

PUBLIC UTILITIES COMMISSION

505 VANNESS AVENUE
SAN FRANCISCO, CA 94102-3298

July 2, 1998

ORIGINALTO: PARTIES OF RECORD IN CASE 97-09-022
DECISION 98-07-039, Mailed 7/2/98

On June 1, 1998, a Presiding Officer's Decision in this proceeding was mailed to all parties. Public Utilities Code Section 1701.2 and Rule 8.2 of the Commission's Rules of Practice and Procedures provide that the Presiding Officer's Decision becomes the decision of the Commission 30 days after its mailing unless an appeal to the Commission or a request for review has been filed.

No timely appeals to the Commission or requests for review have been filed. Therefore, the Presiding Officer's Decision is now the decision of the Commission.

The decision number is shown above.

Handwritten signature of Lynn T. Carew in cursive.

Lynn T. Carew, Chief
Administrative Law Judge

LTC:sid

Attachment

Decision 98-07-039

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Desert Golf R. V. Resort, LLC, dba California Golf
R. V. Resort,

Complainants,

vs.

Southern California Edison Company,

Defendant.

Case 97-09-022
(Filed September 2, 1997)

Criste, Pippin & Golds, by Robert L. Pippin,
Attorney at Law, for Desert Golf R. V. Resort,
complainant.

Laura A. Larks, Attorney at Law, for Southern
California Edison Company, defendant.

OPINION

Summary

The decision denies the request of Desert Golf R.V. Resort LLC, doing business as California Golf R.V. Resort, to apply Southern California Edison Company's Domestic Service schedule for electric service to lots that are not occupied at least nine months of the year and denies the complaint.

Background

Desert Golf R.V. Resort, LLC, doing business as California Golf R.V. Resort (complainant or the Resort), is a for-sale recreational vehicle (R.V.) resort located in Blythe, California. The Resort was completed in early 1996 and has 212 lots. The Resort contains three types of lots. Some lots have 'park model' mobile

homes installed on a semi-permanent basis. These units are fixed to the ground, and while they are classified as mobile homes because they are on wheels, they generally are not moved.

The second type of lots are lots on which owners locate their R.V. units for approximately six months a year from October through March or April. When the owners leave in March or April, they remove their R.V. units from the lots and the lots are vacant until October.

The third type of lots are lots that are still unsold. These lots are rented to owners of R.V. units. These lots are also used for sale promotions by the owner of the Resort.

Southern California Edison Company (Edison) provides electric service to the Resort. When the owner of the Resort contacted Edison regarding receiving electric service, Edison provided him the option of using a single master meter for the Resort with submeter for each lot or installing individual meters at each lot. The owner of the Resort decided to have individual meters installed at each lot; and consequently each occupant of the individual lots receives service directly from Edison. Had the owner of the Resort decided to have a master meter installed at the Resort, the Resort would then have received service under Edison's tariff for mobile home parks. Under the tariff for mobile home parks, the owner of the park is responsible for billing each lot based on the usage recorded on the lot's submeter. The rates charged to individual lots are Domestic Service Schedule rates plus an additional fee for billing and maintenance of the system. While Edison applies its Domestic Service Schedule (Schedule D) to the lots on which park models are located, Edison applies its General Service Schedule (Schedule GS-1) to the other two types of lots. Edison's General Service rates are higher than its Domestic Service rates.

Complainant contends that Edison should be required to apply the Domestic Service schedule to all three types of lots.

Procedural History

By ruling dated February 11, 1998, this matter was subjected to Article 2.5 of the Commission's Rules of Practice and Procedure, implementing the provisions of SB 960. (See Rule 4(b)(2).) The ruling categorized the proceeding as adjudicatory and designated the assigned ALJ as the presiding officer.

An evidentiary hearing in the proceeding was held on February 26, 1998 in Palm Desert before Administrative Law Judge Garde, the designated Presiding Officer.

Franklin Crow, the owner of the Resort, testified for complainant. Debby Doktor and Vanessa Kirkwood testified for Edison.

The matter was submitted upon receipt of concurrent briefs on March 31, 1998.

Tariff Rules

The following definitions from Rule 1 of Edison's tariffs apply in this case:

"General Service" is defined as: "Service to any lighting or power installation except those eligible for service on a single-family and multifamily domestic, street lighting, outdoor area lighting, traffic control, resale, or standby schedules. . ."

"Domestic Service" is defined as: "Service for residential use at a dwelling premises. Any service for other than residential use at a dwelling premises may be served through the domestic service meter only where such nondomestic connected load does not exceed 300 watts for lighting or 2 hp for power."

"Single-family Dwelling or Accommodation" is defined as: "A house, an apartment, a flat, or any other permanent residential dwelling which contains cooking facilities (not necessarily electric) and which is used as a residence by a single family."

"Qualifying Recreational Vehicle (RV) Unit" is defined as: "An RV unit that is used as permanent single-family residence at the same location in an RV park or on a single premises for at least nine months out of the year. The unit must not be used for recreational purposes; and must not be removed from its space or location on a regular basis." (Emphasis added.)

Complainant's Position

Complainant's witness Crow testified that during the construction of the Resort, he was presented with the choice of whether to use a single master meter for the Resort with submeters for each lot or to have individual meters installed at each lot. According to Crow, Edison representatives Michael Welchel and Terry Roe informed him that if he decided to install individual meters for the lots, each lot would receive service under the Domestic Service Schedule. Crow states that his decision to have individual meters for each lot resulted from the information provided by Edison representatives.

Complainant contends that the definitions of "residential use" and "dwelling premises" in Edison's tariff rules are so vague that even Edison's own expert witness Doktor could not provide appropriate definitions of these terms. Given the vagueness of Edison's tariff rules, and the specific representations Edison's representatives made to complainant, complainant argues that the appropriate schedule to apply to the lots in the Resort is the Domestic Service Schedule.

Edison's Position

Edison states that since the lots in the Resort are individually metered, each lot must qualify for a rate schedule in accordance with applicable tariff schedules based on the type of usage and occupancy. According to Edison, Edison is applying the appropriate schedules to the lots in the Resort. Rate Schedule D is applicable to metered locations in the Resort that are occupied at least nine

months out a year, whereas Rate Schedule GS-1 is the applicable schedule for meters at lots that are occupied on a periodic basis or less than nine months out of the year.

Edison contends that complainant is essentially asking Edison to ignore its tariffs and to treat complainant and its tenants differently from Edison's other customers. According to Edison, both Edison and its customers must comply with the tariff schedules approved by the Commission.

Edison disagrees with complainant's claim that Edison misled him into installing individual meters instead of a master meter. Edison maintains that the decision to install individual meters was made by Crow. In support of its contention, Edison has provided an affidavit signed by Michael Welchel, Manager of Edison's Blythe District. Welchel states that Edison's employees provide customers with the necessary information about applicable rate schedules so that a customer can make an informed decision about selecting the type of service. In no case did Terry Roe, the person who was advising Crow, usurp Crow's decision-making rights by offering advice about which type of meter should be installed at the Resort.

Discussion

In resolving this complaint, we have to consider two issues: (1) Did Edison violate its tariff schedules in providing service to complainant, and (2) Did Edison mislead complainant into installing individual meters instead of a master meters?

Both Edison and complainant agree that Edison is applying the Domestic Service Schedule to the lots which are occupied at least nine months of the year, i.e., the park model mobile homes. Edison and complainant also agree that Edison is applying the General Service Schedule to lots that are not occupied for at least nine months of the year or are rented for short durations by the Resort.

Edison's tariff rules provide that the lots that are not being occupied for at least nine months of the year do not qualify for receiving service under the Domestic Service Schedule. These units do not meet the definition of Qualifying R.V. Unit in Edison's tariff rules. Edison is providing service to complainant in accordance with its tariffs approved by the Commission.

Next, we will consider complainant's claim that Edison's representative Terry Roe misled him into installing individual meters. Based on testimony provided by complainant's witness Crow, it appears that it was Crow who made the decision to have individual meters installed. In response to questions by Edison's counsel Larks, Crow testified as follows:

"Q. As I mentioned Mr. Roe, I mentioned off the record Mr. Roe's a retired employee, and I would like to be able to explain to Mr. Roe what he's being called upon to come and testify to.

"So could you explain to me what Mr. Roe said to you that led you, if it did at all, to decide on how to meter the R.V. park?

"A. What was impertinent at that time is that we needed to pay them \$90,000¹ as the people hooked up to it we would get a portion of that money back from the electric company when the meters were turned on. At that time, we covered the street lights both in the park and on the street in front, and the service cost and what have you to determine if we were going to put in, and at that time Mr. Roe answered my questions, but I think more of my interest was in getting the electricity in and the \$90,000 and the costs that it was of individual monthly meter charges. But those questions I asked were what made me make the decision to go to individual meters rather than a master meter." (Tr. Vol. 1, pp. 22-23.) (Emphasis added.)

¹ The \$90,000 amount mentioned here is the customer's share of line extension cost. This amount is refunded to the customer by Edison based on the number of occupants of individual lots requesting service from Edison.

Based on Crow's response, it appears that it was Crow who made the decision to install individual meters. It also appears that Crow's decision was motivated by his desire to recoup his line extension deposit as soon as possible.

It is possible that Crow's decision could also have been influenced by his reluctance to get involved in providing billing and maintenance service to the individual lots. In response to a further question by Larks, he testified as follows:

"Q. What conversations, if any, did you have with Mr. Roe about a master meter versus individual meters?

"A. A general conversation was that if we put in a master meter, we couldn't charge more than the going electrical rate. The only thing we could charge was a bookkeeping, or a management charge, of 5 or 10 dollars a meter, I believe, and that in the discussion, in the conversation at the time, it wasn't to our advantage to get into selling electricity." (Tr. Vol. 1, pp. 23, 24.)

Crow's responses do not convince us that he was misled into installing individual meters. He was provided information to make an informed decision. If Crow was unsure as to which tariff schedules would apply under the two scenarios, he should have asked for that information. Crow was contracting for electric service for 212 lots, and it was his responsibility to gather all the necessary information before making his decision regarding installation of meters at the Resort.

Finally, we note that complainant claims that definitions of certain terms in Edison's tariff rules are vague. However, these rules have been approved by the Commission. Complainant has thus failed to allege "any act or thing done or omitted to be done ... in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission," as required by Public Utilities Code Section 1702 and Rule 9(a) of the Commission's Rules of Practice and Procedure.

Based on the above, we will deny complainant's request.

Findings of Fact

1. Edison provides electric service to 212 lots at the Resort through individual meters.
2. Edison applies its Domestic Service Schedule to lots that are occupied at least nine months of the year.
3. Edison applies its General Service Schedule to lots that are not occupied at least nine months of the year.
4. Edison's tariff rules provide that the lots that are not occupied for at least nine months of the year do not qualify for service under the Domestic Service Schedule.
5. Complainant claims that Edison's representative misled it to install individual meters instead of a master meter.
6. Complainant's witness Crow has not provided testimony that would convince us that complainant was misled by Edison's representatives.

Conclusions of Law

1. Complainant's request to apply the Domestic Service Schedule for electric service for lots that are not occupied at least nine months of the year should be denied.
2. The complaint should be denied.
3. This is a complaint case not challenging the reasonableness of rates or charges, and so this decision is issued in an "adjudicatory proceeding" as defined in Public Utilities Code § 1757.1.

O R D E R

IT IS ORDERED that:

1. The request of Desert Golf R.V. Resort, LLC, doing business as California Golf R.V. Resort, to apply Southern California Edison Company's Domestic Service Schedule for electric service to lots that are not occupied at least nine months of the year, is denied.

2. The complaint in Case 97-09-022 is denied.

This order is effective 30 days from today.

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