

ORIGINAL

Decision No. 92983 MAY 5 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

TONY BALACIO,
 Complainant,
 v.
 SOUTHERN CALIFORNIA GAS COMPANY,
 Defendant.

(ECP)
 Case No. 10940
 (Filed January 13, 1981)

ORDER OF DISMISSAL

On September 30, 1980 complainant (Balacio) filed an informal complaint (serial No. 802-05355) against defendant (SoCal). Balacio contended that SoCal wrongfully claims that he, as new lessee of premises at 1120 Montecito Drive, Los Angeles, CA 90031, is responsible for bills accumulated there by someone else. Gas was turned on in Balacio's name on July 6, 1980. The informal complaint was closed on November 14, 1980, without being resolved. At that time Balacio was given a copy of the Commission's Rules of Practice and Procedure.

Case No. 10940 was filed by Balacio on January 13, 1981 under the Commission's Expedited Complaint Procedure pursuant to Rule 13.2 of the Rules of Practice and Procedure and Section 1702.1 of the Public Utilities Code. The amount of money claimed by SoCal to be due is \$296.02. At no time during the pendency of the informal complaint or in Case No. 10940 did Balacio deposit with the Commission the amount claimed to be due as required under Rule 11 (Disputed Bills) appearing on SoCal's revised Cal. P.U.C. Sheet No. 11558-G. Rule 11 reads, as follows:

"(a) In case of a dispute between a consumer and the Company as to the correct amount of any bill rendered by the Company for the service of gas furnished to the consumer, the Company will notify the consumer to make remittance payable to the California Public Utilities Commission and deposit the amount of money claimed by the Company to be due, with the California Public Utilities Commission, State Office Building, Room 5109, 107 South Broadway, Los Angeles, California, 90012. Upon receipt of said deposit, the aforesaid Commission will investigate the facts and communicate its findings to both parties.

"(b) Failure on the part of the consumer to make such deposit within fifteen (15) days after written notice by the Company that such deposit be made or service may be discontinued shall warrant the Company in discontinuing the service of gas to the consumer without further notice."

This notification appears on the back of each customer's original bill. A similar notice appears on every regular bill, pursuant to SoCal's Rule No. 5.

On February 13, 1981 SoCal filed its answer to the complaint in Case No. 10940. SoCal denies each and every allegation of the complaint and of a September 21, 1980 Mailgram attached to the complaint. SoCal alleges that Balacio, Herbert Marshall (or Herbert Marshall Lee), Benjamin Wooten, Charles T. Lee, and Frank A. Smith (or Frank H. Smith) are all present residents of the dwelling at 1120 Montecito Drive, Los Angeles, California; that they have all been residents of said dwelling continuously or at various times since November 20, 1979; and that they are all collectively and individually responsible for all outstanding bills for gas service to that address since that date. All such bills have been transferred to a single account, that of Balacio, the present SoCal customer of record. The current amount assertedly owed by Balacio to SoCal for gas service rendered is \$296.02.

SoCal alleges that Marshall (or Marshall Lee), Wooten, Charles Lee, and Smith have, since November 20, 1979, failed to pay for gas service rendered to their residence at 1120 Montecito Drive. SoCal also alleges that Balacio, Marshall, Lee, and Smith have knowingly issued and passed to SoCal numerous checks on closed bank accounts as payment for such gas service, and that Wooten, Lee, Smith, and Balacio have frequently changed their SoCal account among their various names, all in an effort to avoid paying their bills for gas service rendered by SoCal, to defraud the company. In support of its answer SoCal attached declarations of Leonard Scott, Majorie Durkee, and Frances Barbour, company employees who dealt personally with Balacio and others concerning the gas bills involved.

On February 26, 1981 the Commission's Calendar Clerk tried to set the matter for hearing for March 9, but Balacio asked that hearing be postponed until after April 21. He called the assigned Administrative Law Judge (ALJ) and made the same request. He said he was going on a Red Cross project in Canada and that he also needed to subpoena witnesses. The ALJ explained that under Rule 13.2(d) of the Rules of Practice and Procedure a hearing shall be held within 30 days after the answer is filed (on or before March 16). Balacio told the ALJ he was willing to have the expedited complaint recalendared for hearing under the Commission's regular hearing procedure (Rule 13.2(g)). Balacio was informed by the ALJ that he must first deposit with the Commission the amount of \$296.02 claimed by SoCal to be due. He indicated he would make the deposit, but no such deposit has been received. Between February 26 and March 11 several attempts were made by the Calendar Clerk and the ALJ to contact Balacio by telephone. Parties answering stated he was out of town.

On March 3, 1981 SoCal filed a motion to dismiss the complaint and for an order directing complainant to make full payment or have gas service terminated. SoCal states that Balacio has been receiving regular bills for gas service since August 1980 and has been adequately notified in compliance with its Rules 5 and 11 of the requirement that the disputed amount be deposited with the Commission.

On March 11, 1981 the attorney for SoCal sent a letter to the ALJ stating that Balacio is no longer SoCal's customer of record at 1120 Montecito Drive in Los Angeles, and as of March 4, 1981 Victor Wells assumed responsibility for bills at that address.

Since Balacio has not made the required deposit with the Commission no good purpose would be served by keeping this matter open. Case No. 10940 should be dismissed for lack of prosecution.

C.10940 ALJ/ems

IT IS ORDERED that Case No. 10940 is dismissed.

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

Dated MAY 5 1981 , at San Francisco, California.

John E. Boyer President
Richard D. Stovall
Thomas J. [unclear]
Antonio Cabre
Priscilla C. Green Commissioners