

Decision 89 09 010 SEP 7 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEE CONWAY, FRANCES CONWAY, )  
 )  
 Complainants, )  
 )  
 vs. )  
 )  
 PACIFIC GAS AND ELECTRIC COMPANY, )  
 )  
 Defendant. )

**ORIGINAL**

(ECP)  
Case 85-12-055  
(Filed December 27, 1985)

OPINION

Summary

This decision dismisses the complaint due to a lack of support for the requested relief.

Procedural History

On December 27, 1985 Lee and Frances Conway (complainants) filed Case (C.) 85-12-055, a complaint against Pacific Gas and Electric Company (PG&E). Complainants state that PG&E overcharged them for gas and electric service during late December 1984 and early January 1985.

Discussion

Complainants argue that they were not at home during late December 1984 and early January 1985 and their refrigerator was the only appliance operating during that time. Complainants dispute the amount of their gas and electric bill for that period and contend that PG&E has not provided satisfactory verification of the bill's accuracy. Additionally, complainants state that they filed an informal complaint with the Commission's Consumer Affairs Branch, but did not receive a satisfactory resolution.

Finally, complainants claim that PG&E has not been fully cooperative in resolving the dispute and request reimbursement for overcharges and all other costs associated with their complaint.

In response to the complaint PG&E denies the only energy used during the disputed period was to power a refrigerator. Furthermore, PG&E asserts that it inspected complainants' gas appliances and service line for leaks, replaced the gas and electric meters and the electric service drop, tested the accuracy of the gas meter, and verified complainants' meter readings and usage pattern. From these tests and its analysis PG&E states that it found: (1) no indication of leaks, (2) both meters produced accurate readings, (3) the meter readings for the disputed period recorded properly, and (4) the gas and electric usage for the disputed period are consistent with prior and subsequent meter readings.

This proceeding took an exorbitant amount of time to process. Hearings were set and cancelled on four separate occasions. Finally, on February 24, 1988 a hearing was held before Administrative Law Judge (ALJ) Ferraro. At the hearing complainants and PG&E presented testimony in support of their respective positions. Complainants renewed an earlier request for PG&E to provide data on meter readings, employees who performed the meter readings, methods of verification of meter reading data, and other related information.

The ALJ pointed out that much of the requested data was provided by the Consumer Affairs Branch in its letter dated February 3, 1986 and PG&E in its letters dated May 20, 1987 and September 30, 1987. However, the ALJ directed PG&E to provide further information concerning the employees who read complainants' meters. By letter dated March 15, 1988 PG&E provided the following additional information:

In October, November, and December 1984 complainants' meters were read by the same meter reader. This meter reader has an excellent meter reading record and has been employed since 1980.

A different meter reader was assigned to read complainants' meters in January, February, and

March 1985. This meter reader has an excellent meter reading record, has been employed since November 1983, and was promoted to the position of Gas Serviceman in November 1986.

The meter readings were verified by service representatives when the electric and gas meters were changed.

The only support complainants provided for their request was a statement that all appliances, except the refrigerator, were turned off during late December 1984 and early January 1985. At the hearing the ALJ provided complainants an opportunity to submit additional information in support of their request and to respond to PG&E's further data. No response or additional information has been received from complainants.

Although PG&E changed meter readers in January 1985, this would not account for a difference in total consumption by complainants. If an error occurred in the meter reading for the disputed period, it would have appeared in subsequent readings. However, no abnormality appeared in the readings made prior to the testing and removal of the meters. In fact, these readings were verified by PG&E's service representatives.

Without an indication that either the meters registered improperly or that there was a leak, we have no basis for granting complainants' request. As shown in the quote below, we can not expect PG&E to prove the manner in which energy is consumed by its customers.

"We are confronted with a classic problem of the burden of proof imposed upon complainant in a complaint proceeding. In such proceedings, it would not be wise or practical policy to require the utility to prove, through whatever devices, that a customer actually did or did not use the energy registered on his meter. To expect a utility to determine the amount of energy used as well as the manner in which it was used would require an unacceptable intrusion into the lives of its customers.

"Instead, we require the complainant to show that he could not possibly have used the amounts of energy in dispute. If a meter is tested and proven to be accurate within acceptable limits, if no gas leaks are discovered in equipment or appliances, and if the customer's potential gas demand exceeds the amounts of energy usage in dispute, a presumption exists that the customer, in one way or another, used the gas as shown on the meter." (D.92577, pp. 5-6.)

PG&E's evidence establishes such a presumption in this case. Therefore, without additional support for their complaint, we have no alternative but to deny complainants' request.

Findings of Fact

1. Complainants filed C.85-12-055 on December 27, 1985 alleging PG&E overcharged them for gas and electric service during late December 1984 and early January 1985.
2. Complainants filed an informal complaint with the Commission's Consumer and Affairs Branch, but were not satisfied with the resolution.
3. A hearing was held on February 24, 1988.
4. The only support complainants provided for their request was a statement that all appliances, except the refrigerator, were turned off during late December 1984 and early January 1985.
5. PG&E inspected complainants' gas appliances and service line for leaks, replaced the gas and electric meters and the electric service drop, tested the accuracy of the gas meter, and verified complainants' meter readings and usage pattern.
6. PG&E found: (1) no indication of leaks, (2) both the gas and electric meter produced accurate readings, (3) the meter readings for the disputed period recorded properly, and (4) the gas and electric usage for the disputed period consistent with prior and subsequent meter readings.

Conclusions of Law

1. Complainants' gas and electric bill for the period of late December 1984 and early January 1985 is accurate.
2. Complainants' request for reimbursement of overcharges and all other costs associated with its complaint should be denied.
3. C.85-12-055 should be denied.

O R D E R

IT IS ORDERED that:

1. Complainants' request for reimbursement of overcharges and all other costs associated with Case (C.) 85-12-055 is denied.
2. C.85-12-055 is closed.

This order becomes effective 30 days from today.

Dated SEP 7 1989 at San Francisco, California.

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

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

*Wesley Franklin*

WESLEY FRANKLIN, Acting Executive Director

*DE*

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