

Mailed

AUG 24 1988

Decision 88 08 043 AUG 24 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Martin R. Wyckoff,)
)
 Complainant,)
)
 vs.)
)
 Pacific Gas & Electric Co.,)
)
 Defendant.)

ORIGINAL

(ECP)
Case 88-05-013
(Filed May 9, 1988)

OPINION

Under the Commission's Expedited Complaint Procedure (ECP), Martin R. Wyckoff (Wyckoff, complainant) brings this complaint against Pacific Gas and Electric Company (PG&E, defendant) for the return of \$703.27 deposited with the Commission in a dispute over consumption of electricity by Wyckoff in Nevada City, California. We find for the defendant.

Background

Because the Commission's Consumer Affairs Branch was unable to resolve the conflict between the two parties, hearing was held on July 8, 1988 in Nevada City. Wyckoff appeared for himself, and Mike Weaver and Ted Smith appeared for PG&E.

The following are the pertinent facts of this case:

1. Wyckoff has been a PG&E customer of record at 17886 State Highway 20, Nevada City, California, since September 15, 1986.
2. On April 10, 1987, a PG&E meter reader observed that the outer meter seal of complainant's meter was cut and replaced to make it appear it had not been tampered with. The meter reader reported the meter condition to PG&E's local revenue protection representative for followup.

3. On April 27, 1987, a PG&E representative went to Wyckoff's residence to inspect the metering facility. He observed the following conditions and concluded that meter tampering was occurring:
 - a. Meter No. J79671, which had been newly installed at the Wyckoff residence on September 15, 1986, was in the meter socket correctly.
 - b. The outer seal which is designed to seal the meter outer retaining ring was cut and put back together.
 - c. The metal outer retaining ring which is designed to hold the electric meter in place did not contain the normal accumulation of dust and dirt in the valley formed inside of its U-shaped configuration.
 - d. There were shiny marks on the inside surface of the ring at the sealing point where the ring is spread apart to remove it and is pushed back together to reseal it. The representative concluded that the ring had been opened and closed many times over a recent period.
 - e. An inner seal which is designed to secure the meter glass to the electric meter was missing.
 - f. The meter dials were pushed back against the face of the meter and there were scratch marks around the dials.
4. Defendant's representative then made frequent readings of the meter with the following results:
 - a. May 7, 1987 - seal moved and wrapped together - negative meter reading.
 - b. May 10, 1987 - seal moved and put back to appear normal.

- c. May 12, 1987 - tenth hand on the meter misplaced.
 - d. May 15, 1987 - seal had been changed.
 - e. May 27, 1987 - negative meter reading.
 - f. June 3, 1987 - 1,000th hand misplaced.
 - g. June 8, 1987 - negative meter reading.
 - h. June 17, 1987 - representative removed the meter for evidence and installed a new meter reading 0 which was secured in place with a new security ring.
5. On June 26, 1987, the PG&E representative and Wyckoff met and discussed PG&E's findings. At the meeting PG&E stated that it appeared that someone was tampering with the meter. Wyckoff stated that he did not do it, but it could have been a 90-year old neighbor lady he had had a dispute with. Wyckoff and PG&E could come to no resolution concerning PG&E's claims and PG&E notified Wyckoff that a retroactive bill would be issued.
6. PG&E unilaterally determined after examining its billing records that meter tampering had occurred during the billing periods from October 8, 1986 to June 17, 1987.
7. PG&E used the kilowatt hour (kWh) usage for the period April 27, 1987 to May 4, 1987 to establish an estimated annual usage.
8. On July 8, 1987, PG&E mailed a letter to Wyckoff informing him that a retroactive bill would be issued for the period of October 8, 1986 through June 17, 1987 in the amount of \$774.33. (PG&E later adjusted the billing downward to \$703.27.)
9. PG&E made its normal checks of the accuracy of the meter that it had removed on June 17, 1987, and found it to be within standard tolerances.

10. On September 8, 1987, PG&E received a letter from Wyckoff restating his position that he did not tamper with the meter and did not intend to pay the bill. PG&E also received an advance notification of a written Commission complaint to follow, deposit of the disputed amount with the Commission, and a request to hold all credit action which it did.

Discussion

Wyckoff denies tampering with the meter and stated that the meter had been subject to a great deal of vandalism. He testified that on at least three occasions the foreman on his construction project had found the meter removed and tampered with.

Wyckoff provided meter readings beginning in October 1986 and extending through August 1987 which showed an average of 595 kWh used each month. The billing PG&E came up with in its test period was 1,470 kWh per month. PG&E used this figure to backbill the period October 8, 1986 through June 17, 1987. The record shows that the actual usage by Wyckoff from July 10, 1987 through June 10, 1988 was 890 kWh per month; and the eight months, November 1986 through June 1987, a period comparable to the backbilling period, the average actual usage was 1,075 kWh per month. ✓

PG&E's witness Smith said that the 1,470 that he used for backbilling purposes is a reasonable figure because he has found that when possible tampering has been called to the attention of a customer, the customer often engages in severe conservation after the meter has been changed out. The 595 kWh average developed by Wyckoff, it is noted, included at least three instances of negative readings on the meter--one on May 7, 1987, another on May 27, 1987, and a third on June 8, 1987. PG&E introduced Exhibit 6, attached as Appendix A, which shows the record of meter readings during the investigation that PG&E made from March through July 1987.

Wyckoff concedes that the meter was tampered with but claims that neither he nor his employees had anything to do with it.

We are not concerned with who actually tampered with the meter in cases such as these. Our concern is whether the energy consumed at the billing premises was paid for at the tariffed rate. Here it was not. The evidence clearly supports that not all of the energy which was used by Wyckoff during the period October 8, 1986 through June 17, 1987 was billed and paid for in the usual course of business. The method used by PG&E to estimate the amount of electricity not paid for appears to be reasonable, and we conclude the complaint should be dismissed and the \$703.27 being held by the Commission should be disbursed to PG&E.

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

ORDER

IT IS ORDERED that:

1. Complainant's deposit of \$703.27, and any other deposit(s) made by complainant in connection with this complaint, shall be disbursed to Pacific Gas and Electric Company on the effective date of this order.
2. Case 88-05-013 is dismissed.

This order becomes effective 30 days from today.

Dated AUG 24 1988, 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 Weiss
Victor Weiss, Executive Director

APPENDIX A

MARTIN R. WYCKOFF - RECORD OF METER READINGS DURING INVESTIGATION
3/10/87 TO 7/10/87

Exhibit	6
CPI/C Proceeding	C. 88-05-013
Spencer/Witness	JALIN
Date Ident.	7/1/88
Read.	7/1/88
Albert C. Porter Administrative Law Judge	

DATE	METER READING	DIFFERENCE	KWH'S PER DAY	OBSERVATIONS
3-10-87	02922			
4-10-87*	03268	346	11.2	Seal cut and put back to appear OK
4-27-87	03532	264	15.5	PRP began investigation
4-30-87	03654	122	40.7	
5-02-87	03846	192	96.0	
5-04-87	03958	112	56.0	
5-07-87	-03548	-410	--	Seal moved and wrapped together (negative reading)
5-10-87	03670	122	40.7	Seal moved and put back to appear OK.
5-11-87*	03684	14	14.0	
5-12-87	03708	24	24.0	Regular monthly read 03684 minus 4/10/87 read of 03268 = 416 kwhr or 13.4/day and 10th hand misplaced
5-15-87	03810	102	34.0	
5-17-87	03896	86	43.0	
5-20-87	04048	152	50.7	
5-22-87	04168	120	60.0	
5-25-87	04404	236	78.7	
5-27-87	-03767	-637	--	Negative reading
5-29-87	03861	94	47.0	
6-02-87	04091	230	57.6	
6-03-87	04134	43	43.0	1000 hand misplaced
6-05-87	04207	73	36.5	
6-08-87	-03859	-348	--	Negative reading
6-09-87*	03883	24	24.0	Regular monthly read 03883 minus 5/11/87 read of 03684 = 199 kwhr's or 6.9/day
6-17-87	04291 (old)	408	51.0	Meter changed new meter secured with security ring
	00000 (new)	0		
6-18-87	00055	55	55.0	
6-19-87	00078	23	23.0	
6-22-87	00175	97	32.3	
6-26-87	00253	78	19.5	
7-10-87*	00473	220	15.8	Regular monthly read 408 kwhr on old meter 473 kwhr on new meter 881 kwhr's billed

NOTE: Old meter average 51.0/day and new meter average 20.6/day

* Denotes regular monthly billing.

C. 88-05-013 ALJ/ACP/rmn.

10. On September 8, 1987, PG&E received a letter from Wyckoff restating his position that he did not tamper with the meter and did not intend to pay the bill. PG&E also received an advance notification of a written Commission complaint to follow deposit of the disputed amount with the Commission, and a request to hold all credit action which it did.

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