

ORIGINAL

Decision No. 89391 SEP 19 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CAREFREE CARPETS, a California
corporation, by ALBERT B. MARTIN,
President,

Complainant,

vs.

SOUTHERN CALIFORNIA EDISON
COMPANY, a Public Utility,

Defendant.

Case No. 10477
(Filed December 27, 1977)

Jeremy H. Evans, Attorney at Law,
for complainant.

Kingsley B. Hines, Attorney at Law,
for defendant.

O P I N I O N

Carefree Carpets (Carefree) alleges that on or about December 20, 1976 the defendant, Southern California Edison Company (SCE), discovered that the meter at Carefree's place of business was incorrectly registering power usage, and on or about that date SCE back-billed Carefree in the sum of \$1,629.29 for charges alleged to be due SCE by Carefree during October 20, 1975 to December 20, 1976, a period of approximately 14 months.

Carefree alleges that if there was an undercharge by SCE, it was less than the amount of \$1,629.29 for which Carefree has been billed, and further contends that pursuant to SCE's tariff as set forth in its Revised Cal. P.U.C. Sheet No. 2754-E, Rule 17 (Rule 17) SCE may not require Carefree to pay for an undercharge for a period exceeding three months prior to December 20, 1976.

SCE admits that on or about December 20, 1976 it discovered its meter at Carefree's place of business was incorrectly registering power usage, and that on that date it billed Carefree for the sum of \$1,629.29 as charges it alleges were due it by Carefree. SCE alleges that the portion of Rule 17 relied on by Carefree applies only to domestic service, and not to business or commercial service, such as the business of retail sales of carpet and drapery goods to the general public, which is the nature of Carefree's business conducted at the place in question.

Carefree has not paid or deposited with the Commission the sum for which it has been billed and which SCE contends is due for the 14-month period in question. Carefree seeks reparation in the form of an order from the Commission to the effect that it does not owe for any undercharge during the 14-month period, or it owes an amount less than that which SCE has presented its bill for undercharges during the period.

A hearing was held in Los Angeles at 9:30 a.m. on June 19, 1978 before Administrative Law Judge James D. Tante and the matter was submitted on that date.

Carefree and SCE stipulated that during the period involved in this case, Carefree was engaged in a business or commercial enterprise and the electric energy provided was not for domestic service.

Exhibit 1, SCE's Rule 17; Exhibit 2, the first analysis of Carefree's account; Exhibit 3, the second analysis of Carefree's account; and Exhibit 4, Request for Meter Test, were received in evidence.

Its president, who is also its general manager, testified for Carefree. An accounting supervisor for its Southern District Accounting Office, in which area Carefree's place of business is

situated, and one of its customer service supervisors, testified for SCE.

SCE made a motion in its answer and at the hearing to dismiss Carefree's complaint on the ground that it did not state facts sufficient to constitute a cause of action as required by Section 1702 of the Public Utilities Code (Section 1702) and Rule 10 of the Commission's Rules of Practice and Procedure (Rule 10). Carefree alleged that SCE has billed it for electric service which it has not received, thereby seeking to charge Carefree an amount in excess of that permitted by its tariffs, and it seeks to prevent SCE from making such excessive charge. The allegations are set forth as required by Rule 10. The complaint does state facts sufficient to constitute a cause of action pursuant to Section 1702 and the motion to dismiss, which was taken under submission at the time of the hearing, is now denied.

Carefree's service commenced October 20, 1975 and it received bills for 14 months from that time to December 20, 1976. The bills were sent by SCE at approximately 60-day intervals during seven separate periods. The dates on which regular meter readings were taken were October 20 and December 19, 1975; and February 20, April 20, June 18, August 17, October 19, and December 20, 1976.

The meter had only four numerals so that it could register a total of only 9,999 kilowatt-hours (kwh) before returning to 0. The meter readings for the seven successive periods were: 0126 to 2,008, 1,882 kwh for a 31.4 daily average; 2,008 to 3,833, 1,825 kwh for a 29 daily average; 3,833 to 3,545, a minus 288 kwh; 3,545 to 2,559, a minus 986 kwh; 2,559 to 4,092, 1,533 kwh for a 25.5 daily average; 4,092 to 7,467, 3,375 kwh for a 53.6 daily average; 7,467 to 4,760, a minus 2,707 kwh during the period October 19 to November 23, 1976.

Additional meter check readings were made on May 4, June 30, August 3, August 11, and September 17, 1976. The May 4 reading showed 2,329 kwh used, or a 166 daily average for the 14-day period. The June 30 reading showed 1,951 kwh used, or a 162 daily average for the 12-day period. The August 3 reading showed 1,343, after the previous 4,510 reading of 34 days before, 6,833 kwh used, or a 201 daily average. The August 11 reading showed 1,624 kwh used, or a 203 daily average for the 8-day period. The September 17, 1976 reading showed 6,625 kwh used, or a 213 daily average for the 31-day period.

The meter was tested on October 26, 1976 and found to be accurate within the limits permitted by SCE's filed tariff. A new meter with five digits, capable of registering 99,999 kwh consumption, was installed November 23, 1976 and from that date to December 20, 1976, 27 days, it registered consumption of 5,295 kwh, or approximately 195 kwh per day.

When the regular meter reading took place on April 20, 1976 and the meter read less than it did two months prior to that time, and the meter check readings took place thereafter, it appeared that Carefree was using 10,000 kwh more electric energy during each 60-day period than that for which it had been billed. During the period October 20 to December 19, 1975, for example, the meter reading went from 0126 to 9,999 and then to 2,008, for a total consumption of 11,882 kwh, but Carefree was charged only for 1,882 kwh as though the meter had not completed an entire revolution of numbers.

The building occupied by Carefree consists of approximately 4,000 square feet. It is one large room with an office, another room 10' x 20', and two washrooms. It has five rows of fixtures consisting of 70 eight feet long fluorescent tubes. Its outside sign contains 8 eight feet fluorescent tubes. It has

two 6,000 Btu air-conditioning units which were operating during the period involved herein. Its business hours are from 9:00 a.m. to 9:00 p.m., Monday through Friday, 9:00 a.m. to 6:00 p.m. on Saturdays, and it is closed on Sundays. During the time it is closed, it leaves one row consisting of 14 fluorescent tubes, and two 100-watt light bulbs lighted; and the outside sign is lighted from 7:30 p.m. to 10:00 p.m. each evening.

SCE's recomputation of the electric energy used by Carefree and the charge applicable is set forth in Exhibits 2 and 3 and is accurate. During the 14-month period involved, Carefree should have paid the sum of \$3,076.79, but paid only \$1,447.50 (Exhibit 3) and an additional sum of \$97.31. Carefree is indebted to SCE in the sum of \$1,531.98 unless SCE is prevented from charging Carefree for the entire period or any part thereof under the provisions of its Rule 17.

Rule 17B.1, 2, and 3 apply to fast meters, slow meters, and nonregistering meters, respectively, and are not applicable in that the meter involved herein was properly registering at all times.

Rule 17B.4. provides:

"4. General. When it is found that the error in a meter is due to causes, the date of which can be reliably established, the overcharge or the undercharge will be computed back to but not beyond that date, provided, however, that in no case will a bill for undercharge on domestic service schedules be rendered for a period exceeding three months."

Carefree is engaged in a business or commercial enterprise. Its consumption of electric energy is not for a domestic service, therefore, Rule 17B.4. is not applicable. SCE is not prevented from seeking to require Carefree to pay the difference between what it should have paid and what it did pay, \$1,531.98, for the 14-month period from October 20, 1975 to December 20, 1976.

Findings

1. During the period October 20, 1975 to December 20, 1976, Carefree was engaged in a business or commercial enterprise. It received electric energy during that period for other than domestic service for which it should have paid \$3,076.79, but paid only \$1,544.81, leaving a balance due of \$1,531.98, none of which has been paid.

2. The electrical equipment at the premises of Carefree is sufficient to use the electric energy for which it has been billed, including the undercharge for which it has been billed by SCE, and there were no abnormal conditions which would cause waste of electric energy as billed to Carefree.

3. Carefree was charged for electric energy provided by SCE in accordance with SCE's filed tariff.

4. SCE is not prevented by reason of its Rule 17 or any other of its tariffs from seeking to require Carefree to pay the additional sum of \$1,531.98 for electric energy during the 14-month period involved herein.

5. Carefree's complaint does state facts sufficient to constitute a cause of action and should not be dismissed.

We conclude that Carefree's complaint should not be dismissed because it sets forth a cause of action, but that Carefree should be denied the relief which it seeks herein. ✓

O R D E R

IT IS ORDERED that the relief requested by Carefree Carpets, by Albert B. Martin, President, is denied.

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

Dated at San Francisco, California, this 19th day of SEPTEMBER, 1978.

Robert B. Martin
President

William J. Brown, Jr.

Vernon L. Sturgeon

Richard D. Howell

Clair T. DeLoach
Commissioners