

Decision 83 04 018 APR 6 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Chiles B. Lee,)
)
 Complainant,)
)
 vs.)
)
 Southern California Gas Company,)
)
 Defendant.)

(ECP)
Case 82-11-04
(Filed November 17, 1982)

Chiles B. Lee, for himself, complainant.
Rupert F. deLeon, for defendant.

O P I N I O N

The complaint of Chiles B. Lee concerns bills he received from Southern California Gas Company (SoCal) for December 23, 1981 and January 26, 1981. The complaint alleges that these bills are excessively high and suggests that usage was estimated and the meter was not read. Lee's bill for December 23 was \$131.46. His bill for January 26 was \$182.48. He requests that each of these bills be reduced to \$45, a figure which he believes accurately reflects his actual usage as shown in bills he received subsequent to the two bills in question. Lee also contends that his December bill should have been pro-rated from December 1, 1981 rather than being billed from November 27, 1981 since that is the date his tenants left and he moved back into his house.

SoCal's answer denies that the billings in question were incorrect and alleges that SoCal conducted a field investigation in late January 1982 which verified the meter reading for the December bill and also found that there were no leaks in the meter or in the house line. SoCal further alleges that on March 12, 1982 Lee's meter was changed and the old meter was tested and found to be registering accurately. Further, SoCal claims that each of the meter readings in question was an actual reading and not an estimate, that Lee requested gas service to commence on November 27, 1981, that Lee was billed at the correct rate, that the volume of gas consumed was accurately measured by the meter, that the meter was read accurately, and that the gas water heater and furnace in Lee's home were capable of consuming the volume of gas which was recorded on the meter. SoCal requests that the complaint be dismissed.

The issue before us is whether SoCal's billings were unjust, unreasonable, or inadequate as to Lee in December of 1981 and January of 1982.

On February 22, 1983 a properly noticed hearing was held in the Commission's Courtroom in Los Angeles before Administrative Law Judge Colgan under the Expedited Complaint Procedure described in PU Code Section 1702.1. The hearing was completed and the matter submitted on the same date.

Testimony

At the hearing Lee testified that he worked out of the country for 18 months and leased his house to a family of five or six persons between November 1979 and December 1981. He testified that he lives alone at the dwelling, that he does not come home until 6:00 p.m. or 6:30 p.m. most evenings at which time he turns on the gas furnace for 2 to 2-1/2 hours and then turns it off prior to going to bed at 8:00 p.m. or 8:30 p.m. every evening.

Lee also testified that his gas meter could not be seen from the sidewalk and access to it requires passage through a locked gate. He stated that SoCal had not had a key to this gate since he moved out of the house. For this reason, he believes the December and January high bills he received were a result of SoCal estimates rather than actual meter readings.

Lee explained that SoCal would not have had difficulty in reading the meter during the time his tenants occupied the house since people were at home during the daytime.

Rupert F. deLeon, representing SoCal, submitted written testimony at the hearing. The document was marked and received as Exhibit 1. He also offered Exhibit 2, a resume of the gas bills for Lee's house from January 26, 1981 through January 25, 1983; Exhibit 3, a high bill investigation form showing an investigation on January 23, 1982; Exhibit 4, a meter test form dated March 12, 1982; Exhibit 5, another high bill investigation form showing an investigation was completed on July 27, 1982; Exhibit 6, a synopsis of Lee's bills at the same residence between November 1978 and November 1979; and Exhibit 7, an application for service taken by telephone on November 17, 1981. Each of these exhibits was received in evidence. In addition, deLeon sent the Administrative Law Judge and Lee copies of three pages of microfiche meter reading records after the hearing concluded.

deLeon testified that Exhibit 3 verified the prior meter reading period. Upon examination he stated that verification simply means that the prior reading was lower than the investigator's reading. deLeon also noted that the exhibit shows a clock test was done for two minutes to check for leaks in the customer's house line. None was found. He stated that the document further shows the input Btu reading for the two gas appliances in Lee's house, a 40-gallon water heater and a forced air furnace. According to the document, the water temperature was set at 160 degrees at the time of this investigation and the thermostat was set at 90 degrees. deLeon testified that the water temperature was 30 to 40 degrees higher than necessary for normal use and would contribute to higher usage. He said the recommended setting for daytime furnace use is 68 degrees.

deLeon also claimed that 93% of the hours represented by Lee's December and January billings had recorded outside temperatures below 65 degrees which would cause Lee's heating system to be operating most of the time, if set at 90 degrees.

According to deLeon's testimony, Exhibit 4 is a meter test done on March 12, 1982 after Lee's meter was changed. The test shows the meter was measuring accurately.

Exhibit 5 is another high bill investigation form which deLeon stated was the result of the second complaint from Lee. During the investigation the appliances were checked and the house line was again rechecked. No leaks were found.

For purposes of comparison, deLeon offered Exhibit 6, which shows Lee's pattern of gas usage between late 1978 and late 1979. The pattern of usage for that period is similar to that shown on Exhibit 2, with thermal units of 473, 382, and 340 for the months of December, January, and February, respectively, after which usage quickly goes down to the 100s and then to double digits.

deLeon explained that Exhibit 7 is a form filled out at the time the customer calls in a request for service. The exhibit indicates that Lee called the gas company on November 17, 1981 and requested service to begin on November 27, 1981. deLeon stated that it is normal practice for the service representative taking the telephone call to ask the customer which date they wish the gas service turned on.

On cross-examination deLeon testified that more than 90% of all gas meters are actually read, and not estimated, each month. When usage is estimated, it is noted on the customer's bill, he said.

Following deLeon's testimony, Lee was permitted to reopen his case and call Teryl L. Soneff. Ms. Soneff testified that she is a billing services supervisor for SoCal's Metropolitan Division, which includes Lee's residence. She stated that there are 235,000 meters and 22 readers to read them in the Metropolitan Division. She further stated that each reader reads approximately 500 meters per day in dense areas such as the Metropolitan Division. When asked how a reader could get to Lee's meter, she stated that she did not know, but the record used by the meter reader simply noted the location of the meter. She explained that when special circumstances make the meter inaccessible, such circumstances are noted by a code on the record. These circumstances include locked doors, elevator access, and the like. She further stated that meters are often read across the fences of neighbors.

On cross-examination Soneff acknowledged that meter readers have occasionally failed to read meters they reported reading.

In rebuttal, Lee testified that his neighbor would not permit the meter reader onto the neighboring property to read his meter and that he only turned his heater up to 90 degrees for the very short time between when he came home and when he went to bed making it impossible for these readings to be accurate.

Discussion

The record indicates that the meter was functioning accurately. In fact, Lee stated during the hearing that he did not contest that fact. The only disputed issue with respect to the meter readings, then, is whether the number of thermal units and corresponding charges listed on Lee's bills for December 1981 and January 1982 were correct.

Lee's complaint suggests that SoCal relied on gas usage of the family which occupied the dwelling prior to this return in arriving at estimates for December and January rather than actually reading the meter. This theory does not stand up to scrutiny for two reasons. First, the highest meter reading for the previous tenants during the prior six months was 104 thermal units. Second, if we assume, as Lee has, that the meter was read during the occupancy of the prior tenants and if we further assume that the meter was accurate, as Lee concedes, then the only explanation for the jump in meter readings between November 27, 1981 and January 6, 1982 is that the gas in question was used at Lee's residence during that period of time. We find the 1978-79 meter readings set out in Exhibit 6 rather compelling in this regard. They show a pattern of even higher usage by Lee during corresponding months followed by similar much lower usage for the remainder of the year. When Lee was asked about the 1978-79 billing period he stated that he lived alone during that period too, but often had guests visiting him. He stated that these

guests may have kept the heater going during the day while he was at work. However, if guests were present during most of that year their presence is not reflected by the gas usage after February of 1979.

In all complaint matters the complainant has the burden of proving that the harm alleged actually occurred. We realize that it is a difficult task for an individual to prove that he or she has been improperly billed by a utility. However, in this case, the relevant documents kept in the ordinary course of business by the utility and the testimony of deLeon and Soneff tend to support the position of SoCal in this matter. There is little beyond speculation to support Lee's contention.

It is our experience in dealing with matters such as the one presently before us that customers occasionally and unintentionally forget to turn off a high energy consuming appliance in their homes. Failure to turn off a furnace set at 90 degrees before retiring or before leaving for work in the morning for even a few days can result in an extraordinarily high gas bill at the end of the month. We do not know if that is what happened in this case, but we must conclude that the complaint filed in this matter has not been substantiated by the evidence presented.

Likewise, there is no evidence to cast doubt on the accuracy of Exhibit 7, showing Lee requested service to commence on November 27, 1981, a Friday, rather than December 1, 1981, a Tuesday, as he alleges.

Findings of Fact

1. Complainant Lee received unusually high gas bills from defendant SoCal in December 1981 and January 1982.

2. The bills were based on actual meter readings.

3. The meter in question was tested and found to be accurate.

4. Service was properly commenced on the date ordered, November 27, 1981.

5. Lee has withheld payment of his December 23, 1981 bill and his January 26, 1982 bill from SoCal.

Conclusions of Law

1. The billing of SoCal is just, reasonable, and adequate as to Lee.

2. The amounts of \$131.46 due on December 23, 1981 and \$182.48 due on January 26, 1982 are now due and owing to SoCal.

O R D E R

IT IS ORDERED that:

1. The relief sought in Case 82-11-04 is denied.
2. The total amount of \$313.94 owed by Chiles B. Lee to Southern California Gas Company shall be paid promptly.

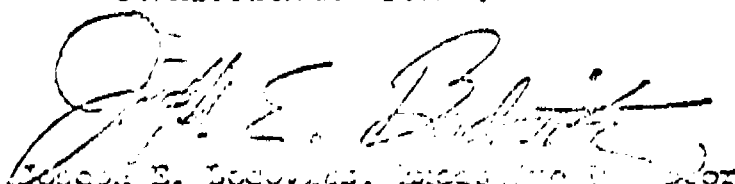
This order becomes effective 30 days from today.

Dated APR 6 1985, at San Francisco, California.

LEONARD M. CRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. CREW
DONALD VIAL
Commissioners

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


Joseph E. DeLoach, Director

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SoCal's answer denies that the billings in question were incorrect and alleges that SoCal conducted a field investigation in late January 1982 which verified the meter reading for the December bill and also found that there were no leaks in the meter or in the house line. SoCal further alleges that on March 12, 1982 Lee's meter was changed and the old meter was tested and found to be registering accurately. Further, SoCal claims that each of the meter readings in question was an actual reading and not an estimate, that Lee requested gas service to commence on November 27, 1981, that Lee was billed at the correct rate, that the volume of gas consumed was accurately measured by the meter, that the meter was read accurately, and that the gas water heater and furnace in Lee's home were capable of consuming the volume of gas which was recorded on the meter. SoCal requests that the complaint be dismissed.

SS ~~The Commission's jurisdiction over this matter is found in Public Utilities (PU) Code Section 761 which requires us to order changes in utility practices whenever we find them to be unjust, unreasonable, or inadequate.~~ The issue before us is whether SoCal's billings were unjust, unreasonable, or inadequate as to Lee in December of 1981 and January of 1982.

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