 7 readings by defendant's meterman and high bill investigator. Defendant's Exhibit 2, which is a billing history for complainant, indicates that the usage for the months of August, September, and October 1981 appears to be consistent over a two-year period. According to the records of defendant, there were no reading errors, there were no overreads or underreads of the meter, and there is no indication that any of the meter readings were estimated. The 2% fast rate of flow found during the meter test at 135 cubic feet per hour rate of flow would account for no more than approximately 6 therms per month on the September 1981 billing usage of 299 therms. The 2% fast reading at 135 cubic feet per hour flow is acceptable and within the limits of accuracy prescribed by the Commission.

Discussion

The thrust of complainant's position is that the amount of the August, September, and October 1981 billings is much higher than the gas energy billings of many of his neighbors who have larger families and who use their pools more than complainant and that his high billings had to be due to the inaccuracy of the former meter which was replaced on October 20, 1981.

As in all complaint matters of this nature, we are confronted with the classic issue as to who bears the burden of proof. Because it is always the complainant who initiates this type of complaint, the law places the burden of proof upon complainant to prove that he did not or could not have consumed the amount of gas energy for which he was billed. If the burden of proof was otherwise, it would be an almost impossible task for defendant to prove that the amount of gas energy registered by its meter was actually consumed by complainant. That being the case, there is initially at the outset of this type of complaint a rebuttable presumption that the amount of gas energy registered by the meter was used. In this case, complainant and his spouse believe they could not have used the gas energy for which they were billed in August, September, and October 1981. 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.

The purpose of a meter is to register the amount of gas energy being consumed within a residence. The Commission, in its general orders, prescribes the standards of acceptable limits for the functioning of a meter. Since we cannot expect the utility or the Commission to determine the manner in which the gas energy was used as this would require an unacceptable intrusion into the lives of gas energy consumers, we must presume that the gas energy registered on the meter was actually consumed in some manner. We cannot make any determination based upon the evidence in this hearing on how it was consumed.

We do not doubt the sincerity of Mr. and Mrs. Dionne or their testimony concerning the manner in which the pool and other appliances are used, but we cannot share their view that it is impossible to consume the amount of gas energy for which they were billed in view of the total Btu rating of their appliances on the premises. While we do not dispute the testimony of complainant and his spouse, it simply is not sufficient to overcome or rebut the presumption that the gas energy was used in view of the meter test.

When a bill dispute exists concerning the amount of gas energy for which billed, there are several possibilities to account for the amounts of gas energy for which billed:

1. The meter is faulty;
2. A gas leak exists somewhere on the premises after the gas has gone through 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 reading was underread, then complainant received more gas energy than that for which he was charged for that month, but there would then be a high reading in the next month, assuming the meter was correctly read. However, the underread amount of the previous month and the high reading of the disputed month would still equal the amount of gas actually consumed for those two months. In this case there is no meter reading of any month or months prior to August, September, and October 1981 which appears to indicate an underread meter which would offset the high readings of those months. Likewise, as to possibility 4, if the meter reading for the three months in issue was overread, the likelihood of which is extremely slight, the correct meter reading in any following period would necessarily reflect a much lower reading than the amount of gas actually consumed. However, the fourth possibility is effectively rebutted by the fact that the special October 7, 1981 reading of 6318 verifies the accuracy of the meter reading of 6280 on the meter reading date of September 28, 1981. In addition, the meter reading on October 20, when the former meter was replaced, had a reading of 6454 which also verifies the previous two readings. This leaves us, finally, with the conclusion that complainant actually consumed the amount of gas energy which he was billed.

Complainant has failed to meet his burden of proof to provide us with some reasonable basis for concluding that he did not consume the gas energy in dispute. The fact that complainant's neighbors had lower gas bills than complainant is insufficient to prove that complainant did not use the amount of gas energy registered on his meter. Accordingly, we have no alternative but to deny the complaint.

Findings of Fact

1. Defendant made a high bill inspection at complainant's premises on October 7, 1981 finding all gas appliances operating properly with no leaks existing on the premises.

2. The meter reading of October 7 verified defendant's meter reading taken on September 28 by its meter reader.

3. On October 20, 1981 defendant removed complainant's meter for testing and found it to be registering within the acceptable limits of accuracy as prescribed by the Commission's general orders.

4. Complainant's gas appliances have a total Btu rating input of 421,000 Btu.

5. The gas appliances on the premises of complainant are capable of resulting in the amount of gas energy consumption for which billed in the months of August, September, and October 1981.

Conclusions of Law

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

2. Complainant failed to rebut this presumption and has not sustained his burden of proof in this matter.

3. The complaint should be denied.



O R D E R

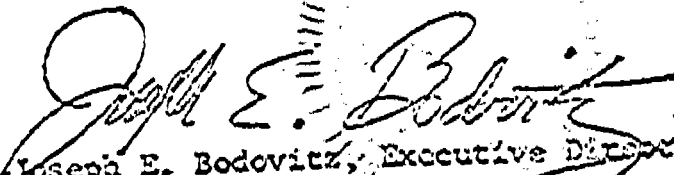
IT IS ORDERED that the complaint in Case 82-04-05 is denied.

This order becomes effective 30 days from today.  
Dated JUL 21 1982, at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D. GRAVELLE  
VICTOR CALVO  
PRISCILLA C. CREW  
Commissioners

Commissioner Leonard M. Grimes, Jr.,  
being necessarily absent, did not  
participate.

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

  
Joseph E. Bodovitz, Executive Director