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Decision 91-04-012 April 10, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHN BOGGS,

Complainant,

vs.

PACIFIC GAS AND ELECTRIC COMPANY,

Defendant.

ORIGINAL

Case 90-08-051
(Filed August 22, 1990)

John Boggs, for himself, complainant.
Jefferson Bagby, Attorney at Law, for
Pacific Gas and Electric Company,
defendant.

OPINION

Complainant, John Boggs, disputes a bill for electric service in the amount of \$2,609.75 rendered by Pacific Gas and Electric Company (PG&E) for alleged energy diversion.

A duly noticed public hearing was held before Administrative Law Judge Orville I. Wright in Mariposa on November 8, 1990, and the matter was submitted for decision on December 16, 1990.

Boggs' Evidence

Boggs rented premises and obtained PG&E electric service on August 4, 1983.

In November, 1988, complainant states that he requested a meter check from PG&E as he had been receiving some erratic bills. After about three or four weeks, a PG&E employee briefly checked the meter and left. Several months later - in March, 1989 - Boggs noticed that a new meter had been installed, and he began receiving billings for unmetered energy in the amount of \$2,609.75.

Boggs testified that he never tampered with his electric meter in any way and, for that reason, refused to meet and discuss the additional bill of \$2,609.75 or arrange for its payment for a period of months.

In September, 1989, Boggs received a 15-day shut off notice and two 48-hour shut off notices from defendant. Boggs' wife then telephoned PG&E and was informed that their account was not delinquent.

In early November, 1989, Mrs. Boggs received a telephone call from PG&E's revenue protection representative (RPR) advising her that the RPR would be at her home on November 6, 1989 to discuss the matter of \$2,609.75. The RPR did not appear on November 6, but did arrive on the following day, and, in complainant's absence, disconnected his power supply.

PG&E's Evidence

The following synopsis of the events leading to disconnection of service to complainant is contained in PG&E's response to the complaint and is supported by the record:

"On February 8, 1989, during the course of obtaining the regular monthly meter reading, our Meter Reader observed that the outer seal that secures Mr. Boggs' electric meter was broken. Our Meter Reader also noted that the meter reading was less than the reading taken on January 10, 1989.

"Our Meter Reader reported this situation to our Revenue Protection Representative as an incident involving possible meter tampering.

"On February 27, 1989, our RPR went to Mr. Boggs' residence to inspect our metering facilities. The inspection revealed that our facilities had been tampered with. The hands on the electric meter index had been tampered with and the wear on the meter prong revealed the meter had been turned upside down many times, causing the meter to run backward. The meter was not exchanged at this time because our RPR wanted to review the account further.

"On March 7, 1989, our RPR went to Mr. Boggs' residence and removed meter #7H5784 for evidence.

"On March 20, 1989, our RPR sent Mr. Boggs a letter informing him that a tampered electric meter was found at his residence. Mr. Boggs did not reply.

"Our RPR reviewed the usage on Mr. Boggs' account and found that the usage dropped in July 1984. Feeling that this is when the tampering started, he requested a retroactive bill for the period of July 13, 1984, to March 7, 1989. The retroactive billing was based on the corresponding period of August 4, 1983, to July 13, 1984. This being only an 11-month period, the 12th month was estimated at 22 KWHRS a day using the test reading period of August 4, 1983, to August 16, 1983. Usage for that period was 264 KWHRS/12 days = 22 KWHRS per day.

"On July 19, 1989, our RPR sent Mr. Boggs a letter with a retroactive bill enclosed for unmetered energy in the amount of \$2,609.75. Mr. Boggs did not reply.

"On September 20, 1989, RPR sent Mr. Boggs a notice that his account would be shut off in 15 days if the \$2,609.75 was not paid. Mr. Boggs did not reply.

"On October 26, 1989, our RPR sent Mr. Boggs a notice that his utility service is scheduled to be shut off in 48 hours if the \$2,609.75 is not paid. Mr. Boggs did not reply.

"On October 31, 1989, our electric Troubleman was sent to Mr. Boggs' residence to shut off the electricity. Mrs. Boggs became very upset so it was left on so that she could contact our RPR.

"On November 1, 1989, RPR called Mrs. Boggs concerning the retroactive billing. She said she had no intention of paying the bill because she did not owe any bill. Our RPR asked her if she wanted to meet to discuss the bill. She said, "No." Our RPR informed Mrs. Boggs that

he would give her until November 6, 1989, to make some sort of arrangement, or the electricity would be shut off. They did not reply.

"On November 7, 1989, our RPR met a Troubleman at the Boggs' residence to shut off the electricity. Our RPR asked Mrs. Boggs if she would like to discuss the bill. She kept saying, "We did not tamper with your meter. We pay our bills every month and you can't turn our power off." With Mrs. Boggs' unwillingness to discuss any part of the bill, our RPR had the electricity turned off.

"On January 5, 1990, our RPR sent Mr. Boggs a letter stating we had received a complaint from the CPUC and that all further collection action had been stopped.

"In view of the results of our investigation, it is our belief that energy theft occurred during the stated period and that the additional billing for unmetered energy is reasonable and just."

At the hearing, PG&E's RPR testified that he could find no record that Boggs had requested a meter check at any time. He also stated that he missed no appointments with complainants.

PG&E admits that several clerical errors were made in its many messages to Boggs, but notes that each such error was corrected in a timely manner.

Discussion

The physical evidence in this case shows clearly that there has been tampering of the Boggs' meter. The inner and outer seals were found to be missing, the meter hands had been moved, and wear spots were evident showing frequent removal and replacement of the meter.

PG&E followed Commission Energy Diversion Guidelines in estimating the time when meter tampering first occurred and in estimating the amount of diverted energy. At the hearing, PG&E reduced its backbill to include only 36 months commencing with the

date that the Boggs' meter was replaced. The revised bill is \$2,005.37.

While Boggs points to several clerical errors among the many bills, rebills, letters, and notices he received from PG&E, the noted errors were later corrected so that no failure of due notice has been shown.

Based upon the evidence, we can only conclude that Boggs has been the recipient of unmetered energy in the amount of \$2,005.37 and must pay for it.

Findings of Fact

1. John Boggs rented premises and obtained electric service from PG&E on August 4, 1983.

2. On February 8, 1989, PG&E discovered that the outer seal on Boggs' meter was broken and the meter reading was less than that of the proceeding month.

3. Further investigation of Boggs' meter revealed the inner seal to be broken, and other physical evidence showed that the meter hands had been moved and the meter had been removed and replaced many times by persons other than PG&E employees.

4. PG&E followed Commission Energy Diversion Guidelines in estimating when meter tampering first occurred and in estimating the amount of diverted energy.

5. PG&E offered to reduce the disputed backbill from \$2,609.75 to \$2,005.37 to include only 36 months commencing with the date that the Boggs' meter was replaced.

Conclusion of Law

Defendant should be ordered to revise its billing of unmetered energy to John Boggs to the sum of \$2,005.37, and, in all other respects, the complaint should be denied.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company shall revise its billing of unmetered energy to John Boggs to the sum of \$2,005.37.
2. In all other respects, the complaint is denied and this proceeding is closed.

This order becomes effective 30 days from today.

Dated April 10, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SAULMAN, Executive Director
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