

Decision 87 12 057 DEC 17 1987

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

John Hershman, )  
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 Complainant, )  
 )  
 vs. )  
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 Pacific Gas and Electric )  
 Company, )  
 )  
 Defendant. )  
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 (U 39 E) )

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Case 87-04-061  
(Filed April 29, 1987)

John Hershman, for himself, complainant.  
Howard V. Golub and Susan Rockwell,  
Attorneys at Law, for Pacific Gas  
and Electric Company, defendant.

O P I N I O N

Complainant John Hershman, of Corning, alleges that defendant Pacific Gas and Electric Company (PG&E) is incorrectly overbilling him some \$2,718 for electricity he did not use. PG&E contends complainant tampered with his electric meter and thereby escaped payment of \$2,718 for the full amount of electricity he used until the alleged tampering was discovered. A hearing was held on the matter at Corning on July 28, 1987 and the case was submitted upon the receipt of transcript on August 18, 1987.

PG&E started serving electricity to complainant at his residence in Corning on March 30, 1979. The electric meter was installed on the house in 1964 when the house was owned by a different person.

The witness for PG&E, who is a revenue protection representative for PG&E headquartered in Redding, testified that,

due to the fact that complainant kept dogs in his fenced yard, including a pit bull, PG&E permits complainant to take his own monthly meter reading and post the results on a plastic card which complainant hangs on the outside of his fence. These results are picked up monthly from the card by one of the PG&E's meter readers. Twice a year, however, the meter reader, after making prior arrangements with complainant to have his dogs under control, enters complainant's yard to read the meter personally. On one such visit on December 9, 1985 the meter reader noticed that the outside seal of the meter was broken and duly reported it to his company.

The PG&E witness testified that a broken outside seal would permit someone to unplug the meter and replug it in an inverted position, and vice versa. Inverting the meter from its normal position would cause the meter to run backward or to stop the meter from registering the flow of electricity, which would continue despite the meter being inverted.

On December 13, 1985 a person from PG&E's Corning office unknown at the time to the PG&E witness, placed a security ring and new outside seal on complainant's meter in accordance with a newly adopted company policy to place security rings on meters of all customers, such as complainant, who read their own meters. The security ring is equipped with a key lock.

In February of 1986 an associate of the PG&E witness visited complainant's meter to conduct the company's routine standard investigation of a report of a broken seal. The meter was tested and removed and found accurate. It was replaced by another meter.

At the hearing the PG&E witness presented complainant's meter (without the broken seal) for inspection and introduced pictures of the four blades, or plugs of the meter (Exhibits 4, 5, and 6). The witness testified that from the looks of the blades the meter must have been inverted at least 100 times. As evidence

of his conclusion he pointed to the many electric arc marks on the tips of the four blades, the scratches on the blades, and the erosion by wear of the silver coating of the blades allowing the copper base to show through. He stated that the electric arc marks were caused by the electricity arcing between the blades and the live socket as the blades were being removed from their sockets. He pointed out one very deep scratch on the inside of one of the blades which was matched by the same type of scratch on the inside of the diagonally opposite blade, indicating that both blades had been inserted and reinserted many times in the same plug slit. He also pointed to the top and underside of the meter where dust had collected.

Based on a study of complainant's electric usage since he became a PG&E customer in 1979, the PG&E witness concluded that complainant's alleged practice of inverting the meter had been going on since August, 1979 and had ceased only after the security ring had been placed on the meter on December 13, 1985. His study showed the complainant's electric usage to be as follows:

<u>Year</u>	<u>kWh</u>
1979 (including 3 months usage by complainant's predecessor)	20,311
1980	18,175
1981	14,042
1982	12,985
1983	11,932
1984	11,390
1985	12,802
1986	18,363
1987 (1st 7 months only)	9,411

Complainant was on an all electric schedule and had an air conditioner and a small irrigation pump. Complainant testified that during many winters he burned wood as an additional method of heating and thus saved electricity and that he became judicious in the use of his air conditioning after the first year and half in his home.

The PG&E witness did not present at the hearing the alleged broken seal from complainant's meter. However, without stating he ever saw the broken seal, he indicated that the broken seal consisted of a metal wire and a lead metal center, an example of which he displayed at the hearing. PG&E made no showing when the alleged lead centered seal had been affixed to the meter.

Complainant denies that he tampered with the seal on his meter or with his meter. Complainant claimed in his complaint and in his testimony at the hearing that in 1984 as he was preparing the outside of his house to be painted by his son, complainant taped the meter, including the seal, so that paint would not get on them and in so doing he noticed the seal was unbroken. He testified that the seal center on his meter at that time was of green plastic and not of lead, as testified to by the PG&E witness.

The PG&E witness acknowledged that PG&E at one time used seals with green plastic centers--called Murphy seals--but had discontinued their use because of the difficulty of detecting whether the seal had been broken. PG&E made no attempt to counter complainant's contention that there was a green plastic centered seal on the meter in 1984.

#### Discussion

PG&E's case is based on the supposed fact that the alleged lead centered seal which was found to be broken on December 9, 1985 was the same seal that was on complainant's meter at or before the time when complainant became a customer of PG&E on March 30, 1979. There is no evidence that the seal was on the meter on March 30, 1979. According to complainant's testimony there was an unbroken green plastic centered seal on the meter sometime in 1984. We are forced to find, therefore, that the broken lead seal was originally affixed to the meter sometime in 1984 or 1985 as a replacement for the green plastic seal. Since there has been no showing that the green plastic seal was broken and we do not know the time in 1984 or 1985 when the lead center

seal was affixed we are unable to determine how much, if any, of the electricity used was unmetered. Hence, we cannot find that complainant owes any money for unmetered electricity to PG&E.

The condition of the blades leaves no doubt that the meter was inverted many times. Such inversions could not have been made while the meter had an unbroken outside seal on it. Hence, if PG&E's scenario is correct--that the inversions took place from August, 1980 to December 1985--the green seal must have been broken also. Since the PG&E witness did not produce the broken seal, did not indicate that he had ever seen the broken seal, and did not refute complainant's statement that there was a green seal on the meter sometime in 1984, we would surmise that the seal found broken on December 9, 1985 was a green plastic seal and that somehow the PG&E witness was not informed of this. However, we cannot base our findings on surmises. The state of the record is such that there was an unbroken green plastic seal on the meter in 1984 and therefore the meter could not have been reversed before that time.

Findings of Fact

1. Complainant has been an all electric customer of PG&E since March 30, 1979.
2. PG&E billed complainant \$2,718 for electricity which PG&E alleges complainant used but was unmetered because of his meter tampering.
3. Complainant denies tampering with his meter or owing PG&E any money.
4. Complainant was allowed to read his own meter because he kept dogs in his yard.
5. During one of PG&E's twice yearly inspection of complainant's meter, a PG&E service man found the outside seal on complainant's meter broken and so reported to PG&E.
6. On December 13, 1985 a person from PG&E's Corning office placed a security ring and new outside seal on complainant's meter.

7. No mention was made at the hearing what happened to the broken seal.

8. In February, 1986 complainant's meter was tested and found to be accurate and then replaced with another meter.

9. The meter removed from complainant's premises showed electric arc marks on each of the tips of the four blades, showed scratches on the blades, and showed extreme wear off of the silver coating of the blades allowing the copper base to show through.

10. One of the blades of the meter showed a deep scratch on the inside of the blade which corresponded to the same type of scratch on the inside of the diagonally opposite blade.

11. The meter had been inverted a substantial number of times.

12. Starting in 1980 complainant's yearly metered usage dropped considerably until the security ring was put on his meter in December, 1985 at which time his usage jumped up to close to where it was in 1980 and before.

13. The PG&E witness did not testify he had ever seen the broken seal.

14. The PG&E witness indicated that the broken seal was a lead centered seal.

15. In 1984 while preparing his house to be painted by his son complainant taped the meter and seal and noticed that the outside seal consists of a green plastic center and that the seal was unbroken.

16. PG&E did not attempt to refute that there had been a green plastic outside seal on complainant's meter in 1984.

17. PG&E acknowledged that PG&E at one time used seals with green plastic centers.

18. The broken seal discovered December 9, 1985 was placed on complainant's meter sometime in 1984 or 1985.

19. There is no evidence that the green plastic seal was wrongfully broken at any time.

20. It has not been determined with any degree of accuracy when the lead centered seal was broken.

21. It has not been determined with any degree of accuracy the extent of the use of unmetered electricity.

22. It has not been determined with any degree of accuracy the amount of money owned by complainant to PG&E for the use of unmetered electricity.

Conclusion of Law

PG&E should be ordered to refrain from billing complainant for monies due PG&E for use of unmetered electricity used by complainant prior to December 13, 1985.

ORDER

IT IS ORDERED that Pacific Gas and Electric Company cease billing John Hershman for monies due Pacific Gas and Electric Company for unmetered electricity used by John Hershman prior to December 13, 1985.

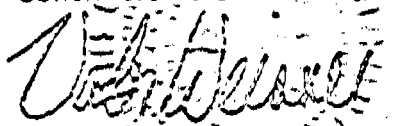
This order becomes effective 30 days from today.

Dated DEC 17 1987, at San Francisco, California.

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

Commissioner Frederick R. Duda  
being necessarily absent, did not  
participate.

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

  
Victor Wozniak, Executive Director