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Decision 92-02-062 February 20, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOAN MARIE MARTIN,

Complainant,

vs.

PACIFIC GAS & ELECTRIC CO.,

Defendant.

(U 39 E)

ORIGINAL

Case 91-08-060
(Filed August 30, 1991)

O P I N I O N

Joan Marie Martin (Martin) prepared, signed, and verified a complaint against Pacific Gas and Electric Company (PG&E) on August 17, 1987. The complaint was filed on August 30, 1991.

PG&E answered and moved to dismiss the complaint as the acts complained of occurred more than three years prior to the filing of the complaint (Public Utilities (PU) Code §§ 735 and 736.)

On October 10, 1991, the administrative law judge (ALJ) to whom this matter had been referred wrote the following letter to Martin:

"Your complaint against PG&E has been referred to me for determination. We have also received the utility's answer which was filed on September 30, 1991.

"It appears that you are seeking to reopen a complaint which you filed with the Commission in 1985 or 1987, or both times. Please be advised that the Commission does not have authority to reopen proceedings or hear complaints which are more than three years old.

"Please write me a letter (with a copy to PG&E) telling me whether you claim you have overpaid your PG&E bill within the last three years and

what PG&E has or has not done to cause the overpayment. If I do not hear from you by October 28, 1991 I will assume that you do not wish to proceed with your complaint."

In response to this letter, and to a confirming telephone conversation with the ALJ, complainant sent a document styled Supplementary Amendment and Protests to Answer to the Commission and to defendant together with numerous bills, notices, calculations, and other writings. However, neither the amendment nor any of the submitted material alleges any action or inaction on the part of PG&E within the last three years giving rise to a new cause of action.

Among the papers sent by Martin are letters which seem determinative that the three-year statute of limitations bars reopening of her claims against PG&E.

One letter addressed to Martin from PG&E is dated June 17, 1987 (referencing Acct. No. LJK 89 08903) and reads as follows:

"We recently received your inquiry of June 3, 1987, to the California Public Utilities Commission.

"PG&E has corrected your prior billing questions which is referenced in the inquiry. A credit adjustment for \$18.39 was applied to your account for the period November 3 to December 11, 1986. This was caused by an overread of your gas meter on November 3, 1987. Our position is that your account has been adjusted and corrected properly.

"Our office will report this information to the Commission who will then respond to your inquiry."

A second letter from the Commission's Consumer Affairs Branch dated July 24, 1987 (referencing File No. 861-4024-E) is addressed to complainant and states as follows:

"We have completed our review of your billing dispute with PG&E.

"PG&E has provided us with copies of their various letters to you explaining what has transpired on your account. It appears they have proceeded correctly in resolving this matter. The dividends you pay for PG&E stock have nothing to do with your monthly bills. In your correspondence with the Commission, you insist the bills are incorrect but you give no solid evidence of it. Also, we find no evidence of fraud.

"Ms. Martin, it is our staff's opinion that PG&E is not in violation of their rules and tariffs approved by this Commission. We realize this is other than what you had hoped in coming to the Commission. Be assured we gave this matter our careful scrutiny."

Findings of Fact

1. On August 30, 1991, Joan Marie Martin filed a complaint against Pacific Gas and Electric Company alleging certain billing errors to have occurred prior to June 3, 1987.

2. Letters supplied by complainant show that the Commission's Consumer Affairs Branch had reviewed the allegations and, on July 24, 1987 denied the complaint, advising Martin that PG&E had "proceeded correctly in resolving this matter."

3. PG&E moved to dismiss the complaint as barred by the applicable statute of limitations (PU Code §§ 735 and 736).

Conclusion of Law

The Motion to Dismiss should be granted and the case dismissed.

O R D E R

IT IS ORDERED that the Motion to Dismiss is granted,
Case 91-08-060 is dismissed, and this matter is closed.
This order becomes effective 30 days from today.
Dated February 20, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
NORMAN D. SHUMWAY
Commissioners

Commissioner Patricia M. Eckert,
being necessarily absent, did
not participate.

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


NEAL J. SHULMAN, Executive Director