

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED) BY BRUCE ITTERMAN, HARRISBURG, SD,) AGAINST MIDAMERICAN ENERGY COMPANY) REGARDING A GAS BILL)	FINAL ORDER AND DECISION; NOTICE OF ENTRY OF FINAL ORDER NG97-009
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On June 16, 1997, the Public Utilities Commission (Commission) received a complaint filed by Bruce Itterman, Harrisburg, South Dakota, against MidAmerican Energy Company (MidAmerican). The complaint concerns billings for natural gas service incurred during the period November 1996 to January 1997, for rental property owned by Mr. Itterman located in Sioux Falls, South Dakota. Mr. Itterman stated when he received a gas bill for the rental property he called MidAmerican and requested the bill be put in the tenant's name or, in the alternative, the gas turned off. Both requests were denied by MidAmerican. Mr. Itterman stated he is not responsible for the gas bill for the rental property because the lease agreement signed by the tenant stated that the tenant is responsible for paying for gas service. Further, Mr. Itterman asked that MidAmerican honor leases because they are legally binding contracts.

At its regularly scheduled July 15, 1997, meeting, the Commission found probable cause of an unlawful or unreasonable act, rate, practice, or omission and served the complaint on MidAmerican. MidAmerican filed its response on August 18, 1997.

Pursuant to an Order for and Notice of Hearing dated September 18, 1997, the hearing was held September 29, 1997, at the Days Inn Empire, 3401 Gateway Boulevard, Sioux Falls, South Dakota. At the end of the hearing, the Commission took the matter under advisement.

At its November 18, 1997, meeting, the Commission considered this matter. The Commission voted to find that Mr. Itterman was not responsible for the bill incurred at 625 W. 20th Street in Sioux Falls, South Dakota, in the amount of \$428.75 because the evidence failed to show that Mr. Itterman initiated service for that account.

Based on the evidence and testimony presented at the hearing, the Commission enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I

On June 16, 1997, the Commission received a complaint filed by Bruce Itterman, Harrisburg, South Dakota, against MidAmerican. In his complaint, he alleged he was not responsible for the bill incurred at 625 W. 20th Street, Sioux Falls South Dakota, for the time period from November of 1996 through February of 1997.

II

The amount of the bill incurred during that time period at 625 W. 20th Street is \$428.75. Tr. at 84.

III

Mr. Itterman stated that he did not initiate service at the address around the first of November, 1996. Tr. at 8. He assumed it must have been initiated by a landlord letter. Id. He further stated that he and a new tenant entered into a lease at 625 W. 20th Street on October 31, 1996. Tr. at 14

IV

MidAmerican's records do not indicate that it has a landlord agreement with Mr. Itterman. Tr. at 96. MidAmerican's records indicate that someone called in on October 31, 1996, to initiate service and, on November 1, 1996, the service was turned on. Exhibit 8.

V

MidAmerican allows a customer to call in over the telephone to begin or disconnect service. Tr. at 75.

VI

After learning at the hearing that no landlord letter existed, Mr. Itterman stated that the tenant must have called in representing him and that is how service was initiated on November 1, 1996. Tr. at 98.

VII

The Commission finds that Mr. Itterman did not call MidAmerican to initiate service on October 31, 1996. The Commission finds Mr. Itterman's testimony that he did not call to initiate service on October 31, 1996, is credible because he had just signed a lease with a tenant on October 31, 1996. It is not reasonable to believe that Mr. Itterman would have placed service in his name on the day his tenant moved in since the tenant is responsible for the utilities.

VIII

Since Mr. Itterman did not initiate service he is not responsible for the bill in the amount of \$428.75.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-34A, and ARSD 20:10:01:15.

II

The Commission concludes that Mr. Itterman is not responsible for the \$428.75 bill incurred at 625 W. 20th Street during November of 1996, through February of 1997.

It is therefore

ORDERED that Mr. Itterman is not responsible for the \$428.75 bill incurred at 625 W. 20th Street during November of 1996 through February of 1997.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 2nd day of December, 1997. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 2nd day of December, 1997.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u><i>Adeline Kaebo</i></u>
Date:	<u>12/4/97</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
 JAMES A. BURG, Chairman

Pam Nelson
 PAM NELSON, Commissioner

Laska Schoenfelder
 LASKA SCHOENFELDER, Commissioner

