

ORIGINAL

Decision No. 91556 APR 15 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Tom Arbuckle,)
)
 Complainant,)
)
 vs.)
)
 Southern California Gas)
 Company,)
)
 Defendant.)

(ECP)
 Case No. 10805
 (Filed November 13, 1979)

Tom Arbuckle, for himself, complainant.
Robert Puckett, for defendant.

O P I N I O N

Complainant alleges that his gas meter was read wrong for the period from April 24 to May 23, 1979 and that as a result, he was improperly billed for that period in the amount of \$232.62. His complaint further alleges that the reason it did not correct itself the next month was because the error was made when the numbers changed back to "000". He seeks an order refunding the amount of \$267.13, which he deposited with the Commission, covering the disputed bill as well as the bills for the months of June, July, August, and September 1979.

Defendant's answer denies complainant's allegations and alleges that at all times at issue herein it billed complainant for gas actually consumed. Defendant also alleges that since the amount in issue is less than \$750, the complaint is not properly before this Commission and that it is subject to Rule 13.2 of the Commission's Rules of Practice and Procedure. Defendant requests that the complaint be dismissed.

On January 16, 1980 the Administrative Law Judge to whom the matter had been assigned issued a ruling that the said case is determined to be, and is designated as, an Expedited Complaint Procedure (ECP) as provided by Section 1702.1 of the Public Utilities Code and Rule 13.2 of the Commission's Rules of Practice and Procedure.

After notice, a hearing on the matter was held in Los Angeles on February 13, 1980 before Administrative Law Judge William A. Turkish, and the matter was submitted on that date.

Tom Arbuckle testified on his own behalf. He introduced and explained Exhibit 1, a graph depicting his monthly gas bills from August 1977 to May 1979; Exhibit 2, his gas bill for the period from March 26 to April 24, 1979; and Exhibit 3, his gas bill for the period from April 24 to May 23, 1979. He testified that he does not dispute the fact that the gas meter serving his property was working properly. He contends that the meter was read wrong by the meter reader and that in no way could he have consumed the 869 Ccf in the month in question as indicated by defendant's meter reading taken on May 23, 1979. He admits that the meter readings taken on June 22, 1979, showing 41 Ccf of consumption, and on July 24, 1979, showing 22 Ccf of consumption, were accurate.

Complainant further testified that his residence contained approximately 1,000 square feet and admitted that he installed a jacuzzi spa in November or December 1978. However, he contends that the jacuzzi was not running continuously because if it was, it would have melted. He stated that when he received his April bill covering the period from March 26 to April 24, 1979, it indicated a steep rise in consumption, and he intended to protest that bill but did not

get around to doing so. His reason for alleging that the meter was read wrong in May is based on the fact that he has two Doberman dogs in the yard and that the meterman would probably have had to read the meter through a spyglass from the fence. According to complainant's theory, a wrong reading was taken in April when the meterman recorded a meter reading of 110, which complainant believes could possibly have read 990. Another theory advanced by complainant is that the error occurred in April or May when the numbers on the meter passed the "000" mark and started registering all over again. Since the high bill of May, and the subsequent changing of the meter to a larger meter by defendant, complainant states the size of his gas bills has dropped sharply.

Robert Puckett testified on behalf of defendant. He introduced and explained Exhibit 4, a chronology of complainant's account showing meter reading dates, meter readings, number of Ccf and therms consumed, and billing factors and bills for each month from January 6 through January 24, 1980; Exhibit 5, a read/verify order initiated on June 15, 1979 by computer action because of the unusually high May 23, 1979 reading; Exhibit 6, results of a high bill investigation; Exhibit 7, Meter Remove Order; Exhibit 8, Report of Meter Test; and Exhibit 9, showing complainant's appliances, Btu rating, and appliance capacity in cubic feet per hour.

Mr. Puckett testified that unusual or high meter readings automatically trigger an investigation by defendant's computers as evidenced by Exhibit 5. Upon investigation, it was noticed by defendant's representative that complainant had installed a jacuzzi spa and pool heater on his property. He testified that a high bill investigation was conducted on July 3 as evidenced by Exhibit 6. The instructions on Exhibit 6

indicate that complainant was "worried about 5/23 (meter reading). Could mtr. have turned over - 3 dial." The investigation indicates the following appliances on the premises: a gas range with a 56,000 Btu rating, a 30-gallon water heater with a 46,000 Btu rating, a forced air furnace with a 75,000 Btu rating, and a pool heater with a 175,000 Btu rating. The investigator found the spa water temperature to be 90 degrees and the spa heater controlled by both a thermostat and clock. The "on" time set on the spa heater clock was 3 hours in 24. The central heating thermostat was set at 74 degrees, and the water heater temperature was set at 140 degrees. The investigator turned both the central heating and the jacuzzi spa off. In his remarks section is written: "Possible misread 4/24??." The witness testified that complainant's 3-dial meter was thereafter removed on July 10, 1979 and replaced with a 4-dial meter. The 3-dial meter was then tested and found to test -1.5 at 50 cf/hour and -2.0 at 175 cf/hour. According to the witness, complainant's appliance capacity is 336 cfh, or nearly 4 therms per hour, and the jacuzzi pool heater running 3 hours per day would be sufficient to cause the high bill experienced by complainant.

Discussion

Both parties, supported by the evidence, concede that complainant's high bill for the month of May was not due to any leak of gas or to a faulty meter. This leaves only two other possibilities. Either complainant consumed the gas as indicated by the meter readings, or else the meter was read wrong as suggested by complainant.

An examination of Exhibit 4 reveals a monthly gas consumption ranging from a low of 35 Ccf to a high of 143 Ccf during a seven-month period from January 6 to November 21, 1978.

During this period, there was no service from June 22 to November 6, 1978. The high consumption of 143 Ccf occurred from January 6 to February 23, 1978, a cold-month period. The remaining months averaged 53 Ccf. Complainant installed the jacuzzi spa with the pool heater sometime in November or December 1978. Thereafter, his gas consumption rose to 129 Ccf from November 21 to December 21, 1978; increased to 144 Ccf from December 21 to January 24, 1979, then dropped to 119 Ccf between January 24 and February 23, 1979, and remained at 119 Ccf between February 23 and March 26, 1979; from March 26 to April 24, 1979 it climbed to 219 Ccf; and in the following month it rose steeply to 869 Ccf. Thereafter, it dropped sharply to 41 Ccf between May 23 and June 22, 1979 and remained at a monthly average of 39 Ccf for the remainder of 1979. It is thus seen that the high consumption of 869 Ccf during the period from April 24 to May 23, 1979 appears to be unusually high and inconsistent with complainant's history of usage. Complainant advances the possibility that the April 24 meter reading was read wrong and possibly read only 910 instead of 110. Thus, complainant postulates the May 23 reading of 979 would be reasonable and would show a consumption of only 69 Ccf instead of the 869 Ccf which results from the recorded meter reading of 110 on April 24. This is so because the meter starts again from zero after it reaches 999.

While this postulation is within the realm of possibility, the results would also be inconsistent with complainant's usage history. For instance, if we assume complainant's hypothetical misread of the April 24 meter reading, it would result in a gas usage of only 19 Ccf for the period from March 26 to April 24, 1979. This would be inconsistent with the previous four months' usage, which averaged 128 Ccf per month, as well as compared to

the same period of the previous year when he did not have a pool heater and used 45 Ccf. While it is true that his gas usage dropped sharply following the high bill month for the remainder of the year in contrast to the first half of the year, the reasons for such drop are speculative at best.

Since defendant's representative shut the pool heater off when he made the high bill investigation, it is possible that it either remained off or was used only sparingly thereafter.

We next consider the only other viable possibility. Namely, that complainant consumed the amount of gas indicated, either knowingly or unknowingly. Since it can be assumed that household appliance usage generally is consistent from month to month, except for the winter months when space heating usage is increased, it is reasonable to assume that the 175,000 Btu pool heater is the most likely cause of the high bill month. If the pool heater was only operating for 3 hours per day, as indicated by the timer, it could not reasonably have caused the consumption of 869 Ccf. It would only account for 150 Ccf over a 30-day period. Even if the pool heater was operating for as much as 8 hours per day, it would account for only 401 Ccf during a 30-day period. Assuming that complainant used his gas range for 3 hours per day, his water heater for 8 hours per day, and his forced air furnace for 8 hours per day, his entire gas usage would only total approximately 727 Ccf for the month. Thus, in order to use 869 Ccf, the pool heater would have to have been operating almost 11 hours per day for 30 days.

It is doubtful that complainant would deliberately have his pool heater operating for 11 hours each day for at least two reasons. In the first place, if he were so inclined, he would have been using it for that length of time in the

earlier, colder months, and his gas usage does not indicate this. Secondly, it would be reasonable to expect the first month's gas consumption of a newly installed jacuzzi and heater to be unusually high since an owner is more likely to utilize his new jacuzzi frequently in the first month without realizing the amount of gas the heater will consume. Thereafter, after having seen his first gas bill with the heater in operation, a prudent person is more likely to limit the gas usage so as to control gas costs. That being the case, it would not be reasonable to believe that complainant, an employed individual, would deliberately increase his heater operation to 11 hours each day after viewing his gas bills for the previous five months and noticing the considerable increase since installation of the jacuzzi and heater. He would certainly know that such usage would cause his gas bill to literally soar. If it were used for 11 hours each day, it is more likely the result of a malfunctioning timer clock, or complainant putting the switch on manual and inadvertently leaving it on - the latter, although possible, is not highly probable. If complainant had inadvertently left it on, surely he would have discovered it before 30 days had elapsed - and if he had not discovered it, it would have run continuously and consumed more than the 869 Ccf consumed for all his appliances for the month. The same reasoning applies to a malfunctioning timer clock. If the clock was failing to turn off the heater, it would run continuously and a higher gas bill would have been the result unless it malfunctioned only the last 13 days prior to the meter read of May 23, 1979. This does not appear plausible either since neither complainant nor defendant's inspector reported that the timer clock had been found to be malfunctioning. Since the meter was tested and found to be

operating properly and there were no gas leaks found, we must conclude that the gas was actually consumed. Since we indicated above that it was unlikely that complainant knowingly consumed the amount of gas reflected in his high bill month, equitable considerations compel us to conclude that complainant did not enjoy the benefits of such gas consumption and that he should be granted reparation to the extent of 50 percent of the gas bill covering the period from April 24 to May 23, 1979. We believe 50 percent to be reasonable which would make his cost for that period \$116.31, which is still higher than for any previous month.

Findings of Fact

1. Complainant is a consumer of gas energy furnished by defendant.
2. Complainant's bill covering the period from April 24 to May 23, 1979 indicates a gas usage of 869 Ccf.
3. Complainant installed a 175,000 Btu pool heater on his premises in November or December 1978.
4. Complainant's gas meter was tested and found to be operating within the tolerance permitted by this Commission.
5. Complainant's premises and appliances were tested and no gas leaks were found.
6. It is reasonable to assume that complainant's pool heater is the cause of his high bill month.
7. Complainant did not knowingly cause his pool heater to remain on and consume as much gas as his high month bill would indicate.
8. Complainant did not receive the beneficial use of the amount of gas his bill for the period from April 24 to May 23, 1979 indicates was consumed.

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Conclusion of Law


We conclude that complainant should receive reparation in the amount of \$116.31 which is 50 percent of his high bill month. This leaves him with a bill of \$116.31 for that period which is higher than any previous or subsequent bill but which, in view of the circumstances, we believe is reasonable.


O R D E R


IT IS ORDERED that the relief requested is granted in part. Deposits by complainant in the sum of \$267.13, which have been deposited with the Commission, shall be disbursed as follows: \$116.31 shall be disbursed to complainant. The remaining funds on deposit with the Commission covering the remainder of the April 24 to May 23, 1979 bill, as well as the funds covering the May 23 to June 22, 1979, the June 22 to July 24, 1979, the July 24 to August 22, 1979, and the August 22 to September 21, 1979 bills in the amount of \$150.82 shall be disbursed to defendant.

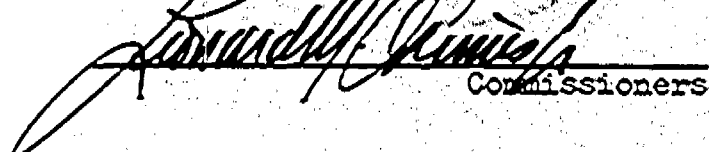
The effective date of this order shall be thirty days after the date hereof.

Dated APR 15 1980, at San Francisco, California.



President






Commissioners

Commissioner John E. Bryson,
being necessarily absent, did
not participate.