

Decision 83 05 014 May 4, 1983

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EDWARD J. LINSIN and )  
 BEATRICE R. LINSIN, )  
                   Complainants, )  
                   v                  ) )  
 PACIFIC GAS AND ELECTRIC )  
 COMPANY,                  ) )  
                                   ) )  
                                   Defendant. )

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(ECP)  
Case 82-11-05  
(Filed November 22, 1982)

Edward J. Linsin, for Beatrice R. Linsin  
and himself, complainants.  
Robert S. West, for Pacific Gas and  
Electric Company, defendant.

O P I N I O N

This is a complaint by Edward J. Linsin and Beatrice R. Linsin (Linsins) against Pacific Gas and Electric Company (PG&E). Linsins contend that their gas and electric bills for their residence in San Rafael during the period December 1979 through July 1980 were excessive. PG&E contends that the meters at Linsins' residence were tested and found to be functioning properly: that the amount of energy consumed during the period in question was consistent with Linsins' past usage. The amount in dispute is \$521.27.

This matter was heard under the Commission's Expedited Complaint Procedure. (Public Utilities Code § 1702.1, Rule 13.2.) A duly noticed hearing was held before Administrative Law Judge John Lemke in San Francisco on March 1, 1983 and the matter was submitted on that date.

The Evidence

Complainants

Linsins concede they cannot prove that they did not consume the energy billed for. They also believe that PG&E cannot prove the energy was used.

Linsins assert generally as follows in their complaint:

1. They received a bill in the amount of \$370.47 late in January 1980 for energy used during December 1979 and January 1980. They returned the bill with a request for an explanation, but received no response.
2. They also received what they considered to be an unusually high bill for February 1980, \$184.36.
3. On February 28, 1980 the Linsin family, consisting of complainants and their infant child, went to Palm Springs for an entire month. During this period Mr. Linsin spent only eight or nine nights at home in San Rafael; yet their bill for March was \$126.72.
4. In April the complainants began to compare their bills with those of their neighbors, all having basically the same type Eichler home in San Rafael. They determined that generally their neighbor's bills were only about half of theirs, and some times even less.

5. Beginning in April and extending through October 1980, PG&E investigated complainants' situation. After several visits with the Linsins, the following was determined:
  - (a) The complainants were consuming much more electricity than any of their neighbors, and more gas than all but one. (Two graphs showing this information are attached to the complaint.)
  - (b) Linsins had one of the highest recorded usages in all of San Rafael.
  - (c) Linsins' home had no unusual appliances.
  - (d) After one three-hour session with Mr. Richard Kisbey, PG&E's San Rafael Area Manager, Linsins were informed that the only way they could consume the energy being charged would be "by burning about 50 additional lights with 100-watt capacity every day for two hours," or words to that effect.
  - (e) The refrigerator was cleaned and the water heater thermostat turned down.
  - (f) The gas and electric meters were checked and found to be operating properly.
6. At Linsins' urging the gas and electric meters were replaced in April and August, respectively. ✓
7. Starting with July 1980, Linsins' PG&E bill dropped to a reasonable level.

8. For the period December 1979 through July 1980 Linsins paid \$700 to PG&E.

Linsins state that Mr. Kisbey came to the Linsins' home in an effort to identify the sources of excessive consumption. He spent two hours reconstructing a typical day in the Linsins' lives. He recorded every normal use and investigated the premises room by room. Mr. Linsin says he came away from the meeting feeling that Kisbey agreed with him that there was no way the amount of energy billed for could have been used.

Linsins wrote a letter to PG&E in October 1980 stating that they were encouraged by the recent bills and asking that the disputed \$521.27 be waived. PG&E responded that the grounds had been checked for leaks, the meters tested and found accurate and while it could not be determined how, the energy billed for had in fact been used.

On cross-examination Mr. Linsin testified that during the month the family was in Palm Springs, the house was left in the care of a 13-year old neighbor girl, so that Linsin himself did not have control of the energy used during that period.

Linsin testified that he purchased the home in July 1978; that the home has four bedrooms and two baths, a family room and a 15,000 gallon swimming pool. Some of his neighbors have pools, some do not. He stated the pool has never had a heater that has worked and that the pool filter was shut down for the period in dispute.

Mr. Linsin had originally claimed that the disputed amount of \$521.27 was for a five-month period; but acknowledged at the hearing that it was actually for eight months. During that eight-month period the total PG&E charges were \$1,221.27. Linsins believed that \$100 per month was a reasonable amount for the period, but paid only \$700, neglecting to pay one month. During the period in dispute, Mrs. Linsin was at home during the day with the young child except for the month of March.

Defendant

Robert West testified for PG&E, and sponsored seven exhibits. He stated that rate increases which occurred during the latter part of 1979 and in 1980 had undoubtedly contributed heavily to the higher utility bills. For example, West referred to Exhibit 1, a Statement of Account for Linsins during the two-year period May 1979 through May 1981. He pointed out that during July 1979, 1065 kilowatt-hours (kWh) of electricity were used at a cost of \$39.38; but that for November of 1980, 1031 kWh were used at a cost of \$69.74. The exhibit also shows that during October 1979, 160 therms of gas were used at a cost of \$51.99; but that when a comparable amount--161 therms was used during November 1980, the cost was \$70.39.

Exhibit 2 purports to establish a correlation between the number of "heating degree days" in San Rafael and the amount of gas used by Linsins during comparable billing periods for 1978-1979 and 1979-80. West's definition for "heating degree day" is "A unit that represents one degree of declination from a given point (65°) in the mean daily outdoor temperature that is used to measure heat requirements." For each day in the billing period, maximum and

minimum temperatures are determined and the average obtained. For example, during November 1979 the maximum temperature was 65, the minimum 48, and the average 57. The factor for heating degree days for that particular day was therefore 8.

The exhibit shows that during the approximate two-month period between November 24, 1978 and January 25, 1979, San Rafael experienced 997 heating degree days, and Linsins used 81,800 cubic feet of gas. It further shows that for the period November 26, 1979 to January 24, 1980 there were 815 heating degree days and Linsins used 68,000 cubic feet of gas.

The cubic feet per heating degree day factor for the earlier period was 82.0 (81,800/997), and for the comparable period the following year, 83.4 (68,000/815). West thus concludes that Linsins' gas consumption pattern was about the same for the two periods, and that they used the gas charged for.

Exhibit 3 shows the amounts of gas and electricity the complainants were billed for during the period November 26, 1979 to March 25, 1980, the total cost for that period--\$681.55, and the amount that would have been billed at the earlier 1978-1979 rate--\$489.48. The difference of \$192.07, or 39.2% represents an increase due solely to increased rates.

Exhibit 4 sets forth the readings from the meter-reader's route book covering the period July 1978 to January 1983. For the two-month period December 1978 to January 1979, 818 Ccf of gas were consumed by Linsins, while for the warmer period December 1979 to January 1980, a lesser amount, 680 Ccf, were used. West believes that this evidence of lesser usage for the latter period supports PG&E's position that the meters were correctly functioning during both periods.

Exhibit 5 is a record of the testing of Linsins' gas meter at the PG&E shop on April 22, 1980. The meter was found to be running slightly fast-- $+0.4$ , but well within the utility's tariff limits of plus or minus 2%.

Exhibit 6 is a record of the field test of Linsins' electric meter, and shows that under full load it was tested at 0.997, or accurate to within  $3/10$ ths of one percent. The test was made on June 18, 1980.

Exhibit 7 is a record of a prior test made on Linsins' electric meter, performed on April 22, 1980. The meter at that time was tested at 100% accuracy.

West testified that in his opinion the Linsins have the connected load energy capacity for using considerably more than the gas they were billed for during the period in dispute. He said this is due to the fact that complainants have a radiant-type heater in their home with a 110,000 Btu rating, powered by a circulating pump which distributes the hot water throughout the house. They also have a 40-gallon water heater. He observed that operating the 110,000 Btu radiant heater for 30 days, or 720 hours, would amount to about 792 therms per month. He stated that Linsins recorded gas usage indicates that the furnace was running about one-third of the time, and testified that based upon his experience this represents about average use for customers in the area.

With respect to Linsins' electric bills, West points out that Linsins have a substantial connected load capacity consisting of a color television set, electric stove, refrigerator, dishwasher, washer-dryer, pool filter, pool sweep, circulating pump for the radiant heater and general lighting.

Mr. Linsin acknowledged that his pool filter is on a timer and that it was probably operated during the month of March 1980 while the family was on vacation. West testified that during the period of investigation the filter motor was clocked at 1300 watts, and pointed out that 1.3 kWh for every hour of operation in a month's period could have generated a great deal of use by itself. West stated that it is seldom possible for PG&E to explain how every kWh of use attributed to a customer is actually incurred.

Discussion

Linsins believe PG&E's usage records are unreasonable. They state the graph comparisons shown in the complaint indicate far greater energy consumption by Linsins than by their neighbors. Gas records of four neighbors are shown. The chart indicates a large consumption by Linsins during December 1979-January 1980. But one neighbor used slightly more than Linsins in December, and almost as much in January. Another neighbor used over 300 Ccf in December 1979, compared with Linsins' 340 Ccf.

The electricity use graph shows that Linsins consumed about 1550 kWh during each of these two months. But no reading for December was taken, so that the actual December use might have been greater than, and the January use less than 1550 kWh. One neighbor used 1,000 kWh and another 950 kWh in December. Several neighbors used between 750 and 800 kWh in December. Electricity consumption of seven neighbors is portrayed on the graph.



The following rate increases affected Linsins' PG&E bills during the period in question:

<u>Date</u>	<u>Gas</u>		<u>Date</u>	<u>Electricity</u>	
	<u>Decision</u>	<u>% Increase</u>		<u>Decision</u>	<u>% Increase</u>
10-27-79	90935	19.9	10-11-79	90869	10.8
1-1-80	91107	7.9	1-1-80	91107	8.6
2-18-80	91336	11.7	2-13-80	91335	39-62

The complainant's two-month bill for December 1979-January 1980 of \$370.47 was divided as follows: Gas, \$238.99 (692 therms); electricity, \$131.48 (3119 kWh). Their November 1979 bill of \$118.55 was for 223 therms of gas (\$69.48) and 1212 kWh of electricity (\$49.07). The larger gas rate increases which occurred in October and January seem to have impacted Linsins in accordance with their use pattern.

Based upon the record we find the evidence points convincingly to a case where a customer was caught in a doubly harsh set of circumstances: the arrival of winter coupled with significant utility rate increases. These elements, combined with the receipt of the two-month bill representing December 1979 and January 1980, magnified Linsins' predicament.

The complainants' consumption in October and November 1979 was 160 therms and 1272 kWh, and 223 therms and 1212 kWh, respectively. This consumption was not inexplicably or unreasonably different than the averages for the following high use/cost months of December and January--345 therms and 1550 kWh. Furthermore, Exhibit 4 clearly shows the use of an even greater amount of gas during December 1978-January 1979 (818 Ccf) than during the comparable period a year later (680 Ccf) about which Linsins are complaining. This clearly establishes a use pattern consistent with PG&E's assessments. Linsins' consumption during February 1980 was 315 therms and 1295 kWh. Their consumption during the 1980-1981 winter was less than during 1979-1980. This was undoubtedly due to conservation efforts on their part. Indeed, most energy utility customers were confronted

with the same unusual cost increases experienced by Linsins, and with the need to take drastic conservation steps.

West's exhibit setting forth the correlation between heating degree days and gas use for the 1978-1979 and 1979-1980 periods is persuasive. This information demonstrates a consistent gas use pattern during the periods December 1978-January 1979, and December 1979-January 1980: 82.0 cubic feet per heating degree day for the earlier year, compared with 83.4 cubic feet for the latter.

Finally, evidence establishing the accuracy of both the gas and electric meters argues strongly for a finding that the energy Linsins were billed for was in fact used. The combined evidence concerning (1) accuracy of meters, (2) rate increases during the disputed period, (3) connected load capacities, (4) gas use per heating degree day, and (5) previous use patterns persuades us that the complainants' consumption was correctly metered and assessed during the disputed period.

As do all complainants, Linsins had the burden of proof in this proceeding. (Fremont Customers v PT&T (1968) 68 CPUC 203, 206.) We find that they have not met this burden. The complaint should be denied. In view of the rather large outstanding balance owed PG&E, the following order will allow Linsins to pay the disputed amount over a period of six months.

ORDER

IT IS ORDERED that:

1. Pacific Gas and Electric Company shall allow Edward J. Linsin and Beatrice R. Linsin a period of six months to pay the unpaid balance of their gas and electric bills outstanding for the period covered by this complaint in equal monthly installments. This provision does not apply to current and subsequent billings.

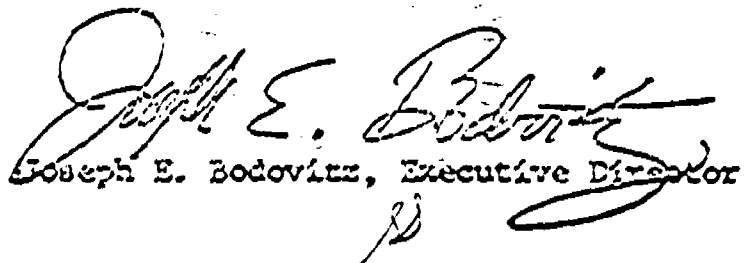
2. In all other respects the complainants are entitled to no relief and the complaint is denied.

This order becomes effective 30 days from today.

Dated MAY 4 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director



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