

Decision 10-07-039 July 29, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Gerald T. Grady Jr.,

Complainant,

vs.

California-American Water Company (U210W),

Defendant.

(ECP)
Case 10-05-012
(Filed May 12, 2010)

Gerald T. Grady, Jr., in pro per, complainant.
Beverly Hori, Customer Service Superintendent, for
California-American Water Company, defendant.

DECISION ON EXPEDITED COMPLAINT PROCEDURE COMPLAINT

Administrative Law Judge Victor D. Ryerson heard this matter on June 25, 2010, in Monterey. The hearing concluded, and the matter was submitted, on that date.

Complainant Gerald T. Grady, Jr. (Grady) seeks to be excused from paying \$2,643.10 in water bills currently owed to Defendant California-American Water Company (Cal-Am) as of May 5, 2010, plus any additional amounts billed after that date, and an order requiring Cal-Am to remediate the presence of air in his water lines. Grady claims this is a continuing problem that he first observed shortly after he and his wife purchased their residence at 10631 Hidden Mesa Place, Monterey, in 1994. He believes the presence of air in the water meter or in his lines is the cause of his high water bills.

Approximately 12 years ago, the Gradys began landscaping their property, and about 10 years ago, they installed a drip irrigation system. Grady noticed that his metered water usage increased “geometrically” following installation of the system. He also noticed that their shower and certain faucets would “sputter/spit,” indicating the presence of air in the water lines. Grady contacted the local Cal-Am office in an effort to resolve the problem, but the situation persisted. Grady also contacted Neptune Technology Group, Inc., manufacturer of the meter at his residence, and on September 9, 2005, obtained a letter from that company confirming that “[t]he performance of a positive displacement water meter can be affected by the presence of air.” Possible effects include over-registration of usage by the meter.

The cause of the air in Grady’s system, or whether it originated in Cal-Am’s main or connection, was never conclusively established, despite efforts by both parties. However, in April 2009 Cal-Am replaced the main serving the Gradys’ residence and several others at the upper end of Hidden Mesa Place. Grady claims that the presence of air in his lines persisted after the main replacement, and attributes the cause to an undetermined problem on Cal-Am’s side of the meter. He points to the absence of any evidence of leakage on his property, and denies that any appliance connected to the system at his residence could be causing air to enter the system.

Since replacing the main in 2009, Cal-Am has repeatedly tested for the presence of air on its side of the meter, as well as testing at least once on the Gradys’ side. Testing on Cal-Am’s side included attaching a clear tube to the meter and observing whether air was present as the water entered the meter; none was observed. None of Cal-Am’s testing disclosed the presence of air at any time. However, Jason Morgan, a licensed plumbing contractor, credibly

testified that he had observed air in the water coming from a spigot on the property the night before the hearing, and Cathi Nystrom, the Gradys' next door neighbor, also testified that she has air in the water lines at her residence.

Although Cal-Am denies any responsibility, since April 9, 2004, it has waived payment of a total of \$4,685.28 of Grady's bills, nearly 37 percent of the \$12,750.87 total as of the date the complaint was filed. There is no basis in the evidence to determine the amount of excess metered usage, if any, or what an appropriate adjustment would be if it were established. Cal-Am has characterized the amounts it has waived as "goodwill adjustments" because of the inconclusive evidence concerning the problem or its cause.

Grady has paid \$5,422.49 of his bills. The \$2,643.10 difference between the total payments and adjustments, on one hand, and the billed total, on the other, is the amount remaining unpaid as of the date the complaint was filed. Grady does not believe he should pay Cal-Am this sum at all, nor any additional amount that is accruing, as long as the problem persists. We disagree that Grady is entitled under any circumstances to receive his water service at no cost, and we will deny that part of his complaint.

Cal-Am's witness characterized the goodwill adjustments made through October 2, 2008, as "generous" in relation to the total amount billed. We agree. However, we believe that an additional adjustment of \$500 should be made for the period from October 2008 until the main was replaced, leaving a net amount of \$2,143.10 due. Replacement of the main, which Cal-Am's subsequent testing indicated was effective, was a reasonable response to Grady's complaints. Accordingly, further adjustment of Grady's bills after the new main was installed is not justified.

Under Cal-Am's tariff Rule No. 16A.1.b, the Gradys' service connection determines the point of delivery of their water service. Beyond the meter, Grady, and not Cal-Am, is responsible for any problem with the system. The testimony indicates that the existence of air in the system, if any, may be sporadic, and its cause has never been established. We agree with Grady that additional testing and remediation could be helpful. Accordingly, at Grady's option, we will order Cal-Am to engage, at its expense, a qualified independent engineering consultant firm to determine the existence and, if found, the cause of the problem with the presence of air, inaccurate water metering, and increased metered usage at Grady's residence.

If such a problem is found on Cal-Am's side of the meter, or with the meter itself, we further order Cal-Am to take all necessary remedial action to repair its system to prevent the occurrence of the problem at its sole expense. However, if the problem or its cause is determined to be wholly on Grady's side of the meter, we authorize Cal-Am to be reimbursed in full by Grady for the cost of the consulting study. This is no more than Grady would have to do himself in an effort to locate a problem on his property.

Assignment of Proceeding

John A. Bohn is the assigned Commissioner, and Victor D. Ryerson is the assigned Administrative Law Judge in this proceeding.

O R D E R

IT IS ORDERED that:

1. California-American Water Company shall adjust the amount of the outstanding balance due from Complainant Gerald T. Grady, Jr. in this matter by \$500.00, leaving a balance due of \$2,143.10 as of the date the complaint was filed.

2. No further adjustment or refund shall be due to Complainant with respect to this matter pending the completion of repairs by California-American Water Company as provided in this order.

3. If Complainant agrees to the terms of the procedure set forth in paragraph 4 of this order, California-American Water Company shall effect inspection and repair of its system and Gerald T. Grady, Jr.'s connection and facilities as provided therein.

4. California-American Water Company shall, within 30 days of receiving Complainant's consent in writing, and at its sole expense, engage a qualified independent engineering consulting firm to determine the existence of, and, if found, the cause of the presence of air in the customer's lines, inaccurate water metering, or increased metered usage at 10631 Hidden Mesa Place, Monterey. If such a problem is established, and is determined to originate entirely or in part on California-American Water Company's side of the meter or with the meter itself, we further order California-American Water Company to bear the full cost of the consulting study, and immediately to undertake at its sole expense all necessary steps to repair its meter and/or its system to prevent any recurrence of the problem. However, if the problem or its cause is determined not to exist, at least in part, in its meter or on its side of the connection, we authorize California-American Water Company to be reimbursed fully by Gerald T. Grady, Jr. for the cost of the consulting study, and to collect such amount through its tariff procedure if necessary.

5. Case 10-05-012 is closed.

This order is effective today.

Dated July 29, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners