

ALJ/PAB/mrj

Mailed 8/6/98

Decision 98-08-010 August 6, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Whiskey Run Homeowners Association,

Complainant,

vs.

Kirkwood Gas and Electric Company,

Defendant.

(ECP)

Case 97-10-077

(Filed October 17, 1997)

Richard Albaugh, for Whiskey Run Homeowners
Association, complainant.

Peter Bennett, for Kirkwood Gas and
Electric Company, defendant.

O P I N I O N

The Whiskey Run Homeowners Association (Association), a California nonprofit corporation, complains that it is being billed for usage of a restaurant tenant. In 1995 the Association discovered that the restaurant was connected to the Association's electrical box. In October 1996, it contacted the utility company which, the Association alleges, agreed to install a separate meter for \$500. The Association agreed to pay this cost and relied on the promise to install the separate meter. However, in January 1997, the meter had not been installed. Upon complainant's inquiry, defendant denied making any promises. Defendant alleged it advised the Association on identifying unauthorized use and that a sub-panel installed by the Association was needed before a separate meter could

be installed. Defendant will install a meter on an acceptable sub-panel once the Association completes the appropriate internal wiring.

This complaint is filed under the Commission's expedited complaint procedure (PU Code § 1702.1; Rule 13.2 of the Commission's Rules of Practice and Procedure). The amount in controversy does not exceed the jurisdictional limit of the small claims court as set forth in Code of Civil Procedure § 116.2(a).

Complainant requests a refund for the restaurant's usage paid from January to June, 1997, an amount estimated at \$1,831.52. Defendant requests that the complaint be denied because it is not responsible for collecting from a third party.

A rescheduled hearing was held in Sacramento on January 14, 1998 upon the agreement of the parties due to complainant's inability to attend the scheduled hearing on December 2, 1997. Both parties presented testimony and evidence. The case was submitted on April 20, 1998 upon the submission of defendant's comments regarding late-filed Exhibit 2.

Upon review of complainant's argument and exhibits, we conclude that defendant has not violated its tariff. It is under no obligation to rewire complainant's premises or install a second electric meter. No evidence other than complainant's testimony is presented to corroborate any promise. Even if such a promise was made, defendant's discovery that rewiring and a sub-panel was needed would make performance of the promise impossible. Therefore, the complaint must be denied.

O R D E R

IT IS ORDERED that the complaint in this proceeding is denied.

This order is effective today.

Dated August 6, 1998, at San Francisco, California.

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