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Decision No. 87679 AUG 9 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RICHARD KIRSCHMAN,

Complainant,

vs.

PACIFIC GAS AND ELECTRIC
COMPANY,

Defendant.

Case No. 10267
(Filed February 23, 1977)

Richard Kirschman, for himself, complainant.
Kathy Graham, Attorney at Law, for defendant.

O P I N I O N

Complainant lives in a rural area of Marin County in a single-family dwelling. He conducts no commercial or farming activities on the 10-acre plot. Presently, he is supplied electric service through two separate meters and services. One service supplies his dwelling and is billed on Pacific Gas and Electric Company's (PG&E) D-5 Domestic Service rate schedule. The other service supplies a domestic well pump and is billed under PG&E's Rate Schedule A-5 - General Service. Complainant requests an order requiring PG&E to bill domestic single-family separately metered water well pumps under the D-5 rate schedule.

PG&E claims that as complainant chose to install a separate meter to supply the pump, it must, under its tariff, bill the pump service at the A-5 rate schedule.

Public hearing was held at San Francisco on May 19, 1977 before Examiner Gillanders and the matter submitted.

Findings

1. Complainant lives in a rural area of western Marin County where private water wells are common. Because of the distance between his home and the well he has two meters, one for each location. Prior to August 1976 PG&E charged the house (a single-family nonfarm dwelling) at the D-5 schedule and the well pump (which services only his single-family house) at the A-5 schedule. A-5 is more than double the rate of D-5.

2. In August 1976 PG&E started to bill complainant on the D-5 schedule.

3. In October 1976 PG&E informed complainant that he would be billed on the A-5 schedule for the well pump.

4. During the period July-October 1976 complainant made an informal complaint to the Commission staff. PG&E transferred complainant's service from A-5 to D-5; staff agreed with this change and closed out its informal complaint file.

5. Later PG&E changed its interpretation deciding that the A-5 schedule was appropriate, not D-5. Staff agreed to this changed interpretation.

Discussion

It is clear from the record that both PG&E and the staff originally agreed that complainant had found an ambiguity in PG&E's Schedule D-5 and rightly resolved such ambiguity in complainant's favor (PG&E changing its billing from Schedule A-5 to D-5 and the staff sending its form letter closing out the matter). PG&E changed complainant's pump service back to A-5 on the basis that the original change was made simply because of "a clerical error", and that the pump was used for agricultural purposes.

The staff's reliance on PG&E's determination that the pump in question is an "agricultural pump" is unfortunate. The record clearly shows the pump in question is not used for any purpose other than supplying water for domestic use to complainant's single-family residence. Thus, the portion of the D-5 tariff quoted by the staff in its February 4, 1977 letter does not apply to complainant.

According to Tariff Schedule D-5 its applicability is as follows:

"APPLICABILITY

"This schedule is applicable to domestic lighting, heating, cooking and single-phase domestic power service in single-family dwellings and in flats and apartments separately metered by the Utility; to single-phase service used in common for residential purposes by tenants in multi-family dwellings; and to all single-phase farm service on the premises operated by the person whose residence is supplied through the same meter."

The above-quoted material is a perfect example of the tortuous wording so often used by writers of tariffs. PG&E asserts, for example, that "in" does not mean "in". It admits that the schedule applies to service used within or without single-family dwellings. To determine what is a single-family dwelling we must look to PG&E's electric Rule No. 15 - Line Extensions. Under Section F, Definitions, a single-family dwelling is defined as "a house, an apartment, a flat or any other residential unit which contains cooking facilities (not necessarily electric) and which is used as a residence by a single family."

According to PG&E's witness, a separate service and meter under Schedule D-5 would be supplied to any number of single-family dwellings on the same piece of property if each contained some type of cooking facility. Thus, as the pump in question does not contain the required cooking facilities, it cannot be supplied under the D-5 schedule.

We do not agree with PG&E's witness. The requirement for service through the same meter applies only to "all single-phase farm service on the premises operated by the person whose residence is supplied through the same meter." Complainant does not operate a farm. The tariff schedule does not limit service "in" single-family

dwellings to that supplied through one meter. Service to a water well pump which pumps water for use in and about a single-family residence is single-phase domestic power service and under the facts of this case can be supplied by a separate service and meter under the D-5 schedule.

There is no question that the applicability section of Schedule D-5 as written is ambiguous. PG&E should revise the writing so that its meaning is clear.

Conclusion

PG&E is billing complainant's domestic water well pump under Schedule A-5 instead of the proper Schedule D-5.

O R D E R

IT IS ORDERED that defendant shall bill complainant's separately metered domestic water supply pump under Schedule D-5 instead of Schedule A-5.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 9th day of AUGUST, 1977.

Robert Butwin
President
William J. Quinn
Clair D. Deitch

Commissioners
Commissioner Vernon L. Sturgeon, being
necessarily absent, did not participate
in the disposition of this proceeding.
Commissioner Richard D. Gravello, being
necessarily absent, did not participate
in the disposition of this proceeding.