

L/dp

Decision 92-07-087

July 22, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Raymond Harris,

Complainant,

vs.

Pacific Gas & Electric Company,

Defendant.

**ORIGINAL**

Case No. 91-09-045  
(Filed September 23, 1991)

ORDER DENYING REHEARING

RAYMOND P. HARRIS (Harris) has filed an application for rehearing of Decision (D.) 92-05-035. We have considered all the allegations of error in the application and are of the opinion that good cause for rehearing has not been shown.

The facts are as stated in D.92-02-063 (the original decision) and again in D.92-05-035 (the second decision). In the original decision we denied Harris' complaint against the Pacific Gas & Electric Company (PG&E) and found him responsible, as the customer of record during the pertinent period, for unmetered energy on two premises in the Redding service area.

Harris filed an application for rehearing of the original decision, alleging constitutional violations based on his assumption that the basis for our decision had been a conclusion as to his guilt in tampering with the meters. In the second decision, we clarified this misunderstanding, saying that responsibility for payment of underbilled energy lies with the customer of record.

Harris has now applied for rehearing of the second decision, alleging for the first time that he was not the customer of record during the time of the undermetering on the premises. He bases his denial of his status as customer of record on a representation that he had asked PG&E to remove his name from the account in 1985, and on a repetition of his earlier statements that his relatives were living on one of the two premises during the time of the undermetering. Harris also claims a violation of Rule 13.2 (b) of our Rules of Practice and Procedure, alleging that PG&E had been represented by an attorney at the November 19, 1991 hearing.

#### Discussion

Our finding that Harris was the customer of record was made in the original decision, issued on February 20 of this year; the second decision made no change in this finding. The current application for rehearing was not filed until May 27, ninety-seven (97) days after the issuance of the original decision. Thus, the current application is technically filed too late for us to consider either question under Rule 85 of our Rules of Practice and Procedure, which sets a time limit of 30 days for appeals.

However, even had the application been timely, it would not have shown good cause for rehearing. As we have said before, the identity of the occupants of the premises is not relevant to the issue of responsibility; only the customer of record is. Assuming Harris' allegation concerning his request to PG&E for termination is true, Harris knew in 1985 that he had made the request; yet he did not mention it when he was billed by PG&E, nor at the hearing, nor in his previous application for rehearing. In the five years between his request and his 1990 filing he must have known that the change had not been made, yet there is no evidence that he ever followed through on the request. That lack of evidence and the fact that he did not

mention it earlier weigh against its power to convince us that it constitutes good cause for rehearing.

The allegation concerning the presence of an attorney at the hearing of November 19, 1991 is also made late, because the hearing preceded the original decision and Harris could have objected at the hearing itself or in his first application for rehearing. Harris failed to object at both times. However, even had he done so, it would not have invalidated the hearing, as none of the parties present was an attorney. This allegation is incorrect, as well as late, and does not show good cause for rehearing.

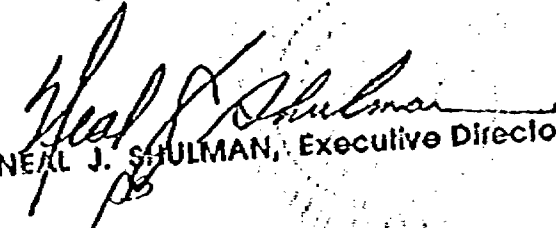
**THEREFORE, IT IS ORDERED** that rehearing of D.92-05-035 is hereby denied.

This order is effective today.

Dated July 22, 1992, at San Francisco, California.

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

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

  
NEAL J. SHULMAN, Executive Director