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Decision 92-10-044 October 21, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EDWIN D. PRICE and LINDA K. PRICE,)
Complainants,)

vs.

SIERRA PACIFIC POWER COMPANY,
Defendant.

ORIGINAL

Case 89-12-032
(Filed December 19, 1989)

Edwin D. Price and Linda K. Price, for themselves,
complainants.
Scot R. Campbell, Attorney at Law, for Sierra
Pacific Power Company, defendant.

OPINION

Summary

Edwin D. Price and Linda K. Price, prior owners of a Swensen's Ice Cream Parlor, are protesting a backbilling by Sierra Pacific Power Company (Sierra) for unbilled service in the amount of \$19,806.85.

The Commission concludes that Sierra failed to exercise ordinary care in billing the account, and the backbilling should be waived because of utility billing error.

Discussion

The Prices bought the ice cream parlor in 1986 and sold it in 1989. While transferring the account for electric service to the new owner, Sierra discovered that the account had been switched with Shelly's Drug Store. Both businesses are located in the same shopping center in South Lake Tahoe. In accordance with its Rule 18, Sierra refunded overpayments for the last three years to the drug store and backbilled the Prices \$19,806.85 for unbilled service to the ice cream parlor.

Copies of the original new service application forms for the drug store and the ice cream parlor were received in evidence (Exhibit 6).

One application form shows that Sierra installed Meter No. 115521 for "Swensen's Ice Cream" on August 22, 1972. The records show that this meter has never been replaced.

The other application form shows that Sierra installed Meter No. 116760 for "Shelly's Drug Store" on September 19, 1973. The records show that it was exchanged on May 22, 1980, presumably under a meter accuracy sampling program. That meter was exchanged on July 25, 1980, for a recorder meter as part of a load research survey. The recorder was removed on March 31, 1987, and replaced with a regular meter, Meter No. 159427, which still remains in place.

Sierra has determined that Meter No. 115521 actually serves the drug store and Meter No. 159427 serves the ice cream parlor. It is clear that the billings had been switched. And Sierra believes that the billing switch occurred in 1973 and was the result of incorrect information provided over the phone by the original owner who owned both businesses at that time.

According to Sierra, since a meter reader must read several hundred meters in a day, it is not possible for a meter reader to relate a meter to a particular business account. Therefore, Sierra contends that the ultimate responsibility must lie with the customer to ensure that the correct meter is tied to the customer's account since the utility does not assume responsibility for the configuration of the customer's wiring. However, Sierra now has a program to ensure that when there is an application for new service (as opposed to a change of ownership for an existing service), the utility does verify that the meter number corresponds with the account number for a new service. And Sierra points out that its Tariff Rule 16.A.1.b requires the

customers of multi-occupancy buildings to mark the meter that measures usage for each customer's unit.

The Prices introduced into evidence photographs which show that Meter No. 159427 is mounted on an individual service panel clearly marked "SWENSEN'S" in large black lettering. And Meter No. 159427, as mentioned above, does actually serve the ice cream parlor. According to the Prices, based on information from prior owners, that meter panel has been marked SWENSEN'S for at least eight years.

Mr. Price points out that the meter serving the ice cream parlor is located in a utility room behind the ice cream parlor; Sierra was reading a meter inside the drug store and billing it to the ice cream parlor. He contends that the mere location of the meters should have alerted Sierra that there was an unusual situation that warranted scrutiny.

Lastly, Mr. Price states that before he purchased the ice cream parlor, he requested Sierra to provide him with the usage for the last ten years. Sierra did provide him with the information but, as it turned out, the usage was for the drug store. He included that information in his financial analysis and decided to buy the business. He contends that had he been furnished with the actual usage, he would not have bought the business. He argues that, notwithstanding the utility's tariff rules, there has to be a point where the Commission will hold a utility responsible for its negligence and provide the customer with some protection.

We agree with the Prices. Sierra failed to exercise ordinary care in handling these two accounts. Furthermore, Sierra had numerous opportunities to detect the problem but failed to do so.

Sierra makes a valid point that a meter reader who reads several hundred meters in one day cannot be expected to detect such problems. But we can find no excuse for Sierra's other employees who made special visits to obtain meter readings because of

ownership changes or to exchange meters. And we find it particularly disturbing that the problem was not detected by Sierra's load research personnel when they installed the recording meter and, presumably, kept it under surveillance for nearly seven years.

The evidence (Exhibit 4) shows that Meter No. 159427 is clearly marked SWENSEN'S. There is no mix-up in the customer's wiring and the meter actually records usage for the ice cream parlor. Therefore, the Prices are in full compliance with Rule 16.A.1.b.

Also, the evidence (Exhibit 6) shows that the billing problem originated from the incorrect meter number entered on the application for new service to the ice cream parlor. Only a Sierra employee could have entered that number. Therefore, we are not persuaded that the error should be blamed on incorrect information furnished over the telephone by the first owner.

In summary, we conclude that the Prices have met their burden of proof sufficiently to establish that the problem was caused by utility billing error. They do not have the burden of explaining how the error occurred.¹ Accordingly, Sierra should waive the backbilling.

Findings of Fact

1. Since March 31, 1987, service to the ice cream parlor has been provided through Meter No. 159427.
2. Meter No. 159427 is located on an individual meter panel which is correctly labeled SWENSEN'S.
3. There is no customer wiring mix-up, and Meter No. 159427 is in compliance with Rule 16.A.1.b.

¹ See Decision (D.) 89-12-055, order modifying D.89-09-101 and denying rehearing in Schrader v Southern California Gas Company. Also, see D.92-06-035, order denying rehearing of D.92-03-041.

4. The application for new service to the ice cream parlor has an incorrect meter number entered on it.

5. Only a Sierra employee could have entered the incorrect meter number on the application for new service to the ice cream parlor.

Conclusions of Law

1. The Prices have established that there was utility billing error which caused the billings for the ice cream parlor and the drug store to be switched.

2. The Prices have satisfied their burden of proof by demonstrating that there was utility billing error. They do not have the burden of explaining how the error occurred.

ORDER

IT IS ORDERED that:

1. Sierra Pacific Power Company shall waive its backbilling for \$19,806.85 to Edwin D. Price and Linda K. Price for unbilled service provided to Swensen's Ice Cream Parlor in South Lake Tahoe.

2. Case 89-12-032 is closed.

This order is effective today.

Dated October 21, 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

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Neal J. Shulman
NEAL J. SHULMAN, Executive Director
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