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ORIGINAL

Decision No. 89107 JUL 25 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RALPH LLOYD CLARK, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 SAN DIEGO GAS & ELECTRIC )  
 COMPANY, a California )  
 corporation, )  
 )  
 Defendant. )

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(ECP)  
 Case No. 10519  
 (Filed April 14, 1978)

Ralph Lloyd Clark, for himself,  
 complainant.  
John R. Stobbs, for defendant.

OPINION AND ORDER

The complainant alleges that his bill for electric service for the billing period August 30 to September 29, 1977 in the amount of \$97.09 is in excess of that which he should have been charged for the electric energy he consumed. He alleges that he has been overcharged a total of 1330 kwh of electric energy he claims he did not consume. He seeks reparation for this overcharge which he contends amounts to \$58.03.

The defendant admits that the complainant was billed and paid for 2220 kwh of electric energy for the period August 30 to September 29, 1977 but denies that the complainant was overcharged for electric energy not consumed.

This matter was heard in San Diego on May 9, 1978 by Administrative Law Judge William A. Turkish under Section 1702.1

of the Public Utilities Code and Rule 13.2 of the Commission's Rules of Practice and Procedure (Expedited Complaint Procedure) and submitted on that date.

The complainant testified on his own behalf. Thurman Johns, a customer service representative for the defendant, testified on its behalf.

The complainant testified that his May, June, and July 1977 billings reflect his electric energy consumption accurately. In June he and his wife were on vacation for two weeks and his June billing reflected a decrease from a previous daily average use of 16.8 kwh to a daily average use of 13.4 kwh. The complainant acknowledged that his consumption in July increased to a daily average of 27.2 kwh because of the use of his air conditioner. He further testified that he could not have possibly consumed 2220 kwh of electric energy for which he was billed for September because he did not operate his air conditioning unit after September 1, 1977 and that his October, November, and December billings for 529 kwh, 525 kwh, and 537 kwh, respectively, are a true measure of his monthly consumption when air conditioning is not in use. The complainant disputes the contention of the defendant that his air conditioning unit is capable of increasing his consumption to the amount billed for the month of September. He testified that he used his air conditioning unit in July and August only, and conceded that the August billing for only 429 kwh of consumption appeared to be an undercharge in view of the fact that he consumed 869 kwh of energy in July. The complainant feels that the August meter reading is the only place a misreading could have occurred. He contends that the August consumption, based on the July daily average consumption of 27.2 kwh, should be 789 kwh instead of the 429 kwh billed by the defendant. He estimates that his

September consumption was 530 kwh which he arrives at by multiplying a daily average of 16.6 kwh x 27 days, and adding 27.2 kwh x 3 days (air conditioner in operation) for the 30-day billing period. Thus, the complainant believes that instead of the 2649 kwh he was billed for August and September, he should have been billed for only 1319 kwh of consumption - an overcharge of 1330 kwh. He computes this value to be \$58.03 at the rate of .043635 per kwh.

The defendant's position was presented in a statement by the defendant's representative. In essence, the defendant contends that there is a strong probability that the complainant's meter was misread in July and August. The defendant alleges that the September meter reading was a correct reading which was verified by a second reading when the indicated high consumption was noted by the defendant. The defendant's witness testified that he was physically present at both the September 29 meter reading and again at the reread on October 26, and verified the readings. According to the defendant, the complainant's 2.86 hp air conditioner is identified as the equipment capable of and causing the high consumption of electric energy. The defendant's representative stated that the complainant's meter was tested for proper functioning and accuracy on November 3, 1977 and found to be operating 0.25 percent fast but within the limit of 2 percent permitted by the Commission. In December, the defendant analyzed the June 30 through September 29, 1977 billing period, and using a possible monthly distribution most favorable to the complainant, adjusted the billing so that it would reflect a July consumption of 1869 kwh instead of the previously billed 864 kwh; an August consumption of 1129 kwh instead of the previously billed 429 kwh; and a September consumption of 520 kwh (as contended by the complainant) instead of the 2220 kwh

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previously billed. This adjustment resulted in a credit of \$3.96 to the complainant. The total amount of electric energy consumed by the complainant from the start of service on April 14, 1977 through the October 31, 1977 meter reading registered 5236 kwh according to the defendant's records--notwithstanding the probability of the misreading of the July and August meter readings. The defendant contends that since the meter was operating accurately, its billings to the complainant represent energy actually used, although conceding that the monthly distribution was probably in error in July, August, and September.

Discussion

Based upon the testimony and argument on both sides, it is concluded that an error did occur in the reading of the complainant's meter in the month of August 1977 which resulted in an undercharge in that month. Both sides stipulate that the April, May, June, October, November, and December meter readings accurately reflect the amount of electric energy consumed. This fact, added to the evidence that the complainant's meter tested accurately on November 3, 1977, causes us to presume that the cumulative meter reading of 5236 kwh of electric consumption from the complainant's move-in date of April 14, 1977 through October 31, 1977 apparently reflects electric energy actually consumed by the complainant. However, we are faced here with a unique situation. The complainant concedes that the meter reading for August was an incorrect reflection of his actual consumption and should have been higher, and the defendant concedes that the high September meter reading is apparently the result of several months of incorrect meter readings and does not reflect the complainant's actual consumption. The complainant's suggested reconstruction of his electric consumption for August, based on the July daily average of

27.2 kwh, during which two months his air-conditioning unit was the only added electrical appliance used, and his estimate of September consumption based on a daily average use of 16.3 kwh, averaged over the remaining months of consumption when air conditioning was not used, is reasonable and shows a rather uniform pattern of usage, except that it leaves 1330 kwh of energy which apparently passed through the meter but is otherwise unaccounted for.

On the other hand, although the defendant contends that it is highly probable that errors in meter readings occurred in July and August which in turn caused errors in the monthly distributions of electric energy in July, August and September, such errors would have no effect on the total amount of electric energy which went through the meter during the period from April 14, 1977 through October 31, 1977. Although this contention likewise appears reasonable on the surface, it is somewhat dubious that the complainant's usage would have more than doubled during July and August over the remaining months with only the addition of an air-conditioning unit containing an automatic thermostat feature. We initially stated in our discussion that a total of 5236 kwh apparently flowed through the meter and yet we find the complainant's reconstruction of a total of 3906 kwh of consumption more reasonable than that of the defendant's. In the absence of any direct evidence, it is possible to speculate that perhaps we have a unique situation where the meter itself may have suffered some type of malfunction and somehow corrected itself during the months in question. Because of the admitted error by the defendant with respect to the meter readings affecting a three-month period and the reasonableness of the complainant's testimony and reconstruction, we will in this specific instance accept the possibility that the meter malfunctioned in some manner and then corrected itself so that

it reflected 1330 kwh of consumption not actually used by the complainant. We find that the complainant is thus entitled to reparation in the amount of \$58.03 less the \$3.96 credit previously applied to his account by the defendant.

IT IS ORDERED that the relief requested is granted.

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

Dated at San Francisco, California, this 25<sup>th</sup> day of JULY, 1978.

Robert Bateman  
President

~~Vernon L. Sturgeon~~  
Charles D. Swartz  
David J. DeSilva  
Commissioners

I concur in part.  
William Sproull

I dissent  
Vernon L. Sturgeon