

**Teresa Tenbrink**



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G-01551A-13-0327

**From:** richard gayer <rgayer@cox.net>  
**Sent:** Tuesday, April 14, 2015 9:28 PM  
**To:** Forese-Web; Little-Web; BitterSmith-Web; Stump-Web; RBurns-Web  
**Cc:** rgayer@aol.com  
**Subject:** Gayer v. SWGas, No. 13-0327 -- Complaint's THIRD Motion to Compel  
**Attachments:** Motion-THIRD-CompelComplianceWithOrder74780-SIGNED.doc

To Commissioners Bitter-Smith, Forese, Little, Stump and Burns:

Attached is a copy of my Third Motion to Compel [SWGas] Compliance with Order No. 74780. The deviations of SWGas from more than one provision of that Order is only increasing customer confusion as to the monthly nature of the EEP Weather Adjustment Charge and the permanence of that charge until the next rate case. SWGas' reports to the Commission that it is improving communications with its customers should be taken with a large grain of salt.

Richard Gayer, Complainant  
602-229-8954

Arizona Corporation Commission  
**DOCKETED**

APR 15 2015

DOCKETED BY 

**ORIGINAL**

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

2015 APR 15 P 12:15

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1                                   **BEFORE THE ARIZONA CORPORATION COMMISSION**

2  
3    **COMMISSIONERS**

4    SUSAN BITTER-SMITH, Chair  
5    TOM FORESE  
6    BOB STUMP  
7    BOB BURNS  
8    SUSAN BITTER SMITH

9    RICHARD GAYER,

10                   Complainant,

11                   v.

12    SOUTHWEST GAS CORPORATION,

13                   Respondent.

(Dwight D. Nodes, Hearing Officer)

**DOCKET NO. G-01551A-13-0327**

**Complainant's  
THIRD  
MOTION TO COMPEL  
COMPLIANCE WITH  
ORDER NO. 74780**

14  
15           Complainant Gayer hereby moves the Arizona Corporation Commission, for the Third  
16 time, for an Order compelling Southwest Gas Corporation (SWGAs) to comply with *all* parts of  
17 the Order in Decision No. 74780, especially the requirement for the Monthly Weather  
18 Adjustment (unlawfully renamed by SWGas as the “EEP Weather Adjustment” [EEPWA”]) to  
19 appear on customers’ bills for all months to which the EEPWA applies and without any  
20 exception based on the dollar amount thereof. Therefore, SWGas must reprogram its computers  
21 so that a line item entry for the EEPWA always appears in bills that cover the six “winter”  
22 months of November through April. (Complainant is filing this Motion to make a clear record  
23 of the continuing intentional misconduct of SWGas in the hope that SWGas may correct its  
24 errors on its own initiative, even though this Motion may be premature.)

25  
26    **FACTS**

27           On 8 April 2015, Complainant received a bill dated 04/06/15 from SWGas. Unlike all  
28 previous bills, that bill did not have the required line item for what SWGas is calling the “EEP

1 Weather Adjustment". Upon inquiry of SWGas via 1-877-860-6020 on that day, Complainant  
2 was unable to speak with anyone from SWGas because of "heavy call volume"; that is, SWGas  
3 absolutely refused to speak with him on that day.

4 Complainant called again on the next day (9 April) and was told, falsely, by Lee Anne  
5 that the "EEP Annual Adjustment" that did appear his bill included the weather adjustment. She  
6 also said that the EEP Weather Adjustment applies to all months from 1 November through 30  
7 April. Complainant then told Lee Anne that he is the Complainant in Docket No. 13-0327 and that  
8 he knows that the annual adjustment does not include the weather adjustment, after which she  
9 said she would forward his request to a supervisor and that he would hear from SWGas later that  
10 day.

11 Later that day (9 April 2015), Complainant received an e-mail from Christy Berger of  
12 SWGas, in which she wrote that: "I also understand that you inquired with our call center as to  
13 the absence of an "EEP Monthly Weather Adjustment" on your most recent bill. Since this  
14 billing period resulted in zero HDDs, the calculation of the EEP Monthly Weather Adjustment  
15 resulted in zero. When a billing item results in zero value, the billing system does not print that  
16 line item, which is why you only saw the EEP Annual Adjustment reflected."

17 Clearly, SWGas must reprogram its computers to avoid the foregoing violation of the  
18 Order in Decision No. 78780. If SWGas is for some reason averse to printing zeroes, then it can  
19 print "NONE", as it now does under "Please Pay Amount Due" when that amount is zero. (See  
20 attached redacted copy – for privacy – of a bill to a SWGas customer in Phoenix, 85003.)

21 Complainant promptly replied to Ms. Berger and others as follows:

22 "Thank you for your instant response to my inquiries (email and 'phone).

23 However, I view the absence of the "EEP Weather Adjustment" (hereinafter WxAdj)  
24 on my recent bill as a clear violation of the Decision and Order No. 78780 of the AzCC  
25 and will be filing a motion in Case No. 13-0327 to compel SWGas to show a "0.00"  
when the WxAdj is zero. (If necessary, I may then file a "Special Action" in the Superior  
Court for Maricopa County.)

26 Bills from SWGas show a Charge (positive number) for the WxAdj or a Credit (negative  
27 number) for the WxAdj as a function of the sign (+ or -) of the Variance. If for some  
28 reason the WxAdj is zero, then "0.00" must appear on the line item for the "EEP Weather  
Adjustment". SWGas' unlawful deletion of that line item reduces that item to nothing at  
all and suggests to customers like me that the WxAdj has been terminated for all time.  
As my high school Calculus teacher often said when a student said the answer to a

1 problem was nothing: 'Nothing is what's in your head; the correct answer is zero'. The  
2 same rule applies here.

3 If I don't hear from SWGas by 5:00 pm Phoenix time this coming Friday 10 April, I  
4 will prepare my Motion to Compel over the weekend for filing with Docket Control next  
5 Monday or Tuesday (14 April)."

6 Since Complainant did not hear from SWGas as requested, he prepared this Motion for filing.

7 SWGas' increasing intransigence in playing fast and loose with a direct ORDER from the  
8 Commission is shocking. The Order in Decision No. 78780 does not allow deviations from its  
9 clear language, even if SWGas may consider its numerous deviations lawful. Complainant is  
10 not relying upon the "spirit" of the Order but only upon its text, but SWGas is violating both its  
11 letter and spirit by confusing its customers with unlawful deviations from it.

12 CONCLUSION

13 Complainant's Motion should be granted. It is axiomatic that a utility must obey an  
14 Order of the Commission, especially one to which it has stipulated.

15 SWGas should be specifically ordered to comply with all provisions of the Order in  
16 Decision No. 74780. The "EEP Weather Adjustment", which should be the "EEP *Monthly*  
17 *Weather Adjustment*" [emp. added], should not disappear from bills when its dollar value  
18 happens to be zero. If necessary, SWGas must reprogram its computers accordingly. That  
19 should require less than one hour's time from even a junior programmer.

20  
21 Dated: 15 April 2015

Respectfully submitted by,

22 /s/ Richard Gayer

23 RICHARD GAYER, Complainant  
24 526 West Wilshire Drive  
25 Phoenix, AZ 85003  
26 602-229-8954  
27 rgayer@cox.net  
28



## Teresa Tenbrink

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**From:** richard gayer <rgayer@cox.net>  
**Sent:** Tuesday, April 14, 2015 9:39 PM  
**To:** Forese-Web; Little-Web; BitterSmith-Web; Stump-Web; RBurns-Web  
**Cc:** rgayer@aol.com  
**Subject:** Fw: Gayer v. SWGas, No. 13-0327 -- Complaint's THIRD Motion to Compel  
**Attachments:** GasBill(04-06-15)Stephen-NONE.jpg

----- Original Message -----

**From:** [richard gayer](#)  
**To:** [Forese-web@azcc.gov](mailto:Forese-web@azcc.gov) ; [Little-web@azcc.gov](mailto:Little-web@azcc.gov) ; [BitterSmith-Web](mailto:BitterSmith-Web) ; [Stump-web@azcc.gov](mailto:Stump-web@azcc.gov) ; [RBurns-web@azcc.gov](mailto:RBurns-web@azcc.gov)  
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To Commissioners Bitter-Smith, Forese, Little, Stump and Burns:

Attached is a copy of the exhibit mentioned in the captioned Motion. Please excuse my error.

Richard Gayer, Complainant  
602-229-8954

PO Box 98890  
Las Vegas NV 89193-8890

Hearing Impaired: Dial 711  
www.swgas.com

PLEASE RETAIN THIS TOP PORTION FOR YOUR RECORDS

STEPHEN [REDACTED]  
[REDACTED]  
PHOENIX AZ 85003 [REDACTED]

**DUPLICATE**

Service Address: [REDACTED] 85003  
Rate Schedule: 010/G-5 RESIDENTIAL GAS SERVICE  
Your Local Office Is 2200 N CENTRAL, STE 101, PHOENIX AZ 85004

ACCOUNT NUMBER	CYCLE	DATE MAILED	PAST DUE AFTER	PLEASE PAY AMOUNT DUE
421-[REDACTED]	20	04/06/15	04/27/15	NONE

**PREVIOUS BILLING:**  
 Previous Balance 38.34  
 Payment(s) Since Last Bill - Thank You 38.34CR  
 Deposit Applied Including Interest 80.37CR  
 Balance Forward \$80.37CR

**CURRENT BILLING:** 28 Days  
 Meter Reading: Current Apr. 02 Previous Mar. 05  
 1944 - 1932 = 12 X 1.0099 = 12

Usage Charges 15.93  
 EEP Annual Adj 0.32CR  
 Basic Service Charge 10.70  
 DOT Safety Surcharge 0.05  
 Applicable Revenue Taxes 3.03

Current Bill \$29.39

\*\*\* Sign up for paperless billing at www.swgas.com \*\*\*

**Due on or before: 04/27/15 Amount due: \$50.98CR**

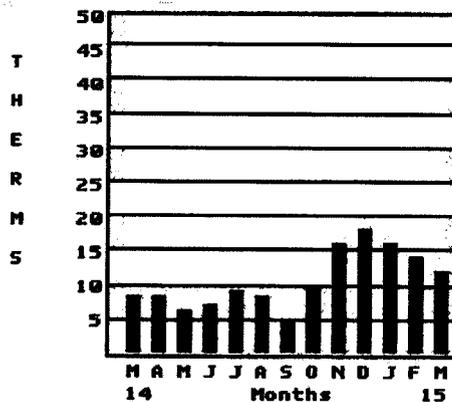
Important Messages:

Your next meter read date is: May 04, 2015

HELP US KEEP YOU INFORMED ABOUT YOUR NATURAL GAS SERVICE, SPECIAL PROGRAMS, AND IMPORTANT SAFETY MESSAGES, BY CREATING A MYACCOUNT AND KEEPING IT UPDATED WITH YOUR CONTACT INFORMATION. IT'S ALSO A GREAT WAY TO MANAGE YOUR ACCOUNT AND PAY YOUR BILL ONLINE. GO TO SWGAS.COM TO GET STARTED TODAY.

**Gas Usage History Information:**

	Therms / Days	=	Avg Daily Therms
This Month	12 / 28	=	0.43
Last Month	14 / 30	=	0.47
Last Year	8 / 28	=	0.29



Previous Balance	Payments & Adjustments	Balance Forward	Current Bill	Current Balance	AMOUNT DUE
38.34	- 118.71	= 80.37CR	+ 29.39	= 50.98CR	NONE

PLEASE SEE REVERSE SIDE FOR RULES AND REGULATIONS ● RETURN BOTTOM PORTION WITH PAYMENT