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Decision 91-12-064 December 18, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ANGELO MARKOULIS, individually and
dba AMERICAN INDUSTRIAL CENTER by
his attorney-in-fact, STEVE
MARKOULIS, AND GREGORY MARKOULIS,

Complainants,

v.

PACIFIC GAS AND ELECTRIC CO.
(U-39-E),

Defendant.

ORIGINAL
Case 89-02-012
(Filed February 3, 1989)

ORDER DENYING REHEARING AND MODIFYING DECISION 91-09-008

Angelo Markoulis, individually and doing business as American Industrial Center (AIC), et al. (complainants), have filed an application for rehearing of Decision 91-09-008. In Decision 91-09-008 we found that complainants should continue to pay their electric bills in accordance with a written agreement entered into between Angelo Markoulis and PG&E and should pay all past due electric bills for AIC with interest at the rate set forth in PG&E's tariff rules. We also ordered complainants' deposit of \$4,637.56 to be disbursed to PG&E.

Complainants have raised numerous allegations of error, most concerning the nature and lawfulness of the subtractive billing agreement entered into between the parties wherein complainants are liable to PG&E for the difference between the amount of electric use shown on the AIC's master meters and all other meters, including the metered common areas, i.e., transformer and line losses occurring in complainants' building. We need not set out each of the issues raised in complainants' 41 page application as they are generally a repetition of issues raised previously by complainants. However, we note that the general theme of complainants' allegations pertain to the issues of tariff authorization for the subtractive billing arrangement and discriminatory imposition of the arrangement. Upon reviewing each

and every allegation of error raised by complainants, we conclude that sufficient grounds for rehearing of Decision 91-09-008 have not been shown, although we do believe that some of the allegations raised by complainants present us with good reason to modify the decision as set forth below. Finally, we note that Gregory Markoulis was joined as a defendant in the related superior court action and complainants have never filed a motion to have him removed as a party from this action. No further discussion is required of complainants' allegations of error.

Therefore, IT IS ORDERED that Decision 91-09-008 is modified as set forth herein:

1. On page 9, the first full paragraph is modified as follows:

We disagree with the complainants' claim. While it may not be feasible for PG&E to include every possible metering situation in its tariffs, the subtractive billing procedure, though not specifically set forth in Rule 9, follows its general guidelines and is contemplated by the rule. GO 96-A requires the Commission's approval of contracts that deviate from a utility's tariffs to ensure that other ratepayers are not disadvantaged by the contract. The Agreement is not a "special contract" and it does not deviate from PG&E's tariffs. Accordingly, it is not the type of contract requiring our approval. Moreover, the subtractive billing procedure does not disadvantage other ratepayers. In fact, complainants' refusal to pay their bills would require other ratepayers to make up the revenue deficiency.

2. On page 9, the second full paragraph is modified as follows:

PG&E proposed the subtractive billing procedure as a convenience to complainants. The Agreement is not discriminatory but beneficial to complainants. PG&E saved the complainants a considerable amount of money by not requiring them to locate all meters in one location at street level. By

complainants' own estimates, the cost of rewiring 300 tenant units would be \$12 million to \$15 million. Complainants' bills under the subtractive billing procedure are approximately \$75,000 per year for the two buildings. In terms of time value of money, the \$75,000 annual payment represents an interest of less than 1% on \$12 million. These charges appear just and reasonable. Based on the facts, we conclude that complainants are avoiding paying their bills in accordance with the Agreement by alleging a technical violation of PG&E's tariffs.

3. On page 10, the second full paragraph is modified as follows:

Finally, we will consider if annual electric bills of \$75,000 would pose undue financial burden on complainants. Complainants received \$4 million in rent from AIC's tenants in 1990. A \$75,000 charge for electric service would constitute less than 2% in operating expenses for AIC. We believe that the charge is just and reasonable and would not pose a hardship on complainants.

4. Finding of Fact number 7 is modified as follows:

7. Under PG&E's Tariff Rule 16, PG&E may require all meters in multi-occupancy buildings to be installed in a central location near PG&E's point of service to the building.

5. Finding of Fact number 26a is added following Finding of Fact number 26, as follows:

26a. PG&E's charges for the master meters, the individual tenants' meters, and the metered common areas, as well as the charges under the subtractive billing agreement, are just and reasonable.

6. Finding of Fact number 29 is deleted from the Findings of Fact and added in its entirety as Conclusion of Law number 4, as follows:

4. Complainants are liable for transformer and line losses occurring on their side of the master meters.

7. Finding of Fact number 30 is deleted from the Findings of Fact and added in its entirety as Conclusion of Law number 5:

5. Complainants are liable for past due bills with interest.

8. The following is added as Finding of Fact number 29:

29. We have reviewed the Agreement and find that its language is not ambiguous.

9. The following is added as Finding of Fact number 30:

30. We have reviewed the allegations of discrimination and find that it is not discriminatory for Complainants to be liable for transformer and line losses occurring on their side of the master meters.

10. The following is added as Finding of Fact number 32:

32. The amount of money due and owing to PG&E by Complainants for past due electric bills, including interest thereon is just and reasonable.

11. The following is added as Conclusion of Law number 1a:

1a. The Agreement does not deviate from PG&E's filed tariffs.

12. The following is added as Conclusion of Law number 6:

6. The billing methodology set forth in the Agreement does not deviate from PG&E's tariffs and is not a special contract.

13. The following is added as Conclusion of Law number 7:

7. The language of the Agreement is not ambiguous.

14. The following is added as Conclusion of Law number 8:

8. The Agreement is not discriminatory.

15. The following is added as Conclusion of Law number 9:

9. It is not discriminatory for Complainants to be liable for transformer and line losses occurring on their side of the master meters.

16. The following is added as Conclusion of Law number 10:

10. PG&E's charges for the master meters, the individual tenants' meters, and the metered common areas, as well as the charges under the substantive billing agreement, are just and reasonable.

IT IS FURTHER ORDERED that the stay of Decision 91-09-008 ordered in Decision 91-11-071 shall terminate 30 days from today.

This order is effective today.

Dated December 18, 1991, at San Francisco, California.

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

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL WM. FESSLER
NORMAN D. SHUMWAY
Commissioners


NEAL J. SHULMAN, Executive Director