

ORIGINAL

Decision 89 06 040 JUN 21 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Hessam Moghtader,)
)
 Complainant,)
)
 vs.)
)
 Pacific Gas and Electric Company)
 (U-39-M),)
)
 Defendant.)

(ECP)
 Case 89-01-037
 (Filed January 30, 1989)

Hessam Moghtader, for himself, complainant.
Mike Weaver, for Pacific Gas and Electric
 Company, defendant.

O P I N I O N

Summary of Complaint

On January 30, 1989, Hessam Moghtader (complainant) filed this expedited complaint (ECP) against Pacific Gas and Electric Company (defendant). This complaint pertains to the payment of a utility bill applicable to complainant's rental property.

According to the complaint, complainant called defendant to transfer the utility service from complainant's name to his tenant's name. The complaint states that complainant routinely puts the service into his name for several days after a tenant moves out so that he may make repairs and show the property to prospective tenants. After repairs are completed and the property is rented, complainant calls defendant to remove his name from service.

It was not until complainant began eviction proceedings against his tenant that he discovered the service had not been transferred to his tenant's name, as requested. Complainant, again called defendant and requested removal of complainant's name from service.

Complainant believes that he is not responsible for service while the tenant rented his property pursuant to complainant's and tenant's Lease-Rental Agreement, attached to the complaint. The complaint does not specify the time period that the tenant should be responsible for the service and does not specify the amount in dispute.

Complainant requests that his utility bill be reduced by the amount of service charges incurred while complainant's property is rented and that defendant be precluded from issuing negative credit reports to credit and collection agencies.

Answer to Complaint

Defendant filed its answer to the complaint on March 2, 1989. Defendant admits that it billed complainant and sent complainant a \$604.42 closing bill. However, defendant denies that it was notified of the customer change until February 16, 1988.

Hearing

An evidentiary hearing was held on May 2, 1989 in San Francisco before Administrative Law Judge (ALJ) Galvin. Complainant testified for himself and Mr. Ballard testified for defendant. Normally, ECP hearings are held within 30 days after the defendant files an answer; however, when setting a hearing date for this case, complainant was not available within the 30-day period. Therefore, pursuant to Rule 87, the ALJ granted a waiver of Rule 13.2(d), which requires the hearing to be held within 30 days after the answer is filed.

Complainant's testimony substantially supplements his filed complaint. Complainant also asserts that defendant did a poor job of sending the closing bill to complainant's correct address. This is a new issue which has no impact on addressing whether complainant is responsible for the service at his rental property. Therefore, this issue will not be addressed in this case.

Complainant believes that defendant's inaccurate records resulted in defendant billing complainant for his tenant's service. To support this belief, complainant showed that he received a 48-hour notice, dated March 27, 1989, to pay his bill even though defendant previously assured complainant that no such notice would be sent.

Ballard testified that defendant's service records show that complainant was the named service customer for the period July 23, 1987 through February 16, 1988 and that the monthly bills were sent to the rental property address. At the close of this account \$604.42 remained due to defendant. Partial payments were received during the seven month period that service was in complainant's name. However, neither complainant nor defendant identified who made the partial payments.

Defendant introduced a statement from the tenants addressing the receipt of service bills and payment procedures, notarized by a licensed notary public. However, complainant disputes the contents of the statement. Since the tenants were not present to substantiate their statement under oath, we will not give any weight to their written statement.

Ballard explained that all service requests are recorded in defendant's computer system. When a person calls to transfer a service to another person defendant physically issues a "lock order" to disconnect the present customer's service. A closing bill is sent to the billing address unless the customer provides a new address. Defendant does not transfer the service until the person that is going to receive the service provides billing information, such as their name, prior service, billing address, social security number, and employment information.

Defendant acknowledges that complainant requested discontinuance of his service. However, defendant's records show that complainant made only one request, on February 10, 1988. Service was not disconnected because complainant cancelled the

disconnect order the next day. Complainant confirmed that he canceled this disconnect order on advice of his attorney to not disconnect service during eviction proceedings.

Ballard also disagrees with complainant's belief that defendant maintains inaccurate records. He explained that the 48-hour notice sent to complainant did not pertain to the rental property subject to this complaint. The notice pertained to another property at which complainant receives service.

Discussion

In a complaint proceeding the burden of proof is on the complainant; therefore, we must look at complainant's evidence to determine whether the complaint is substantiated.

We find that the evidence does not demonstrate that complainant called defendant and requested defendant to disconnect his service prior to February 1988. Not even defendant's service order records, which are maintained on a computer system, show a disconnect order prior to February 1988.

Although complainant substantiates his claim that the tenant is responsible for utility service, as evidenced by a rental agreement, this agreement is only between complainant and the tenant. Defendant is not a party to the agreement and, therefore, would have no knowledge of the service arrangement. Even if defendant received a copy of the rental agreement, service to the tenant could not be established until the service information, discussed above, was provided.

Complainant is the person listed for service and as such is responsible for service until he requests service to be disconnected.

This complaint should be denied because complainant has not met his burden of proof in demonstrating that he requested defendant to disconnect complainant's service at the time the tenant rented complainant's property. Any service dispute between complainant and the tenant should be addressed in civil court.

Since this complaint is filed under our expedited complaint procedure, no findings of fact or conclusions of law will be made.

ORDER

IT IS ORDERED that:


1. The complaint in Case 89-01-037 is denied.
2. Pacific Gas and Electric Company and Hessam Moghtader shall negotiate a payment arrangement for the collection and payment, respectively, of the \$604.42 balance due within 30 days from the effective date of this order. If a payment arrangement is not entered into, then the entire \$604.42 shall be due and payable 30 days from the effective date of this order.

This order becomes effective 30 days from today.

Dated JUN 21 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

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


Victor Weisser, Executive Director