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MAIL DATE  
11/8/96

Decision 96-11-023

November 6, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LAINA TOLSON,

Complainant,

vs.

PACIFIC GAS & ELECTRIC COMPANY,

Defendant.

(U 39 M)

ORIGINAL

Case 96-02-020  
(Filed February 9, 1996)

**ORDER DENYING REHEARING OF DECISION 96-07-004**

Laina Tolson, complainant has filed an application for rehearing of Decision 96-07-004 issued July 3, 1996. In the complaint, Tolson alleged that Pacific Gas and Electric Company had wrongfully terminated her participation in the Customer Balanced Payment Program (BPP), which allows a utility customer to pay a fixed monthly charge for utility service based on the customer's prior 12 month average usage.

Tolson has a limited income of \$600 per month. Her payment history under BPP was that of four nonconsecutive months of no payments and two nonconsecutive months with partial payment during April-December 1995 period described in Decision 96-07-004

When Tolson was placed in the BBP program, her monthly BPP was established at \$180 a month for 12 months. The Commission has tried to facilitate the manner of payment of the monthly bill in Decision 96-07-004. Tolson has available the low income rate assistance program (LIRA) and the medical discount rate program which will assist in lowering the monthly bill. She

has thus far not availed herself of either of these assistance programs, even though both were offered to her. The record shows that she referred to the LIRA program as a "joke".

Tolson argues that it was legal error not to record the proceedings. Section 1706 of the Public Utilities Code, which requires that a record be made of hearings, provides that its provisions do not apply to expedited complaint hearings such as this one held pursuant to section 1202.1. No recording is therefore required.

Tolson also argues that termination from BPP was legally wrongful because she was terminated on November 21, 1995; that her bill was mailed on November 20, and that she could not be terminated before the due date of 19 days after mailing of the bill, which would have been December 7. Tolson, however, had been delinquent several months before the November 20 bill and had far exceeded a 19 day period on past unpaid bills. Therefore, the termination was lawful.

Tolson also argues that PG&E is barred by equitable estoppel and laches because it accepted partial payment or no payment of her bills. Acceptance of partial payment does not estop a utility from continuing to demand full payment for service provided.

Finally, Ms. Tolson claims that her meter readings were in error. The administrative law judge found no error in the reading because the only evidence Tolson presented was hearsay with questionable reliability. We cannot conclude that legal error is present with regard to this contention.

Wherefore the Commission has considered each and every allegation of the application for rehearing, and being of the opinion that good cause for rehearing has not been shown.

**IT IS ORDERED** that rehearing is denied.

This order is effective today.

Dated November 6, 1996, at San Francisco, California.

**P. GREGORY CONLON**

President

**DANIEL WM. FESSLER**

**JESSIE J. KNIGHT, JR.**

**HENRY M. DUQUE**

**JOSIAH L. NEEPER**

Commissioners