

Decision 00-03-015 March 2, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Dean L. Cobb,

Complainant,

vs.

San Diego Gas & Electric Company,

Defendant.

(ECP)
Case 99-10-002
(Filed October 5, 1999)

Dean L. Cobb, complainant.
Monica Wiggins and Maria Stevens, for
San Diego Gas & Electric Company, defendant.

O P I N I O N

Complainant filed a formal complaint on October 5, 1999, seeking a "[r]eduction of monthly billing for past three years of \$15 to \$20 each bill." He claims that there are inconsistencies in his electric bills over this period, which reflect incorrect measurement of usage and result in unjustifiably high amounts being billed. There is no dispute that San Diego Gas & Electric Company (SDG&E) applied the proper rate.

With the parties' consent, this proceeding was recalendared on January 14, 2000, as an Expedited Complaint Proceeding pursuant to Section 1702.1 of the Public Utilities Code and Rule 13.2 of the Commission's Rules of Practice and Procedure. Administrative Law Judge Victor D. Ryerson

held an evidentiary hearing in San Diego on February 2, 2000, at the conclusion of which the case was submitted.

Facts

The following material facts were adduced from the parties' testimony at the hearing:

Dean L. Cobb, resides alone in a small two-bedroom, one-bath condominium in suburban San Diego County. He established service there on August 6, 1996. His connected electric load consists of the following appliances:

- 1 – 18 cubic ft. frost free refrigerator
- 1 – microwave
- 1 – washer/dryer (stackable) – 4 kwh
- 1 – computer
- 1 – fax machine
- 1 – Jacuzzi spa (discovered after energy audit)
- Miscellaneous TV, lights, and appliances.

Cobb's billing and usage history are shown on Appendices A and B to this decision, which reflect usage varying from 12 to 23 kilowatt hours (kWh) per day, but generally within the range of 14 to 19 kWh per day. The highest bills during the period in question are those dated August and September 1998, reflecting respective daily usages of 23 and 20 kWh.

On December 11, 1998, Cobb wrote to SDG&E that his bills were too high, and SDG&E performed an energy audit in response. The audit indicated that Cobb's refrigerator, which was an older model, was the most likely cause for his unexpectedly high bills. Rather than having SDG&E individually meter the refrigerator, he caused his landlord to replace it with a newer one on June 23, 1999. Cobb's daily usage subsequently dropped from a 16-19 kWh per day range for the preceding six months to the range of 12-14 kWh per day to the present.

Still not satisfied that his bills were in proportion to his connected load, Cobb continued to press SDG&E for relief. SDG&E installed an IDI recorder, which measures usage around the clock at 15-minute intervals, between November 2 and 11, 1999. In the course of setting the meter, SDG&E discovered for the first time that there was a Jacuzzi spa in the small patio area which was part of the condominium property.¹ The IDI metering test showed that load was coming online between 11:00 p.m. and 1:00 a.m., which was consistent with cycling of the spa's filter and heating apparatus in the absence of other significant load.

As it turned out, the spa continuously cycles two hours on and six hours off, even when nobody is physically using it. SDG&E's witness testified that this could account for anywhere between 3 and 10 kWh per day of usage above the level that was expected from the originally identified connected load, depending upon the amount of actual use.

SDG&E has shown that Cobb's connected load at all relevant times could have used the amount of energy for which he was billed. SDG&E checked Cobb's meter and found it to be accurate within the 2% acceptable tolerance under its Tariff Rule 18. No funds are currently being held in trust by the Commission.

¹ We note that this discovery occurred after the complaint was filed, so the high bills alleged in this complaint are based upon an estimated connected load which does not include the spa.

Discussion

Complaint cases of this nature frequently come before the Commission. The Commission most recently articulated the controlling principles in Decision (D.) 00-02-010 (February 3, 2000), in which we stated:

“When a customer complains that a utility has overbilled for electricity, the burden of proof rests on the complainant to show that the billing was improper. (Placid N.V. v. Southern California Edison Company, 48 CPUC 2d 425, 427 (1993).) The customer must show that he or she could not possibly have used the amount of energy in dispute. (Leonard J. Grant v. SoCal Gas Co., D.92577, *mimeo.*, p. 6 (1981).) If the meter is tested and found to be accurate within acceptable tolerances, no source of loss is discovered in the system, and the customer’s potential demand exceeds the amount of usage in dispute, a presumption exists that the customer has used the energy shown the meter. (*Id.*) Unless the complainant rebuts this presumption with substantial evidence that he was billed for the disputed energy due to a cause within the utility’s control, the complainant cannot prevail. As the Commission observed, ‘We can share his perplexity, but we cannot share his view that it is impossible to consume the amount of [energy] indicated on his bill.’ (*Id.*, p. 7.)

“Practical reasons support this rule. First, the customer is presumed to control the use of power on his side of the meter; if the meter is accurate, it measures the power the customer has used ‘in one way or another.’ (*Id.*, p. 6.) Second, it would place an undue burden upon the utility to require more than a reasonable investigation of the source of the customer’s high bills. Third, shifting the burden to the utility would invite manipulation by customers, who can control their usage to some degree when it is being monitored. Finally, ‘To expect a utility to determine the amount of energy used as well as the manner in which it was used would require an unacceptable intrusion into the lives of its customers.’” (*Id.*) (*Mimeo.* pp. 9-10.)

Cobb has not carried his burden of proof that he was overbilled for electric power, because at all times his connected load *could* have used the amount of

energy in dispute. The meter was tested and found to be accurate, and no source of loss was detected in the system. Cobb's claim that he did not actually use the amount of energy at issue is not sufficiently substantiated to overcome the presumption that SDG&E's bills are correct, particularly after the existence of the spa recently came to light. Accordingly, we dismiss the complaint.

Notwithstanding the result we reach today, we encourage the parties to perform any additional diagnostic testing that may reasonably be available to detect any undiscovered source of disproportionate usage that future bills may reveal.

O R D E R

IT IS ORDERED that Case 99-10-002 is dismissed.

This order is effective today.

Dated March 2, 2000, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
CARL W. WOOD
LORETTA M. LYNCH
Commissioners

DEAN L COBB W 760 879-6630 H 619 443-5395 04 04480
 9739 WINTER GARDENS BLVD 9 LAKESIDE CA 92040 A RES 2290948302
 E01 G01 PWQ CC
 CCI008 CINQ ELECTRIC METER BILLING HISTORY 11/15/99 10:44

MTR NO: 01036481 RATE: DR HEAT CD: 1 STAT: A NXT BL DT: 12/13/1999
 READ

SEL DATE	DAYS	BILL USE	USE/DAY	SEAS	MAX DMD	LPP AMT	SERVICE AMT	BC	RS
11/05/99	29	329		11 M		0.00	37.44	B	L
11/05/99	5	43		9 B		0.00	0.00	C	N
10/07/99	29	345		12 B		0.00	37.47	B	M
09/08/99	33	389		12 B		0.00	41.55	B	M
08/06/99	29	375		13 B		0.00	41.98	B	M
07/08/99	31	420		14 B		0.00	43.19	B	M
06/07/99	32	505		16 B		0.00	51.97	B	M
05/06/99	29	455		16 B		0.00	46.80	B	M
04/07/99	29	545		19 B		0.00	56.93	B	M
03/09/99	32	534		17 B		0.00	55.24	B	M
02/05/99	29	488		17 B		0.00	50.52	B	M
01/07/99	31	540		17 B		0.00	56.08	B	M

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NEXT FUNCTION : DATA :

13-CREDIT 14-CURR SERV 15-PX CR/DB 16-ACCT BAL 17-PYMT HIST 18-ANALYSIS
 19-HIGH BILL 20-TOU SUMM 21-CUST CNTC 22-ACCT SUMM 23-BILL IMG

Exhibit	10
Case No.	C.99-10-002 (EP)
Sponsor/Witness	SD & E
Date Filed	2/2
Filed	2/2
Victor D. Sjogren Administrative Law Judge	

Page: 1 Document Name: Pins

DEAN L COBB W 760 879-6630 H 619 443-5395 04 04480
 9739 WINTER GARDENS BLVD 9 LAKESIDE CA 92040 A RES 2290948302
 E01 G01 PWQ CC
 CCI008 CINQ ELECTRIC METER BILLING HISTORY 11/15/99 10:44

MTR NO: 01036481 RATE: DR HEAT CD: 1 STAT: A NXT BL DT: 12/13/1999

READ

SEL	DATE	DAYS	BILL USE	USE/DAY	SEAS	MAX DMD	LPP AMT	SERVICE AMT	BC	RS
	12/05/97	30	380	13	B		0.00	42.45	B	M
	11/05/97	29	392	14	B		0.00	44.12	B	M
	10/07/97	29	509	18	B		0.00	58.74	B	M
	09/08/97	33	599	18	B		0.00	69.32	B	M
	08/06/97	29	460	16	B		0.00	52.62	B	M
	07/08/97	32	456	14	B		0.00	51.60	B	M
	06/06/97	31	434	14	B		0.00	49.04	B	M
	05/06/97	29	382	13	B		0.00	42.87	B	M
	04/07/97	31	333	11	B		0.00	36.42	B	M
	03/07/97	30	440	15	B		0.00	49.81	B	M
	02/05/97	29	369	13	B		0.00	40.96	B	M
	01/07/97	33	480	15	B		0.00	52.75	B	M

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Date: 11/15/99 Time: 10:43:27 AM

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DEAN L COBB W 760 879-6630 H 619 443-5395 04 04480
 9739 WINTER GARDENS BLVD 9 LAKESIDE CA 92040 A RES 2290948302
 E01 G01 PWQ CC
 CCI008 CINQ ELECTRIC METER BILLING HISTORY 11/15/99 10:44

MTR NO: 01036481 RATE: DR HEAT CD: 1 STAT: A NXT BL DT: 12/13/1999
 READ

SEL	DATE	DAYS	BILL	USE	USE/DAY	SEAS	MAX	DMD	LPP	AMT	SERVICE	AMT	BC	RS
	12/05/96	31		447		14 B				0.00		48.77	B	M
	11/04/96	31		382		12 B				0.00		40.95	B	M

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NEXT FUNCTION : DATA :

13-CREDIT 14-CURR SERV 15-PX CR/DB 16-ACCT BAL 17-PYMT HIST 18-ANALYSIS
 19-HIGH BILL 20-TOU SUMM 21-CUST CNTC 22-ACCT SUMM 23-BILL IMG

(END OF APPENDIX A)

DEAN L COBB W 760 879-6630 H 619 443-5395 04 04480
9739 WINTER GARDENS BLVD 9 LAKESIDE CA 92040 A RES 2290948302
E01.G01 PWQ CC
CCI008 CINQ ELECTRIC METER BILLING HISTORY 02/02/00 08:32

MTR NO: 01606518 RATE: DR HEAT CD: 1 STAT: A NXT BL DT: 02/11/2000

SEL DATE	DAYS	BILL USE	USE/DAY	SEAS	MAX DMD	LPP AMT	SERVICE AMT	BC	RS
01/06/00	30	385		13 B		0.00	38.57	B	M
12/07/99	32	387		12 B		0.00	40.27	B	M
11/05/99	29	329		11 M		0.00	37.44	B	L
11/05/99	5	43		9 B		0.00	0.00	C	N
10/07/99	29	345		12 B		0.00	37.47	B	M
09/08/99	33	389		12 B		0.00	41.55	B	M
08/06/99	29	375		13 B		0.00	41.98	B	M
07/08/99	31	420		14 B		0.00	43.19	B	M
06/07/99	32	505		16 B		0.00	51.97	B	M
05/06/99	29	455		16 B		0.00	46.80	B	M
04/07/99	29	545		19 B		0.00	56.93	B	M
03/09/99	32	534		17 B		0.00	55.24	B	M

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(END OF APPENDIX B)

C.99-10-002 VDR/avs APPENDIX B
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Exhibit 8
 Cr JC Proceeding C.99-10-002 (ECP)
 Sponsor: W. [unclear]
 Date Ident. 2/2 Filed 2/2
 Victor D. Ryan on
 Attorneys at Law Judge