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CHIEF CLERK'S OFFICE

Lawana Sumler-Anderson :
-vs- : 06-0290
Peoples Gas Light and Coke Company :
Complaint as to billing/charges :
in Chicago, Illinois. :

RESPONDENT'S DRAFT PROPOSED ORDER

Procedural History

On April 6, 2006, Lawana Sumler-Anderson ("Complainant") filed a complaint against The Peoples Gas Light and Coke Company ("Respondent" or "Peoples Gas") with the Illinois Commerce Commission ("Commission") alleging that for the months of December 2005 through February 2006 she was improperly billed for gas services for her property at 1423 West 71st Place, Chicago, Illinois ("the Property"), in the amount of \$1,200.00 because her primary source of heating was electricity..

Pursuant to notice given in accordance with the law and the rules of the Commission, this matter came on for a status hearings on April 24, 2006 before a duly authorized Administrative Law Judge ("ALJ") of the Commission at its offices in Chicago, Illinois. Complainant appeared pro se and Respondent was represented by counsel. On June 17, 2006, this matter came on for evidentiary hearing. Complainant testified on her own behalf and Brian Schmoltdt, a billing specialist with Respondent, testified on behalf of Peoples Gas. At the conclusion of the hearing on June 17, 2006, the record was marked "Heard and Taken."

Testimony of Parties

Complainant testified that she has been the owner of the Property, a single-family home consisting of a basement, first floor and second floor with four bedrooms and two baths. Her bedroom is on the first floor. There is an additional bedroom on the first floor. The basement is finished.

Complainant testified that in addition to weatherizing her Property she purchased a 4500 BTUs per hour heater/fireplace that heats the entire first floor of the Property. She testified that she has a heater in the laundry area and in the basement so that the pipes do not freeze. She keeps her thermostat at 60 degrees. The fireplace is in the living room and Complainant provided a picture of it, Complainant's Exhibit 1 Complainant provided a bill activity statement from Commonwealth Edison Company indicating increases in electric usage between December 2005 to March 2006, Complainant's Late-filed Exhibit 2. Complainant's Late-filed Exhibit 3 is a picture of the fireplace and the bill for it.

Mr. Schmoldt began his testimony by providing Complainant's gas bills for the eight months between October 2005 and June 2006, Respondent's Group Exhibit 1. He pointed out that all the bills were based upon actual readings. Mr. Schmoldt provided a transaction history for Complainant's gas account from December 27, 2002 to April 25, 2006, Respondent's Exhibit 2. He pointed out that the balance on Complainant's account as of April 25, 2006 was \$959.56. Mr. Schmoldt then provided a meter reading history of the Complainant's account, Respondent's Exhibit 3.

Respondent's Exhibit 4 was a gas history of Complainant's account prepared by Mr. Schmoldt. Respondent's Exhibit 4 was a summary of Complainant's gas usage for the months between November 2003-April 2004, November 2004-April 2005, and November 2005-April 2006. He testified that while Complainant's gas usage has gone down, her bills have not. He testified that on January 28, 2006 the old meter was removed and replaced. The meter was tested in February 2006, Respondent's Exhibit 5, and was recording accurately within the limits set forth by the Commission.

Commission Analysis and Conclusions

In summary, Complainant contends that for much of the period between March 2003 and March 2005, actual readings were made by Peoples Gas of the Property's second floor gas meter, yet she never received a bill for gas service during that time period and no one resided on the second floor. It was only when she applied for gas service in March 2005 that she received a gas bill for the March 2003-March 2005 period. Since no one resided on the second floor and she did not receive the benefit of gas service, she should not be responsible for the \$3,760.99 gas bill.

Mr. Schmoldt testified that the second floor gas meter was locked off on March 19, 2003. It appears that on October 29, 2003, a final bill was issued to Bennie Barr, for gas service to the second floor. (Complainant's Exhibit 2) Since service was terminated on March 19, 2003, there was no Respondent's customer of record to bill until Complainant applied for service on March 4, 2005. While there were many actual gas readings, particularly in 2004, Mr. Schmoldt's explanation that there was no customer of record to bill for such service is reasonable. After service was terminated in March 2003, there was no customer of record and the second floor gas account became inactive until Complainant applied for service in March 2005. It is also plausible that despite the fact that there is no evidence of tampering with the second floor meter lock, it is possible to remove the lock without meter tampering. It is quite clear that when Respondent's personnel went out to activate service to the second floor on March 4, 2005, the meter was already on and recording gas usage. Previously, when the meter was locked off on March 19, 2003, the gas meter was read. The second floor meter was tested by Respondent and found to be recording gas usage accurately.

The amount of gas used from March 19, 2003 to March 4, 2005 is not at issue. What is at issue is whether Complainant as the building owner should be held responsible for the gas bill for the period in question. There is no question that Respondent read the second floor gas meter many times during the March 2003-March 2005 period, but did

not bill anyone for the gas service. There is no question that based upon actual readings of the second floor gas meter, gas was consumed. It is also evident that the prior customer of record, Bennie Barr, was not the customer of record for the period in question.

This is an instance where there has been an unauthorized use of gas for the period of March 19, 2003 to March 4, 2005. During this period, there was no active customer of record for Respondent to bill. As owner of the property during that time, Complainant is responsible for the gas used and for the \$3,760.99 bill.

Findings and Ordering Paragraphs

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) The Peoples Gas Light and Coke Company is a "public utility" as defined in the Illinois Public Utilities Act;
- (2) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- (3) the findings of fact and conclusions of law reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and findings of law;
- (4) the complaint filed by Ida Mae Barr against The Peoples Gas Light and Coke Company on June 13, 2006 should be dismissed, with prejudice.

IT IS THEREFOR ORDERED by the Illinois Commerce Commission that the complaint filed by Ida Mae Barr against The Peoples Gas Light and Coke Company be, and is hereby, dismissed with prejudice.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final, its is not subject to the Administrative Review Law.

DATED:
BRIEFS ON EXCEPTIONS DUE:
REPLY BRIEFS ON EXCEPTIONS DUE:

Eve Moran
Administrative Law Judge