

Decision No. 90369

JUN 5 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FRANK MASTRANTUONO, dba Frank's  
Coffee Shop,

Complainant,

vs.

PACIFIC GAS & ELECTRIC COMPANY,

Defendant.

Case No. 10550  
(Filed April 24, 1978)

Marc A. Stefano, Attorney at Law, for Frank  
Mastrantuono, complainant.  
Malcolm H. Furbush and Robert B. McLennan,  
Attorneys at Law, for Pacific Gas and Electric  
Company, defendant.

O P I N I O N

Complainant Frank Mastrantuono, dba Frank's Coffee Shop, of Fresno, alleges that low-voltage conditions damaged certain of his restaurant's electrical equipment and substantially shortened the life span of his restaurant's air-conditioning equipment. He also alleges that electric service interruptions caused him to lose patronage business at his restaurant. He also claims that he has been excessively charged for electric utility service. He requests that we order defendant Pacific Gas and Electric Company, the utility serving his restaurant, to replace his air-conditioning equipment, reassess the questioned utility charges, and order defendant to repay to complainant the excess charges. In answer to the complaint, defendant admits that certain electrical outages occurred but denies that it furnished low-voltage service to complainant, except on two short occasions, or that its charges were improper. A hearing was held on the matter in Fresno before Administrative Law Judge Pilling on October 12, 1978.

Complainant testified he had all new air-conditioning units installed in his restaurant just prior to its opening in January 1974

and that the particular units, which he was told had a life expectancy of 10 years, had been recommended by the company which installed them. He testified that during the first nine months his restaurant was in operation, it was without power on 10 separate occasions lasting from two to six hours and cost him \$3,000 in lost patronage. He further testified that he had been receiving low voltage from January 1974 to June 23, 1977, as a consequence of which the life expectancies of his air-conditioning units have been cut in half because the motors in the units were running so fast that the motors were overheating without benefit of air conditioning. He stated that he had complained off and on to defendant between January 1974 and June 1977 about the low voltage he had been receiving but that defendant did little to correct the situation. However, in May of 1976 his air-conditioning control transformer burned out, allegedly due to low voltage, and defendant responded by paying him \$79.13 in damages. And on June 23, 1977, in response to his complaint about low voltage, defendant replaced the three 15-kVA transformers serving his business with three 25-kVA transformers. Since the replacement of the transformers, his service has been satisfactory. However, before the transformers were replaced he claimed that he had a compressor, two transformers, and one motor burn out allegedly due to low voltage. He was unable to estimate the value of these items.

His electric bills have increased from \$750 a month when he first opened his restaurant to \$1,500 currently. He attributes the increase in his electric bills to the low voltage he had been receiving which caused his motors to run longer than necessary, and to the misreading of his meters by defendant's employees. He stated defendant voluntarily reimbursed him \$2,929.78 in June of 1978 for excess charges he had paid. He is unable to read his own electric meters because he does not know how to read them and, furthermore, is too busy to read them.

Complainant has on deposit with the Commission monies representing disputed bill payments.

The witness for defendant testified that complainant's air-conditioning compressor units are rated 208/230 volts and that the delivery system for defendant in the area of complainant's restaurant is

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and always has been rated at 208 volts, with a permitted actual delivery range of 191 to 216 volts. He stated that tests commissioned by the Sacramento Municipal Utility District and reported at pages 27 and 28 of the Commission's Energy Conservation Team Report (Exhibit 8) demonstrate that air-conditioning units rated at 208/230 volts do not run efficiently at 208 volts and run hot at voltages at the lower acceptable voltage range and that this, at least in part, would account for continual running for larger periods and overheating of the motors. Additionally, the witness concluded that complainant's restaurant was under air-conditioned, which would also account for the constant running and consequent overheating of the air-conditioning motors. From his investigation of the restaurant's premises, air-conditioning equipment, and cooking facilities he determined that the restaurant needed air-conditioning equipment capable of a 281,500 Btu/hr output at 95 degrees F. to properly air-condition the premises while the installed air-conditioning equipment is capable of only 216,000 Btu/hr output at 95 degrees F.<sup>1/</sup> based on its connected loads<sup>2/</sup> not including one remote air conditioner used to service the refrigerator. The witness for defendant also stated that he had contacted the complainant's air-conditioning service company and that a representative of that company stated that, in the representative's opinion, complainant had not experienced any excessive equipment failure considering the age of the

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- 1/ The witness testified that air-conditioning contractors in Fresno typically install one ton of air conditioning for each 300 square feet of commercial structure. (A "ton of air conditioning" is equivalent to an output of 12,000 Btu/hr, which is the minimum Btu/hr output necessary to keep one ton of ice in a frozen state.) The witness estimated that the heat gain of the building was 144,000 Btu/hr; that of unvented appliances was 124,000 Btu/hr; and that of 30 patrons to be 13,500 Btu/hr. Total heat gain: 281,500 Btu/hr at 95 degrees F.
  - 2/ Total connected load of all electrical appliances used by the restaurant from Exhibit 3 is as follows:

Total motor load	35.154 kW
Total lighting load	8.256 kW
Total misc. load	<u>11.356 kW</u>
Total electric load	54.766 kW

equipment and the dirt field and freeway adjacent to the location of the restaurant. The representative told the witness that the dirt field and freeway created excessive dust which caused the evaporators to clog and if they were not maintained properly, the clogging would cause excessive running of the units without benefit of air conditioning.

Defendant's witness admitted to only two short periods of delivery of low voltage to complainant's restaurant since it opened: one period occurred on May 14, 1976 and the other on June 22, 1977. The latter occurrence was discovered in response to a call from complainant and it was found that the cause of the low voltage was a burned out secondary wire on the transformer, which was promptly fixed. The witness produced defendant's records of three meter tests conducted on complainant's meters (Exhibits 1, 12, and 13) in April and May 1974 and May 1977, respectively, which the witness claimed showed that the proper level of voltage was being delivered to the premises. The witness stated that since the restaurant opened it had been on three different circuits. The change in circuits was brought about by defendant in order to place complainant on a circuit having a lower average record of outages than the previous one and because of defendant's employment of what the witness called a "circuit balancing technique". The witness stated that his company's decision to substitute a 25-kVA transformer for the 15-kVA transformer serving complainant in June of 1977 was based on the minimum service voltage readings of 110 and 114 on the 120 volt system caused by the burned out secondary wire on the transformer and the transformer loading data provided by a computer, which indicated 97 percent transformer loading during the summer of 1976.

Defendant's witness explained the increase in complainant's electric bills over the years was due in part to the increase in electric rates. As an example, he stated that complainant used 26,840 kWh of electricity in May 1975, and in May 1977, he used 26,000 kWh, a difference of minus 840 kWh, yet complainant's electric bill for these two periods increased from \$631.30 to \$1,119.13. For May 1975 the average cost per kWh was .0235 cent while for May 1977 the average cost had risen to .04169 cent. Additionally, complainant's yearly electric usage steadily increased over the years: 270,760 kWh in 1974, 300,320 kWh

in 1975, 319,400 kWh in 1976, 357,520 kWh in 1977, and 309,800 in the first nine months of 1978.<sup>3/</sup> The witness stated that the payment by defendant to complainant of \$2,929.78 in May of 1978 was occasioned by the misreading of complainant's demand meter for the month. The demand meter showed a reading of 1.64, but the meter reader recorded a reading of 16.4 and complainant was billed in accordance with the latter figure. When the mistake was discovered, complainant was reimbursed his full payment and rebilled for the same kWhs, but with the corrected demand meter reading for \$1,577.87.

#### Discussion

The Commission is without jurisdiction to award monetary damages against a public utility (see Industrial Communications Systems, Inc. v Pacific Telephone & Telegraph Co. (1973) 75 CPUC 462). Hence, complainant's request that we order defendant to replace complainant's air-conditioning equipment because of damage due to low voltage must be denied as well as complainant's request that he be reimbursed for lost patronage due to power outages.

We are unable to conclude that defendant should be ordered to make reparation to complainant for excessive charges. As pointed out by defendant, the substantial increase in complainant's electric bills was due to the doubling of the applicable tariff rate over the years plus complainant's steady increase in his usage of electricity. As to complainant's contention that his air-conditioning motors were forced to run an excessive length of time and, therefore, used more electricity due to the delivery of low voltage before the defendant replaced its transformers in June 1977, we are unable to find any recognizable effect on the volume of his electric usage occasioned by the replacement of the larger transformers. Nor is there any evidence in the record to

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<sup>3/</sup> If the last three months' usage for 1978 (unavailable on the date of hearing) equals the last three months of 1977, then complainant's yearly usage for 1978 will amount to 398,520 kWh. Exhibit 15 lists complainant's monthly use of and charges for electricity.

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indicate the extra time the motors had to operate because of the alleged low voltage on which to base an order for reparation.

We suggest that if complainant thinks defendant's meter readers are misreading his electric meters, complainant himself learn how to read them and read them as a check against defendant's billings. Except for the mistaken reading of May 1978, we find no evidence of record to indicate that complainant's meters have been misread.

Findings

1. Complainant seeks monetary damages from defendant, a public utility, for injury to complainant's air-conditioning equipment due to the alleged delivery of low electric voltage to complainant's premises.

2. Complainant seeks monetary damages from defendant due to loss of restaurant patronage caused by power outages on the lines serving his restaurant.

3. Complainant seeks reparation from defendant for the cost of electricity his air-conditioning units were required to use because of alleged low voltage supplied in excess of the cost of electricity the equipment should normally use.

4. Complainant's electric bills have increased over the years due to the steady rise in his use of electricity and to the increase in electric rates.

5. In June of 1977 defendant replaced two 15-kVA transformers serving complainant with two 25-kVA transformers.

6. Since the replacement of the transformers, complainant's electric service has been satisfactory.

7. The replacement of the two transformers did not result in any recognizable effect on the volume of complainant's electric usage.

8. There is no evidence in the record concerning the volume of excess electricity which the air-conditioning motors were allegedly required to consume.

9. Defendant has not charged complainant excessive rates, except for the billing for May 1978 for which defendant has already made reparation to complainant.

10. Defendant has on deposit with this Commission monies representing disputed bill payments.

Conclusions

1. The Commission is without jurisdiction to award monetary damages against defendant, a public utility, except for reparation for charging unreasonable, excessive, or discriminatory amounts.
2. The rates charged complainant by defendant have not been excessive.
3. The relief requested in the complaint should be denied.
4. Monies deposited by complainant with the Commission representing disputed bill payments should be disbursed to defendant.

O R D E R

IT IS ORDERED that:

1. The complaint in Case No. 10550 is denied.
2. Monies deposited with the Commission by Frank Mastrantuono, dba Frank's Coffee Shop, with respect to this complaint shall be disbursed to Pacific Gas and Electric Company.

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

Dated at San Francisco, California, this 5<sup>th</sup>  
day of JUNE 4, 1979.

John E. Boyce  
President  
Vernon L. Sttperson  
Robert D. Marshall  
James T. Doherty  
Howard C. Johnson  
Commissioners