Decision 82 02 011 FEB - 4 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SHADOW RUN RANCH A.J. MacDONALD ADOLF SCHOEPE, Complainants, vs. SAN DIEGO GAS & ELECTRIC COMPANY, Defendant.	Case 10982 (April 21, 1981)

A. J. MacDonald, for complainants.
Randall W. Childress, Attorney at Law for defendant.

O P I N I O N

This is a complaint by Shadow Run Ranch (Ranch), A. J. MacDonald, and Adolf Schoepe (complainants) against San Diego Gas & Electric Company (SDG&E). The complaint contends that Ranch was improperly billed for electric service for the periods of July-August, and August-September, 1980. The amount in dispute is $4,534.60, which has been deposited with the Commission. The complaint also challenges SDG&E's operating procedures in connection with the dispute.

A duly noticed public hearing was held in this proceeding on August 13, 1981, before Administrative Law Judge Donald B. Jarvis in Los Angeles. The matter was submitted on that date.

Ranch is in the business of growing lemons and pasturing horses. There is a SDG&E meter which records usage on two 100-horsepower pumps which are used to pump water for irrigation. The

pumps lift water approximately 400 feet from the San Luis Rey Water Basin. Ranch also has water rights in adjacent Frey Creek. The creek water is pumped to the property by diesel motors. Complainants contend that: 1980 was a wet year. There was a good flow of water in Frey Creek. During the disputed period the electric pumps were rarely used because Ranch was using water from the creek. Complainants assert that they did not use the electricity for which they were billed and that there must have been a malfunction of the meter. They also complain of the treatment received from SDG&E in this dispute.

SDG&E contends that the meter was properly read. It was tested twice and found to be operating within acceptable limits. Past usage indicates that the pumps are capable of using the amount of electricity billed for the disputed period.

The material issue in this proceeding is whether the electric meter was functioning properly during the disputed period.

William Hutchings, the Ranch manager, testified that since there was sufficient water from Frey Creek during the disputed period he turned the pumps on only for maintenance and conditioning purposes. SDG&E argues that the electricity passed through the meter which was found to be functioning properly. It suggests that a grounding condition could have existed on one or both of the pumps, which would have drawn current, or that a pump was inadvertently left running and the Ranch manager was afraid to acknowledge it.

SDG&E's handling of the dispute exacerbated the situation. The Ranch manager's failure to timely report disconnection of service to his employer also did not help.

Ranch was billed $1,875.15 for electric service for the period July 21 to August 18, 1980, and $2,465.80 for the period August 19 to September 18, 1980. There was also a supplemental bill of $193.65 for the period September 18 to 25, 1980.

One of the problems in this case is that all of SDG&E's internal memos dealing with the matter refer to a Mr. Hankey as Ranch's manager. As indicated, Ranch's manager is Mr. Hutchings. There is a Mr. Hankey in the area but he has no connection with Ranch and was not authorized to deal with SDG&E in its behalf. SDG&E contends that the use of the name Hankey is a misnomer, and that all the contacts described were with Hutchings.

The Ranch manager testified to conversations with representatives of SDG&E in which he complained of the bills in dispute. Service to the Ranch was disconnected on September 25, 1980. There is conflicting testimony on whether the Ranch manager authorized the disconnection. It is unnecessary to resolve this conflict because it relates to the question of reconnection charges, and SDG&E has stipulated that it will not seek these charges in this matter.

The Ranch manager did not report the disconnect to the owner for some time because the pumps were not needed for that period. When the matter was reported, an industrial consultant who works for Ranch tried to deal with the problem. He became frustrated and enraged when no member of SDG&E management would talk to him and he was shunted to the service representatives with whom he had been dealing. It must be kept in mind that until the hearing SDG&E did not acknowledge that the name Hankey was a misnomer. The consultant was told of dealings with Hankey, who had no relationship to Ranch, and that Hankey had agreed to the disconnection of service.

SDG&E presented evidence which establishes that the disputed billings were based on meter readings taken from the meter installed at the Ranch. The meter reads sequentially and has a cumulative total. Readings can be verified. A significant error in meter reading can be detected at the time a bill is received. There is no evidence which would establish that the meter was misread.

SDG&E introduced records which show that the meter was field-tested on November 11, 1980 and December 12, 1980. On each occasion it was found to be within the limits of accuracy established by the Commission. Ranch contends that the meters were tested without the presence of any of its representatives and challenges the verity of the tests. It also contends that the meter should not have been tested on site but removed for testing to a neutral laboratory.

The results of the two meter tests were received in evidence. They are not identical (with less than 1% variation) and appear to reflect variations that are ordinary in testing. While Ranch may be suspicious of the tests there is no evidence in the record to justify a finding that they are not valid and should be disregarded.

California electric utilities can test electric meters either on site or at a repair-testing facility. Therefore, testing of the meter here involved on site was appropriate.

This complaint seeks reparation. To award reparation we must find the defendant did not follow applicable rules and regulations set by this Commission; further, we must find the complainant did not receive what he was billed for. The defendant's tariff rule states that "a customer shall have the right to require the utility to conduct the test in his presence, or if he so desires, in the presence of an expert or other representative appointed by him" (Rule 18). Here the defendant had a skeptical customer, and since the meter was field-tested, it would have been painfully simple for defendant to have arranged to meter-test when the customer could be present. Yet our record shows the complainants were not apprised of the opportunity to be present if they desired. This may have led to this formal complaint.

We do not doubt the validity of defendant's field tests. But that does not mean the complainants, under these circumstances, received full value for the utility service they were billed for.

The value of utility service, or whether a customer fully receives what he is billed for, is not limited to just whether the commodity was delivered or used. Other conduct by the utility can have a bearing. Here tariff Rule 18 gives the customer a right. A right is illusory if notice of the right is not given. Although the customer is presumed to have knowledge of his right to be present, it is incumbent on the utility sua sponte to extend the opportunity to exercise that right. Clearly implicit in Rule 18 is the obligation, when a customer requests a test, to advise the customer he can be present. Otherwise tariff Rule 18 has no meaning. Decent customer relations by a utility (a monopoly serving the public trust), through fair and reasonable application of applicable rules and rights, is an essential ingredient of utility service, just as physical delivery of its commodity. Here reasonable application of Rule 18 by defendant carries the duty to apprise the disgruntled, skeptical customer of his right to be present when the meter is tested. Accordingly, we find, by defendant's not fully and meaningfully applying its Rule 18, the overall value of the commodity in question was diminished. Given this diminished value of the service rendered, how much reparation should be awarded?

Given the defendant's conduct and very material omission, we will award some reparation. The units of electricity were, we think, delivered. To award the full $4,535.60 could be a windfall to complainants. We think they should pay something. On balance we will award reparation of $750.00.

We hope this is an isolated incident and not reflective of defendant's customer relations activity.

Our holding in this decision does not mean Rule 18 needs to be revised. Rather, it is an expression on how it is to be administered. We suspect that instances of disgruntled customers not being apprised of their right to be present when they request a meter test are extremely infrequent. We have not seen this arise

before in a formal complaint. This is probably because most utilities apply the Rule 18 in practice, in day-to-day customer relations, consistent with its clear intent. Also, our holding does not change when or where meter tests are to be conducted. Utilities have the option to field or shop test during normal working hours. Ordinarily a field test would, we expect, be easier for the customer to attend; however, the meter can be shop-tested. All the utility has to do is reasonably try to arrange a mutually agreeable time for the test, whether it chooses to shop or field test. Utilities need not completely disrupt their work schedules to accommodate an unreasonable customer. Utilities, as other businesses, should apply an enlightened approach to customer relations, which for the most part means listening, understanding, and courtesy. However, we will direct a copy of this decision to be sent to all electric and gas utilities lest there be any confusion or misunderstanding about Rule 18 and how it is to be applied.

Findings of Fact

1. SDG&E provides electric service to Ranch. Ranch has two 100 horsepower pumps which are used to pump water for irrigation purposes. Both pumps are connected to one meter.

2. The meter recorded 2040 on July 21, 1980 and 2517 on August 19, 1980, which indicates the use of 19,080 kilowatt hours. Ranch was billed $1,875.15 for this energy. The meter recorded 3146 on September 18, 1980, which indicates 25,160 kilowatt hours. Ranch was billed $2,465.80 for this energy. The meter recorded 3195 on September 25, 1980, which indicates the use of 1,960 kilowatt-hours. Ranch was billed $193.65 for this energy.

3. Ranch's electric meter was tested on November 11, 1980 and December 12, 1980. On each occasion it was found to be within the limits of accuracy established by the Commission.

4. Ranch disputed the August bill and subsequent ones. The dispute was not resolved and SDG&E disconnected electrical service on September 25, 1980.

5. Ranch deposited $4,534.60 with the Commission, as a disputed bill deposit, on April 30, 1981. Electrical service was subsequently reinstituted.

6. Ranch was not advised by SDG&E that it could have a representative present to assure the meter tests and SDG&E did not make arrangements for the field tests to be conducted with Ranch's representatives present.

Conclusions of Law

1. SDG&E's Rule 18 provides that a customer may be present during a meter test; it is implicit that this opportunity or option must be communicated to the customer challenging a meter's accuracy.

2. SDG&E did not follow procedures clearly contemplated by the tariffs it provides electric service under, and the value of the utility service furnished was diminished.

3. Of the $4,534.60 deposited with the Commission by Ranch, $750.00 should be disbursed to Ranch as reparation and the balance disbursed to SDG&E.

4. SDG&E should be admonished to review its disputed bill procedures to ensure aggrieved customers are informed of their rights under SDG&E's tariffs.

5. SDG&E is not entitled to any reconnection charges or service fees in connection with reinstituting electric service to Ranch.

O R D E R

IT IS ORDERED that:

1. Complainants' deposit of $4,543.60 shall be disbursed as follows: $750.00 to complainants and $3,784.60 to San Diego Gas & Electric Company (SDG&E). Any additional sums deposited with this Commission shall be disbursed to SDG&E.

2. SDG&E shall not collect any fee or service charge in connection with the reconnection of electric service to complainants; if any such fee or charge has been collected it shall be refunded forthwith.

3. SDG&E shall review its disputed bill procedures to ensure that its customers are informed of their rights under its tariffs and that they receive courteous treatment.

4. Except as provided in this order, complainants are entitled to no other relief in this proceeding.

5. The Executive Director shall mail a copy of this decision to all gas and electric utilities along with a cover letter directing them to the salient discussion in the decision.

This order becomes effective 30 days from today.

Dated February 4, 1982, at San Francisco, California.

I concur in Commissioner Calvo's dissent

/s/ JOHN E. BRYSON
Commissioner

Richard D. Gravelle
Leonard M. Grimes, Jr.
Priscilla C. Grew
Commissioners

I will file a written dissent.

/s/ Victor Calvo
Commissioner

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

Joseph E. Bodovitz, Executive Director

C. 10982

COMMISSIONER VICTOR CALVO, DISSENTING

I dissent.

By awarding complainants $750 in reparations, I believe that complainants are receiving an unwarranted windfall.

I do not doubt that complainants were treated shabbily by the defendant. Nor do I dispute the fact that complainants should have been informed of their right to be present at the meter testing. I am not convinced, however, that these facts in and of themselves justify a reduction in complainants' electric bill.

What concerns me is that the decision specifically points out that there is no evidence to suggest that the complainants' meter was misread or that the meter did not properly function during the period in dispute. In fact, the decision indicates that complainants received the electricity for which they were billed. I am further concerned that complainants themselves were not without fault. The decision suggests that the ranch manager's actions (or inactions) may have contributed to the complainants' difficulties.

In light of these facts, I do not believe that reparations to complainants are appropriate. I do, however, admonish the defendant to improve its customer relations, and take all measures to avoid incidents such as this in the future.

February 4, 1982
San Francisco, CA

Victor Calvo

Victor Calvo, Commissioner

ADDRESS ALL COMMUNICATIONS
TO THE COMMISSION
CALIFORNIA STATE BUILDING
SAN FRANCISCO, CALIFORNIA 94102
TELEPHONE: (415) 557-

Public Utilities Commission

STATE OF CALIFORNIA

FILE NO.

February 8, 1982

To: Chief Executive Officers
All Gas and Electric Utilities

Re: C.10982, D.82-02-011 Issued February 4, 1982
Shadow Run Ranch v SDG&E

The Commission, in this decision, asked that a copy be sent to each gas and electric utility. It addresses Rule 18 of your tariffs which deals with meter-testing procedures. Pages 5-6 of the decision cover the obligation utilities have to advise customers who request a meter test that they or an agent they designate can be present when the meter is tested. As the decision points out, the Commission does not think this drastically alters current practices and it should not disrupt your normal process. Most customers who are skeptical of meter accuracy will, we think, not want to take the time to be present at the test, but extending the offer, as provided by Rule 18, should go far to lending credibility to your process in the customer's eyes.

Although two Commissioners dissented, their dissent addressed awarding reparation and not the underlying utility obligation under Rule 18.

Respectfully,

Joseph E. Bodovitz

JOSEPH E. BODOVITZ
Executive Director

Enclosure

Letter sent w/dec. to all Gas & Elec. utilities.