

SEP 3 1992

Decision 92-09-004 September 2, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Teresa Murphy,

Complainant,

vs.

Pacific Gas and Electric Company,

Defendant.

Case 91-06-014
(Filed June 10, 1991)

O P I N I O N

Teresa Murphy complains that Pacific Gas and Electric Company (PG&E) has improperly charged the utility account for her residence at 16154 Via Segundo, San Lorenzo, with past-due balances of \$749.25 in the name of her husband, Bud Murphy, and \$458.99 in the name of her daughter, Mary Murphy. Complainant alleges that she did not reside at 16154 Via Segundo when electric service to her husband and to her daughter was provided.

Upon the filing of defendant's answer, duly noticed public hearings were held before Administrative Law Judge (ALJ) Orville I. Wright in San Francisco on August 30, 1991, September 30, 1991, and May 4, 1992 at which latter time the matter was submitted.

Complainant's Evidence

Although three hearings were convened to accommodate Teresa Murphy, complainant appeared at none of them. Complainant's daughter, Mary Murphy, appeared and stated each time that her mother was unable to attend because of illness. Mary Murphy testified on behalf of Teresa Murphy.

Daughter's testimony is that her mother and father lived at the Via Segundo address until sometime early in 1988 when mother moved out to avoid contact with father upon the parties

instituting divorce proceedings. Mary Murphy was not living at Via Segundo at that time and could not provide an address where her mother lived after mother moved out of Via Segundo.

Mary Murphy states that her father moved out of Via Segundo about March of 1989 and daughter moved in, telephoning PG&E to place utility service in daughter's name. Mother moved into Via Segundo with daughter sometime in 1989.

In January 1990, daughter states that she moved out, and Teresa Murphy placed utility service in Teresa Murphy's name as it remains to date. Mary Murphy and Teresa Murphy both now reside at Via Segundo.

PG&E's Evidence

PG&E's records show that Bud Murphy and Teresa Murphy, husband and wife, applied for utility service for their residence at 16154 Via Segundo, San Lorenzo, on March 16, 1977. Service was established in the name of Bud Murphy. On March 23, 1989, service was transferred to Mary Murphy, daughter, leaving an outstanding past-due balance of \$749.25.

On January 26, 1990, Teresa Murphy, having been divorced from Bud Murphy, established service at the Via Segundo address in her own name. In October 1990, PG&E transferred the past-due balance accumulated when the account was in the name of Bud Murphy to Teresa Murphy. PG&E also transferred a past-due closing balance of \$458.99 accumulated when the account was in the name of Mary Murphy to Teresa Murphy.

PG&E transferred these delinquencies to Teresa Murphy's account in the belief that Teresa Murphy has resided at the Via Segundo address since the Murphy account was established in 1977 until the present date. It relies on Rule 3, Application for Service, Paragraph C, Individual Liability for Joint Service, which states:

"Where two or more persons join in one application or contract for service, they shall be jointly and severally liable thereunder and

shall be billed by means of a single periodic bill mailed to the person designated on the application to receive the bill. Whether or not PG&E obtained a joint application, where two or more adults occupy the same premises, they shall be jointly and severally liable for bills for energy supplied."

In support of its contention that Teresa Murphy has resided at Via Segundo since 1977, PG&E provided testimony through its credit representative. This witness testified that she had regularly visited Via Segundo for bill collection purposes during the times when the delinquent balances were accumulating and consistently found Teresa Murphy at the premises to discuss the unpaid bills.

Motion to Dismiss

PG&E moves that this case be dismissed for failure of complainant to meet her burden of proof.

We have noted that three separate hearings were convened in this proceeding and complainant has never appeared to testify.

On February 27, 1992 the following ALJ's ruling was issued:

"I find the evidence in this case inadequate for a determination of the residence of complainant during the period covered by the complaint.

"The record should be augmented by the testimony of Teresa Murphy and of PG&E's credit representative, Barbara Krebs. PG&E should also provide an estimate of the amount of billings at issue in this proceeding.

"The calendar clerk will soon contact the parties to set a time for further hearing."

On May 4, 1992, a final duly noticed public hearing was convened, and complainant failed to appear. Once again, Mary Murphy appeared and stated that her mother was ill.

PG&E's credit representative, named in the ruling, did appear and testified to her regular personal contacts with Teresa

Murphy at Via Segundo during the periods of time when Mary Murphy states that her mother did not live there.

In these circumstances, we concur with PG&E that the case should be dismissed for failure of proof and for failure to prosecute with reasonable diligence.

Findings of Fact

1. Teresa Murphy complains that she is being charged for utility services at her residence at times when she did not live there.

2. Three duly noticed hearings were convened to hear Teresa Murphy's complaint, but complainant did not appear.

3. PG&E presented a witness who testified directly to her regular personal contracts with Teresa Murphy at her residence during the periods of time when the complainant states that she did not live there.

4. Complainant has failed to carry her burden of proof and has failed to prosecute her complaint with reasonable diligence.

Conclusion of Law

The complaint should be dismissed.

ORDER

IT IS ORDERED that the complaint is dismissed and the docket is closed.

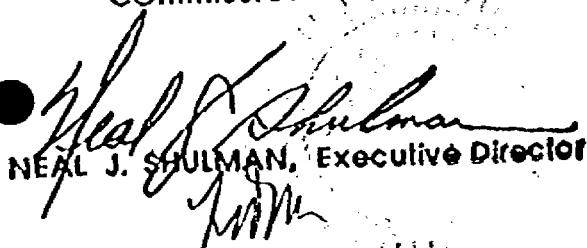
This order becomes effective 30 days from today.

Dated September 2, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President

JOHN B. OHANIAN
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director

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