

Decision 87 12 035 DEC 9 1987

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Spike E. Gunderson,)
)
 Complainant,)
)
 vs.)
)
 Pacific Gas and Electric Company,)
)
 Defendant.)

(ECP)
Case 87-08-044
(Filed August 25, 1987)

Spike E. Gunderson, for himself, complainant.
Mike Weaver, for Pacific Gas and Electric Company, defendant.

OPINION

Decision Summary

By this decision, Spike Gunderson, complainant, is relieved from payment of \$1,336.84 backbilled by Pacific Gas and Electric Company (PG&E), defendant, for alleged unmetered electric service received by complainant due to illegal jumpers in complainant's meter panel.

Background

Gunderson filed this complaint under the Commission's Expedited Complaint Procedure (ECP) on August 25, 1987 after receiving a backbill of \$1,336.84 from PG&E dated April 20, 1987 for unmetered electric service over a period of about two years. Hearing on the complaint was held in Nevada City, California on October 20, 1987, before an Administrative Law Judge, and the matter is ready for decision.

Gunderson's Contentions

Gunderson appeared for himself and either in his complaint or orally at the hearing contended the following:

He and his wife lived at 12557 Artic Circle near Nevada City from July 1984 until about the middle of June 1986. They do not own the Artic Circle residence.

He believes his wife requested in June 1986 that the power be turned off at Artic Circle. However, PG&E did not turn off the power until August 1986.

In the time he lived at Artic Circle, he never suspected anything was wrong with the electricity meter and never tampered with it.

During the two winters the Gundersons were at Artic Circle, they closed off the ground floor of the house and burned between 7 1/2 and 8 cords of wood each of the two winters to save on electricity.

He cannot understand why PG&E waited five months after he moved out of Artic Circle to inform him of a problem with the meter.

No one occupied the Artic Circle house for at least several months after he moved out.

PG&E's Contentions

PG&E was represented at the hearing by Mike Weaver, Senior Tariff Specialist, Commercial, and witness Ted Smith, a PG&E employee. In its answer to the complaint, statements by Weaver, and testimony of Smith, PG&E contends that:

PG&E did not know until the early part of November 1986 that the house was not occupied by the Gundersons. Mrs. Gunderson told Smith on December 10, 1986 that she had neglected to tell PG&E to turn off the power.

The meter at Artic Circle is normally read from a distance using binoculars. The meter registered a positive reading until the reading of September 10, 1986 when it showed less than the reading in August. The October and November 1986 readings also showed less than the previous month's readings leading PG&E to suspect something was wrong with the meter.

The last reading was made on November 12, 1986 after which the meter was opened and inspected.

When the meter was inspected, it was found to have been tampered with. The outside seal had been cut and replaced so it appeared it was still properly sealed. There was a seal missing from the inside of the meter that is not visible from the outside. Jumper wires had been placed in the meter in such a way that not all the energy flowing through the meter would be registered. In addition, an adjustment screw had been set so the meter would register slow.

According to Smith, when jumper wires are placed in a meter as noted above and the main switch at the junction box to the house is turned off, the meter will run backward; that is why there were negative readings on the meter.

Smith stated that the condition of the meter upon removal, that is, the amount of dust on it and the general surface conditions surrounding it, indicated it had not been tampered with in any way for perhaps up to six months.

Prior to November 12, 1986, PG&E saw nothing to suspect tampering had taken place. The billings to the residence over the two years the Gundersons occupied it did not raise a suspicion either; but Smith testified that considering the size of the house and the apparent electrical load, the usage could have been low.

When the Gundersons moved into the house, PG&E did not inspect the meter. In its usual manner, it read the meter and put a sticker on it indicating the reading for change of service as required by its tariff.

Rule 17 of PG&E's tariff requires it to issue a corrected bill under the circumstances. Based on their knowledge of how much slower a meter reads given the conditions found, which is about two-thirds what it should have been, PG&E employees calculated the unbilled energy from the actual readings for the period the

Gundersons occupied the house to come up with the \$1,336.84 due.

Discussion

It is the law that a customer who receives energy from a utility must pay for it at proper tariff rates. However, it first must be shown that the customer has used the energy. The facts are undisputed in this case that the meter in question had been tampered with, in such a way that it registered much less than the actual energy flowing through it. The question unanswered by the record is when this began. If it was before the Gundersons moved in in 1984, then they clearly owe for the energy used and not paid for regardless of who tampered with the meter. However, as noted, nothing in the record provides a narrow range of time when the tampering could have been done. The only statement bearing on it is Smith's who stated that the meter did not appear to have been touched for up to six months prior to the middle of November 1986. Working backward the full six months would put his outside time at mid-May 1986. The Gundersons moved out of the house in mid-June 1986, five months prior to mid-November. Therefore, it is possible that the meter could have been tampered with sometime after the Gundersons moved out. We must give them the benefit of that possibility and conclude that they are not responsible for any unbilled energy.

Under our ECP procedure, no findings of fact or conclusions of law are required.

ORDER

IT IS ORDERED that Spike Gunderson is not required to pay the backbill of \$1,336.84 issued to him on April 20, 1987, by Pacific Gas and Electric Company.

This order becomes effective 30 days from today.

Dated DEC 9 - 1987, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Victor Wuisser, Executive Director

JB