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Decision 98-07-012 July 2, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Gregory Stechenko,

Complainant,

vs.

Pacific Gas and Electric Company,

Defendant.

ORIGINAL

(ECP)

Case 96-08-052

(Filed August 21, 1996)

Gregory Stechenko, for himself, complainant.

Mary Camby, for Pacific Gas and Electric Company,
defendant.

OPINION

Summary

Gregory Stechenko (complainant) alleges that unidentified employees of the Pacific Gas and Electric Company (PG&E or defendant) periodically adjusted his electric meter, causing fraudulent and excessive charges on his January, February, and March 1996 bills. PG&E denies these allegations.

A hearing under the Commission expedited complaint procedure was rescheduled at complainant's request and held on September 26, 1996 in Fremont, California. After the hearing, the assigned Administrative Law Judge (ALJ) ordered further investigation by defendant and allowed comments on the supplemental report by complainant. The dispute was submitted on February 21, 1997.

Based upon a lack of evidence to show that it was PG&E employees who tampered with complainant's meter, or who provided unsatisfactory service, we conclude that the complaint must be denied.

Complainant's Usage

Complainant, an engineer, lives with his family in a rented two-bedroom condominium which is approximately 950 square feet. He established service with defendant on December 17, 1995. He uses typical lighting and has a water heater, stove, refrigerator, dishwasher, washer and dryer, television, VCR, and answering machine. During the disputed period, he did not use the dishwasher and only used the washer and dryer twice. Complainant testified that he does not require heat in the warmer California climate after living in Seattle. Therefore, he alleges that he has permanently disconnected his central air system at the circuit box and has no electric heaters.

Complainant argues that the following monthly bills are excessive given his normal consumption:

January 9, 1996	996 kWh	\$126.55
February 9, 1996	1429 kWh	179.32
March 13, 1996	1133 kWh	138.32

Complainant's subsequent usage was as follows:

April 11, 1996	843 kWh	101.52
May 10, 1996	718 kWh	86.65
June 11, 1996	737 kWh	92.06
July 11, 1996	588 kWh	72.58
August 9, 1996	579 kWh	71.57

On February 23, 1996 when PG&E's serviceman reread complainant's meter, PG&E calculated complainant's average daily use to be 32 kWh. The subsequent March bill showed an average daily use of 33.3 kWh.

Complainant's pattern of usage appears to correspond with the general weather pattern, the largest usage being in the colder months.

Unidentified Persons

At the hearing complainant testified that he saw someone he assumed was a PG&E serviceman tampering with his meter at the meter panel of his condo complex on six occasions: February 15 and 20, March 20 and 24, and April 4 and 9, 1996. On one occasion he noticed a PG&E truck parked nearby. He recorded the following usage from his meter after the unexplained visits and alleged high bills:

February 16	7.5 kWh
February 18	8 kWh
February 17	10 kWh
February 19	10 kWh
February 20	70 kWh
March 21	10 kWh
March 22	10 kWh
March 23	9 kWh
March 24	73 kWh

After the hearing, the assigned ALJ ruled that PG&E should obtain a description from complainant of the unknown persons he saw at his meter panel to attempt to identify them and to further investigate its business records for any service calls at complainant's complex on the dates he specified. PG&E reported that complainant did not respond to its written request for identification of the unknown persons and that no service reports were filed by employees for any residences in complainant's condo complex on the dates specified. (Late-filed Exhibit 9.) It appears that, other than monthly meter readings, visits by authorized PG&E employees were to reread or test complainant's meter.

In his comments on PG&E's supplemental investigation report, complainant strenuously argues that the Commission should investigate the

strange circumstances surrounding his meter because he believes PG&E is incapable of discovering whether one of its employees may be tampering with his meter. Complainant contends that PG&E is overcharging to increase its revenues to compensate for nonpayment of energy bills by the previous residents of his condo.

We cannot agree with these contentions. First, it is not the policy of the Commission to investigate a utility based upon an individual complaint. Instead, we provide a legal forum, similar to a small claims court, for the complainant and defendant to pursue a dispute by presenting evidence, cross-examining witnesses, and arguing their positions. In this forum, the complainant must prove his or her allegations by a preponderance of the evidence. Only in cases where it is obvious that a utility's *proven* conduct has affected many of its customers will the Commission institute an investigation into a utility's specific practices.

Second, the conduct of the parties in a complaint proceeding is governed by Rule 1 of the Commission's Rules of Practice and Procedure which mandates that a party must never mislead the Commission by an artifice or false statement of fact or law. All parties that appear in complaint proceedings are charged with knowledge of this rule, especially utility representatives, since, under public utility statutes, a public utility must abide by all Commission rules and regulations.

There is no evidence (including that discussed below) or demeanor of witnesses at the hearing tending to show, or raising reasonable cause to believe, that defendant PG&E has engaged in unethical conduct in investigating this complaint or responding to the assigned ALJ's request to produce information from its business records.

Complainant's pattern of monthly usage does not show unexplainable, significant swings in usage to suspect a billing error. However, complainant's recorded daily usage does show an erratic, significant increase in daily usage on February 20 and March 24. As discussed below, defendant's meter tests and service records outweigh complainant's evidence. Therefore, we cannot conclude that a PG&E serviceman or the meter is responsible for these swings in usage or that PG&E employees have tampered with complainant's meter or engaged in unlawful conduct which should be investigated by Commission staff. Without the cooperation of complainant, PG&E cannot further investigate the possibility that its employees have engaged in unauthorized conduct during nonbusiness hours and take appropriate action, if necessary.

Simulated Meter Load and Meter Test

PG&E's representative testified that he conducted a simulated electric meter load test at complainant's home on March 25, 1996. After the test, he advised complainant that his load could generate the usage charged. Because complainant's meter turned when all appliances were off, he suggested that complainant test his circuits one by one to isolate the appliance causing usage. Complainant was dissatisfied with the test and defendant's advice.

Because of Stechenko's continuing complaints, on April 4, 1996, PG&E tested complainant's meter and inspected his meter seal and tag. The meter was functioning within the standard set in PG&E's tariff, Rule 17, that is, less than two percent error under normal operating conditions. The field serviceman did not record a broken meter seal or tag.

On May 10, 1996, complainant performed his own average usage experiment. He plugged a 1100-watt iron into the outlet for one hour. He contends the usage should have been 1 kWh; however, the recorded usage on the

meter was 4 kWh. On May 12, 1996, he performed the same experiment for two hours with all other appliances turned off. The usage was 10 kWh.

PG&E repeated the meter test on June 7 and found that the meter functioned within 2% of complete accuracy. However, at the hearing, complainant disputed the way the meter test was performed. He contended that disconnecting the meter and reconnecting it to a simulated load gives unrealistic results. He also argued that the meters were not calibrated recently. We disagree. The simulated load test is to analyze the operation of the meter, not the appliances in the home. A simulated load prevents the interference of any malfunctioning wiring or appliances. We find no evidence to persuade us that the load test should be revised. Likewise, complainant's argument alone that dislodging the meter from the panel to test it changes the electrical characteristics of the meter, is not logical or persuasive. Complainant argues that the serviceman "modified" the electrical circuits of the meter prior to the meter test, but fails to explain how or show the affect of any alleged modifications. Therefore, there is insufficient evidence to agree with this argument.

Meter Tags

On March 25, 1996 during the home visit, PG&E's serviceman also found both the outer and inner meter seals intact. However, at the hearing, Stechenko insisted that the color of the meter tags changed from blue and black to red, yellow and white on different occasions. PG&E's witness explained that these different colors indicate normal service, suspected tampering, disconnected service, and load management equipment. There is no indication in PG&E's business records that complainant's tag was ever changed after the previous customer's yellow tag was removed.

After the hearing, complainant submitted a photograph of his meter tag to show that it does not have a PG&E logo. Although the tag appears to have no

visible logo, PG&E asserts that the logo is present on the opposite side of the tag. PG&E presented a copy of its manual on meter tags to show that the company policy is to have all meter tags embossed with PG&E's logo. Without an enlarged photo of both sides of the tag, it is impossible to determine whether the logo is present or absent from the meter tag. Therefore, complainant has not prevailed on this issue.

Conduct of Serviceman

Responding to Stechenko's continued complaints, on March 25, 1996, a PG&E representative visited his home. Complainant contends that the serviceman was rude and accusatory, blaming hidden electric heaters for his high usage and searching his closets for these allegedly hidden heaters.

However, PG&E's description of this visit was quite different. At the hearing, the PG&E representative who visited complainant's home denied complainant's allegations. There was no testimony by an unbiased third person regarding this issue. Complainant's testimony was no more credible than that of the defendant. Therefore, complainant has not prevailed on this issue by a preponderance of the evidence.

ORDER

IT IS ORDERED that:

1. This complaint is denied without prejudice.
2. The amount impounded by complainant at the Commission, \$1,068.99, is released to defendant, Pacific Gas and Electric Company.
3. This proceeding is closed.

This order is effective today.

Dated July 2, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners