

FEDERAL TRADE COMMISSION DECISIONS

Findings, Opinions and Orders

IN THE MATTER OF

PETROLANE, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2620. Complaint, Jan. 2, 1975 - Decision, Jan. 2, 1975

Consent order requiring a Long Beach, Calif., distributor of liquid petroleum gas (LP), among other things to notify customers prior to delivery of "increased price gas" that the price has increased; provide the customer with the applicable price schedule, and disclose that related information can be obtained from their district office.

Appearances

For the Commission: *David A. Middaugh.*

For the respondent: *William E. Linsenbard*, Long Beach, Calif.

COMPLAINT

The Federal Trade Commission, having reason to believe that Petrolane, Inc., a corporation (hereinafter respondent), has violated Section 5 of the Federal Trade Commission Act, and that a proceeding would be in the public interest, hereby issues its complaint:

PARAGRAPH 1. Respondent is a California corporation with its office located at P.O. Drawer 1410, 1600 E. Hill St., Long Beach, Calif.

PAR. 2. Respondent is a multinational company engaged in the business of, among other things, selling liquified petroleum gas (LP gas) in competition with other sellers of LP gas.

PAR. 3. Respondent ships, distributes and sells LP gas in interstate commerce to customers located in almost every state.

PAR. 4. Respondent sells LP gas to home owners and businesses, which use the gas for heating and other purposes. Such sales normally take place in the following manner. The customer and respondent contract that respondent will furnish the customer's LP gas needs. Respondent installs a storage tank and other related equipment on the customer's premises. Thereafter, respondent periodically makes deliveries of LP gas to the customer's storage tank. Respondent's deliveryman fills the tank and makes out the customer's bill, which states the number of gallons delivered and the total dollar amount charged. The bill is delivered to the customer, or, if the customer is not

present, the bill is left at his premises. The customer may either pay his bill immediately or await receipt of a formal bill mailed by respondent.

PAR. 5. From time to time respondent raises the price per gallon of LP gas delivered to its customers. Respondent does not notify its customers of price increases prior to delivery of the LP gas subject to the increase. Respondent does not, simultaneously with delivery, give notice to customers that its price has increased. Respondent does not, subsequent to delivery of increased price gas, inform customers of the increase. The customer thus has no way to discover a price increase except by (1) dividing the number of gallons delivered into the total amount billed and comparing the resultant price per gallon with the price per gallon similarly computed from prior bills, or (2) going to respondent's district office where the prices are posted.

PAR. 6. Knowledge of a price increase may affect the customer's decision as to whether to continue purchasing LP gas from respondent.

PAR. 7. The above-described conduct injures respondent's customers and competitors. Customers pay increased prices under the belief that prices have not increased and are deprived of the opportunity to compare respondent's prices with those of respondent's competitors. Respondent's competitors are deprived of those of respondent's customers who may change their LP gas supplier because of respondent's higher prices.

PAR. 8. The above-described conduct constitutes an unfair or deceptive act or practice and an unfair method of competition in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Seattle Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having

determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Proposed respondent Petrolane, Inc. is a California corporation with its office located at P.O. Drawer 1410, 1600 E. Hill St., Long Beach, Calif.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent, its successors and assigns, its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from delivering LP gas to any customer at a price higher than that charged by respondent to the customer for the immediately preceding delivery (or higher than the price to similar customers prior to the price increase, if there have been no prior deliveries to that customer) (hereinafter referred to as "increased price gas") unless:

1. Respondent has notified the customer prior to delivery of "increased price gas" that its price of LP gas has increased, has provided the customer with the applicable price schedule, and has disclosed that related information may be obtained by calling respondent's district office; or

2. (a) The bill left at the customer's premises by the deliveryman for "increased price gas" discloses on the front the number of gallons delivered, the price per gallon and the total price of the delivery; clearly and conspicuously states on the front: "Reflects price increase"; and contains a statement that the amount of the increase and related information may be obtained by calling respondent's district office; and

(b) All bills sent to customers, subsequent to the bill left by the deliveryman, clearly and conspicuously state: "The charges on this statement may include the effects of a price increase or decrease. For further information please refer to your field delivery invoice or call our district office."

It is further ordered, That respondent shall forthwith deliver a copy of this order to each of its employees and agents engaged directly or indirectly in the retail distribution of LP gas, and to each employee who

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becomes so engaged during a period of two years from the date this order becomes effective.

It is further ordered, That respondent shall maintain such records as will fully disclose the manner and form of its compliance with this order.

It is further ordered, That respondent notify the Commission at least thirty days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That respondent shall, within sixty days after service upon it of this order, file with the Commission a written report setting forth in detail the manner and form of its compliance with this order.