STATE OF CALIFORNIA GRAY DAVIS, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

February 1, 1999

TO: PARTIES OF RECORD IN CASE 98-02-045
DECISION 99-02-001, Mailed 2/1/99

On December 29, 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.

Lynn T. Carew, Chief
Administrative Law Judge

LTC:sid

Attachment

ALJ/SAW-POD/sid

Mailed 2/1/99

Decision 99-02-001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Home Owners Association of Lamplighter, Complainant, vs. The Lamplighter Mobile Home Park, et al., Defendant.	Case 98-02-045 (Filed February 24, 1998)

Golden State Mobilehomeowners League, by Benjamin H. Scharf, Attorney at Law, for complainant.
Hart, King and Colden, by William C. Dahlin and Robert S. Coldren, Attorneys at Law, defendant.

FINAL ORDER

Summary

In this order, we find that the Lamplighter Mobile Home Park (Lamplighter) has unlawfully imposed on many of its tenants charges in excess of the applicable tariffed rates for electrical service. We order Lamplighter to discontinue imposing $9.14 of its current monthly rent surcharge and to refund the surcharges that it has collected over the last three years.

Background

Les Kessler, Randy Kessler, Edith Kessler and Ted Bild own and operate the Lamplighter in Santa Rosa. Les and Randy Kessler are also attorneys at law, with a practice located in Alameda. They also own several other mobile home

parks. They purchased the Lamplighter facility in approximately 1972 and expanded it from a park with 55 spaces to one with its current capacity of 109 spaces. Lamplighter is a master meter customer of the Pacific Gas and Electric Company (PG&E), which means that Lamplighter buys electricity from PG&E and then sells the electricity to its tenants.

Master meter customers receive service from PG&E at a discount. Pursuant to Public Utilities (PU) Code § 739.5, Lamplighter must charge its submetered tenants at the same rate which would be applicable if the tenants were receiving service directly from PG&E. The discount is designed to provide a sufficient differential to cover the reasonable average cost to master meter customers of providing submeter service.

In 1989, Lamplighter began the work of placing its electric lines underground and making other improvements to its electrical service. At the same time, Lamplighter placed its telephone lines underground. Rather than absorbing the cost of improving the electrical system as part of the normal cost of providing submeter service, Lamplighter placed a surcharge of $9.14 on the monthly bill of each tenant. The surcharge is scheduled to continue for 10 years. To arrive at the surcharge amount, Lamplighter amortized the $82,412.00 associated with the undergrounding work over 10 years in monthly installments, allocated the monthly amount evenly among the 109 spaces in the park, and then added interest on the declining balance at 9% per year.

The owners state that they informed the tenants of the impending surcharge by letter in June 1989, and began charging the tenants in October 1989. At the time, all of the spaces were subject to rent control and the owners report that they informed the Sonoma County Rent Control Board of the surcharge. Subsequently, there was a period during which the Board ceased regulating the rents on vacant spaces. For tenants who began their leases during that period,

Lamplighter did not invoke the surcharge. However, Lamplighter increased the rent for those tenants more than enough to absorb the surcharge.

In February 1995, the Commission issued Decision (D.) 95-02-090, in which it declared that mobile home park owners are prohibited from recovering the costs of repairing and maintaining submeter system, including replacement costs, in rent charges or surcharges. This decision was in an investigation prompted by complaints that had been filed in 1991 and 1993 against various mobile home park owners (Case (C.) 91-11-029, C.91-11-030, C.93-02-050, and C.93-08-017).

In May 1995, Marcel Traiman, a tenant at Lamplighter learned of the ruling. On May 15, 1995, he wrote a letter to the Commission's Public Advisor seeking guidance. A week later, Robert Feraru, the Public Advisor, responded by letter, suggesting that Mr. Traiman discuss this matter with the Commission's Consumer Affairs Branch. Apparently, Mr. Traiman contacted Marie Tognotti of Consumer Affairs on May 26, 1995 and Ms. Tognotti sought an advisory legal opinion from the Commission's Legal Division on behalf of Mr. Traiman and the other tenants. The tenants received an informal legal opinion from Helen Yee, a Commission staff attorney, in a letter dated October 31, 1997.

In the letter, Ms. Yee indicated that a mobile home park cannot charge, in the form of a rent increase, for capital improvements to the submetered system beyond what it receives through the submetering discount that is approved by the Commission. On behalf of the Home Owner's Association, its president, Velma I. Pratt, sent a letter to the defendants on February 5, 1998, attaching a copy of Ms. Yee's letter, demanding that the owners immediately cease and desist from collecting the surcharge and provide refunds of all amounts previously collected. In a response dated February 13, 1998, written on stationary bearing the letterhead for his law firm, Randall Kessler expressed surprise at the charges and stated that the owners would need more time to fully

respond. However, he also expressed a willingness to defer the $9.14 surcharge until such time as the matter was resolved. In the meantime, the Home Owners Association had formed a subcommittee to collect all necessary documents and draft this complaint, which they filed on February 24, 1998.

A prehearing conference was held in Santa Rosa on July 29, 1998. The Commission assigned a mediator to work with the parties in an effort to settle their differences. The settlement efforts were unsuccessful. Parties distributed prepared testimony on September 15, 1998. An evidentiary hearing was held in Santa Rosa on October 1, 1998. There were two rounds of briefs on this matter, which was submitted upon the receipt of post-hearing briefs on October 13, 1998.

Discussion

In a 1995 decision that followed a generic investigation, the Commission concluded that tenants of master-metered parks shall not be subject to rent surcharges for ongoing utility system repair and replacement (D.95-02-090). The Commission also stated that there is no dispute that the Commission has complete jurisdiction over utility rates, including the mobile home park discount. Further, § 739.5 of the PU Code confers upon the Commission responsibility to require that "the master-meter customer shall charge each user of the service at the same rate which would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporation."

The record in this matter establishes that the Lamplighter, through its rent surcharge, charges its tenants more for electric service than the rate they would pay if they received electric service directly from the local utility. Lamplighter argues that the complainants have not met their burden of proving that they were charged more for their electric service than would be allowed under otherwise applicable tariffs. This is not true. The complainants have demonstrated this point in several ways. For example, included in Attachment A

to Exhibit 1 is a copy of the monthly bill for May, 1993, for Lamplighter Mobile Park Space #346. This includes a charge for electric consumption, indicating the applicable rates for Baseline ($0.11968/kWh) and Tier 2 ($0.131819).

The record indicates that Lamplighter is a master-meter customer of the PG&E. Referring to Cal. P.U.C. Tariff Sheet No. 13003-E, the rates for residential electric service (E-1) in effect on that date are identical to the rates charged by Lamplighter to the tenants in Space #346. The bill also includes a demand to pay the capital improvements surcharge. To the extent that the surcharge includes charges for costs related to electric service, this evidence supports a conclusion that tenants were charged more for their electric service than would be allowed under otherwise applicable tariffs. If Lamplighter contests this assertion, it has the burden of producing evidence to support its position. It has not done so.

A threshold issue is whether the complaint, in whole or in part, is barred by an applicable statute of limitation. To the extent that the claim is not barred, at issue is what portion of the surcharge relates to tariffed utility service, whether or not all tenants have a valid claim for refund, and how any applicable refund should be achieved.

Timeliness of the Complaint

When an electric utility customer files a complaint about inappropriate charges, the customer is limited by § 736 to overcharges accrued during the three years immediately preceding the time when it filed the complaint. Lamplighter argues that § 736 does not apply to master meter complaints, because § 736 only applies to common carrier charges, as defined in § 494, and public utility overcharges, as defined in § 532. Lamplighter argues that if the Commission has jurisdiction over master meter customers, that jurisdiction derives from § 739.5, not from § 532. It is § 739.5 that states that the Commission shall require master meter customers to charge submeter customers the same rates that they would

otherwise face as utility customers. Because § 736 does not mention § 739.5, Lamplighter argues, the applicable limitations are found in the more general § 735. That section would impose a two-year limitation on submeter customers, rather than the three-year limitation that applies to other utility customers.

We do not agree with Lamplighter's interpretation. Section 739.5 serves to ensure that submeter customers are indifferent as to who charges them for their electric service. To assume that an electric customer's legal rights are restricted simply because it receives service through a submeter would undermine that indifference. It is through § 532 that the Commission ensures that utilities charge their customers properly for the goods and services they receive. Utility customers have three years in which to initiate complaints about such charges. Lamplighter argues that submeter customers have only two years in which to initiate such a complaint. There is no reason to expect that the Legislature intended to create such a double standard. To limit appropriate submeter customer refunds to two years prior to the filing of a complaint would result in such a customer paying more for electric service than would a utility customer in a similar situation. We regard this complaint to be the equivalent of a utility customer's complaint pursuant to § 532 and apply the related three-year statute of limitations codified in § 736.

Lamplighter argues that even if the tenants are not barred from pursuing claims because of a statute of limitations, they are barred under the equitable principles of estoppel and laches. To support this position, Lamplighter cites California Alliance for Utility Safety and Education, Complainant, vs. San Diego Gas & Electric Company, D.97-12-117. In that 1997 decision, the Commission found that claims concerning the 1986 and 1979 utility projects were untimely and therefore barred by the doctrine of laches. As the Commission explained,

"laches is an equitable doctrine which precludes equitable claims ... which have been unduly delayed."

There are significant distinctions between California Alliance and the circumstances of this case. First, the Commission found that there was no statute of limitations applicable to the facts in California Alliance. Here, we have determined that § 736 does apply. Second, the events leading to the California Alliance matter had occurred 10 and 17 years earlier. Thus, the underlying facts were considered stale. Here, the relevant events have occurred monthly since October 1989, in the form of the imposition of a rent surcharge, and are still occurring. Although Lamplighter first established the basis for its surcharge in 1989, that basis is still relevant today, since Lamplighter continues to impose the surcharge and to assert that it is reasonable. Finally, the relief sought in this proceeding is not fundamentally equitable in nature. If the Commission determines that the surcharge is unlawful, that finding would apply as much to charges that remain to be collected, as to charges that have been collected. If we determined that laches barred the tenants from seeking a cease and desist order today, they would be required to come back to the Commission once the surcharge has been fully collected and file a new complaint to recover any subsequent overcharges. This would be an absurd result, inconsistent with principles of equity, since it would impose additional costs on the tenants for no useful purpose.

In the current case, the surcharges began in October 1989, yet the complaint was not filed until February 1998. We must determine whether under § 736, the tenants are barred from pursuing claims concerning some or all of these surcharges. In posing its arguments, Lamplighter focused on § 735. Thus, it spoke in terms of two years. We assume that the owners would apply the same reasoning to the three year period of limitation that we have chosen to apply.

Lamplighter argues that the limitations on recovery should be measured from the date the tenants filed their complaint (February 24, 1998). However, under § 736, the statute is tolled when the claim is presented to the defendant in writing. The tolling period continues until six months after the defendant notifies the complainant in writing that it is rejecting the claims. Here, the tenants notified Lamplighter in a letter dated February 5, 1998. In its response dated February 13, 1998, Lamplighter stated that it would need more time in which to determine whether or not it would honor the claims. Thus, the three-year period was tolled on February 5, 1998, and remained in that status when the tenants filed their complaint on February 24, 1998. The applicable three-year period would extend from the date of the written notice, back to February 5, 1995.

In her 1997 letter to Mr. Traiman, Ms. Yee concludes that the tenants should be able to pursue claims back to the onset of the surcharge in October 1989 because prior to the issuance of D.95-02-090 (on February 22, 1995), the tenants could not have known that they were being unlawfully charged. The Commission suspended the statute of limitations for this reason in TURN v. Pacific Bell, D.93-05-062, a case involving improper late-charges imposed by Pacific Bell. However, the findings in that proceeding differ from this case in a critical respect. In D.93-05-062, the Commission found that customers could not have known that they had been unlawfully charged because key facts had been withheld. Here, the tenants had all of the critical facts at their disposal, since the landlords had held a community meeting to discuss the impending surcharge, and sent a letter to the tenants informing them of the basis for the surcharge. What may have remained unknown to the tenants was that some or all of the surcharge may have been unlawful and that they could pursue this issue before the Commission.

It is easy to believe that such was the case. The tenants are not necessarily skilled legal professionals. Nor would the comparatively low rents which they pay for their trailer spaces necessarily justify the cost of obtaining legal advice. The potential disparity of legal information available to the parties is especially dramatic, here, since at least two of the owners of the mobile home park are attorneys at law. The likelihood that reasonable people in the position of the tenants would not have known of these legal rights is underscored by the assertion of the owners that even they were unaware of their obligation to rely on the master-meter discount to cover all of their costs related to maintaining and improving the electrical system.

However, TURN v. Pacific Bell does not stand for the principle that a statute of limitations is tolled when a party does not understand its legal rights. We are unaware of legal precedent that would support such an argument. A statute of limitations is not created to preserve the rights of a complainant. It serves as protection for a defendant, whether or not an untimely claim would otherwise have legal merit. We do not conclude that a statute of limitation is tolled when one or more parties is unaware of its legal rights.

The Consumer Services Division (CSD), on behalf of the tenants, argues that Lamplighter made misrepresentations in its initial letter to the tenants announcing the rent surcharge and that those misrepresentations constitute fraudulent concealment. Consequently, CSD argues, Lamplighter is precluded from seeking the protection of the statute of limitation. The basis of this assertion is that Lamplighter did not mention § 739.5 and also stated that "we are both allowed and required under the provision of [local] Ordinance #3727 providing for mobile home space rent stabilization to recover the cost of such capital improvements ... amortized over the reasonable life of such improvements." Lamplighter argues that there was no concealment, fraudulent or otherwise,

because the tenants were presented with the information necessary to know precisely what the basis was for the rent surcharge.

We do not find in the facts offered by CSD a basis for concluding that Lamplighter had communicated fraudulently. The owners did not cite § 739.5 in their letter, but they were under no explicit obligation to do so. In addition, even if Lamplighter has misstated the legal significance of the local ordinance which it cited, reference to this language alone does not establish that Lamplighter has acted to fraudulently conceal information. It may simply be the result of a failure to understand the law. CSD has not offered facts that would enable us to conclude one way or another.

For all of these reasons, we find that the tenants may pursue claims related to the rent surcharge resulting from payments commencing February 5, 1995.

The Portion of the Surcharge Related to Tariffed Electric Service

To support their contention that the rate surcharge reflects inappropriate charges for electric service above and beyond tariffed rates, the tenants offered a copy of a letter sent by Lamplighter to its tenants in 1989 announcing the commencement of the surcharge. In the letter, Lamplighter announced that it planned to install new electric service and to place all of its electric and telephone service underground. The letter went on to say:

> "This requirement and the work on Santa Rosa Avenue, required extensive electrical work in the park. We have been required to expend $82,412.00 to perform the necessary work including installation of large transformers, underground wiring, electrical panels, cables, etc."

The letter later set forth the following table to explain how the $82,412.00 would be translated into a rent surcharge:

	Monthly Increase Per Space
$82,412.00 amortized over 10 years - 8,241.00 per year 686.75 per month allocated between 109 space	6.30
Interest on declining balance @ 9% per annum	2.84
	9.14

The tenants argue that this information demonstrates that Lamplighter has been charging them $9.14 per month for electric service in excess of the amount they are allowed to charge by law.

Lamplighter argues that some portion of the $82,412.00 was spent for the undergrounding of telephone wires and part was spent for the improvement of electric service related to common facilities, such as a club house. The defendants argue that none of these items are part of tariffed electric service to the tenants and that the tenants have failed to meet their burden of proof as to what portion of the $82,412.00 relates to their electrical service. No one has argued that charges unrelated to tariffed electric service should be refunded here. However, we disagree with Lamplighter's suggestion that the tenants may have failed to meet their burden of proof on this issue.

By offering the 1989 letter, the tenants have presented evidence supporting the assertion that the $82,412.00 expenditure for which they are being charged was an expenditure for electrical work. They do not bear the burden of proving negatives: that some of the electrical work did not relate to tariffed service or that some of these costs may have actually related to telephone service. It is Lamplighter that bears the burden of establishing such a distinction in its own

defense. This is as it should be, since it is Lamplighter that has control over all records that relate to this proceeding.

Lamplighter argues that because of the passage of time, it is unable to produce sufficient records to meet such a burden. This assertion is part of the basis for Lamplighter's argument that the complaint should be dismissed as stale. However, the evidence in this proceeding provides no reason to expect that additional business ever existed which would have shined light on this issue. The principles involved in the decisions that led to the improvements and the surcharge are still involved with Lamplighter. The passage of time did not interfere with Lamplighter's ability to produce a copy of a bill dated April 20, 1989, from North Coast Electric Company, Inc. for $82,412.00, a letter dated August 24, 1989 detailing costs for trenching a backfill, a statement of cash receipts and disbursements for 1987 and 1988, and the company's own copy of the 1989 letter sent to tenants announcing the coming surcharge.

Lamplighter has not offered evidence of any other records or types of records that it may have earlier maintained nor suggested that the principals purged their files at any point since 1989. To the contrary, Lamplighter offered testimony suggesting that its principals were not in the habit of carefully tracking their costs and revenues related to electric service. The administrative law judge (ALJ) had this discussion with Theodore L. Bild, the manager and an owner of the mobile home park (Transcript being at p. 108):

> "ALJ WEISSMAN: All right. Again, I need to explore this for a minute because this continues to confuse me. As manager of the park are you responsible to make sure the park runs at a profit?
>
> "THE WITNESS: Well, I have no way of guaranteeing a profit, sir. No one does.

"ALJ WEISSMAN: But you're as responsible as anybody is to try to drive toward that goal, right?

"THE WITNESS: That's correct.

"ALJ WEISSMAN: So you want to know what your costs are and you want to know what your revenues are,

"THE WITNESS: That's correct.

"ALJ WEISSMAN: All right, but you haven't had an interest to learn what the costs and revenues are related to the electric services and gas service provided at your --

"THE WITNESS: No. Those are -- in my humble opinion, they're a regulated service that I have absolutely no control over. So whatever I am billed by PG&E, that I owe.

"ALJ WEISSMAN: But don't you want to know whether you're being billed more or less than you're collecting? Isn't that important for you to know as a businessman?

"THE WITNESS: It's part of my overall costs, but I have no control if they allow me to make a profit or not. They bill me and I am required to pay it.

"ALJ WEISSMAN: Do you balance the books at the end of the year or the end of the month?

"THE WITNESS: We balance our books to an annual report.

"ALJ WEISSMAN: So you must have in one column the costs related to the electric service and in another column the revenues you got?

"THE WITNESS: Well, possibly in there, but I'm going overall with all sorts of figures. And as long as I have a net profit at the end of the year, that's all I really care about."

Based on the record in this proceeding, we have no reason to conclude that Lamplighter ever made an effort to distinguish between portions of its 1989 capital improvement expenses that related to tariffed electric service and portions that may have related to anything else. We will neither require the tenants to generate such a distinction on the defendant's behalf nor excuse Lamplighter from refunding surcharges because they may partially reflect some other unproven costs. Instead, we will presume that the entire $9.14 monthly charge relates to tariffed electric service to the tenants.

Tenants Who Do Not Pay the Surcharge

The record reflects that during a brief period after 1989, the local rent board invoked vacancy decontrol. For new tenants who moved into vacant spaces during that period, Lamplighter was able to charge whatever rent it wanted. Lamplighter reports that 26 spaces were rented anew during this period. Those tenants were not required to pay a surcharge. However, in most instances, those tenants were required to pay rent that was increased to more than compensate for the lost surcharge revenues. It appears likely that the principals at Lamplighter intended to use part of the rent increase to cover costs related to improvements of the electrical system. The complainants argue that those tenants in decontrolled spaces should also receive refunds. Lamplighter argues that this Commission would have no basis for requiring such a refund and we agree.

For those spaces that were temporarily not subject to rent control, Lamplighter was able to set the rent at any level it wanted and was not required to justify its choice. Where a rent board has explicitly allowed for a rent increase or surcharge to compensate for electric system expenses, we can identify those charges and determine whether they resulted in excessive rates. Where a rent increase does not have to be documented, we are no more able to conclude that

the rent includes utility costs than the rent board is able to conclude that it does not. No matter how logical it is to assume that Lamplighter adjusted its rent for those spaces to compensate for a portion of the electrical system improvement costs, we are not empowered to conclude that the rent charged to those tenants was excessive.

How Refunds Should Be Administered

We conclude that the $9.14 rent surcharge is an unlawful, excessive charge for electric service and that Lamplighter should do all of the following:

1. Within 60 days of the date of this decision, Lamplighter shall reimburse existing residents $9.14 per month plus 9% annual interest compounded monthly until the date of refund for any months in which they paid the surcharge from February 5, 1995 through February 5, 1998.

2. Any payments made by residents after February 5, 1998, when residents were advised that payments could be held pending resolution of this dispute shall also be reimbursed, with interest as calculated above.

3. Lamplighter shall not further bill the $9.14 surcharge that is the subject of this dispute.

4. Lamplighter shall make a good faith effort to identify and reimburse any former tenants or their heirs for surcharge payments made since February 5, 1995. Such reimbursement shall include interest as calculated above.

5. Lamplighter shall determine the full amount of all surcharges collected since February 5, 1995 and report this amount to all current tenants by letter no later than 60 days after the date of this decision. All refunds not collected within 12 months of the date of this decision shall revert to the General Fund of the State of California. At the end of the 12 month period, Lamplighter shall inform current tenants, by letter, of the status of its refund program and inform the tenants of the steps it has taken to turn over any uncollected refunds to the General Fund.

Lamplighter argued that only tenants who are members of the Home Owner's Association should be eligible for receiving any Commission-ordered

refunds. As part of this argument, Lamplighter questioned the association's standing to bring this complaint in the first place. Under the Commission's rules, any corporation, person or organization can file a complaint asserting a violation of any provision of law related to our responsibilities or of any order or rule of the Commission. We encourage such complaints as part of our efforts to enforce the law and do not require each and every ratepayer to formally join a complaint in order to qualify for a refund. To the contrary, where it is determined that charges are unlawful, it is appropriate to refund excessive charges to all customers on whom they were imposed. Thus, we will not limit refunds to those tenants, past or present, who belong to the Home Owner's Association.

Implications for Other Parks Owned by the Lamplighter Partners

The record indicates that the owners of Lamplighter, individually or together, own other master-metered mobile home parks. This decision shall serve as notice to the defendants that any other such utility-related surcharges or rent increases may be unlawful. We advise the defendants to examine their practices at other parks, cease collecting such utility-related charges where appropriate, and consider implementing refund programs. We encourage our investigative staff to consider beginning an investigation into potential overcharges at other facilities owned by the defendants.

Findings of Fact

1. Lamplighter is a master-metered provider of electrical service and its tenants are submetered customers as those terms are used in PU Code § 739.5.

2. Since late 1989, Lamplighter has been imposing on many of its tenants a rent surcharge of $9.14 which represents a charge for electric service above and beyond tariffed rates.

3. Since late 1989, Lamplighter has been imposing on many of its tenants a rent surcharge of $9.14 which represents a charge for electric service above and

beyond tariffed rates. Tenants who first entered into rental agreements during a period of vacancy rent decontrol have not been expressly required to pay a rent surcharge.

4. The surcharge included 9% interest in addition to the principle cost of the improvements to the electrical system.

5. The tenants first provided written notification to Lamplighter of their claims related to the rent surcharge on February 5, 1998.

6. Some or all of the owners of Lamplighter also own other master-metered mobile home parks.

Conclusions of Law

1. Pursuant to PU Code § 736, the tenants are limited to claims stemming from rent surcharge payment made no further back than three years prior to February 5, 1998.

2. Lamplighter should be required to make refunds to its current and past tenants for any payments of the $9.14 rent surcharge made since February 5, 1995.

3. Lamplighter is not required to make refunds to tenants who did not pay the $9.14 rent surcharge.

4. Any refunds should include payments of interest at an annual rate of 9%, compounded monthly.

5. Lamplighter should be required to undertake a good faith effort to locate and make refunds to any prior tenants or their heirs where those tenants made surcharge payments after February 5, 1995.

6. Any refunds not collected within a reasonable period of time should be deposited in the General Fund of the State of California.

7. Lamplighter should immediately discontinue the imposition of the $9.14 rent surcharge.

IT IS THEREFORE ORDERED that:

1. Within 60 days of the date of this decision, Lamplighter Mobile Home Park (Lamplighter) shall reimburse existing residents $9.14 per month plus 9% annual interest compounded monthly until the date of refund for any months in which they paid a $9.14 rent surcharge from February 5, 1995 through February 5, 1998.

2. Any payments made by residents after February 5, 1998, when residents were advised that payments could be held pending resolution of this dispute shall also be reimbursed, with interest as calculated above.

3. Lamplighter shall not further bill the $9.14 surcharge that is the subject of this dispute.

4. Lamplighter shall make a good faith effort to identify and reimburse any former tenants or their heirs for surcharge payments made since February 1995. Such reimbursement shall include interest as calculated above.

5. Lamplighter shall determine the full amount of all surcharges collected since February 1995 and report this amount to all current tenants by letter no later than 60 days after the date of this decision. All refunds not collected within 12 months of the date of this decision shall revert to the General Fund of the State of California. At the end of the 12-month period, Lamplighter shall inform current tenants, by letter, of the status of its refund program and inform the tenants of the steps it has taken to turn over any uncollected refunds to the General Fund.

6. The owners of Lamplighter shall review their practices at any other master-metered mobile home parks within their ownership or control to determine whether they have been collecting any such unlawful surcharges at any of those parks, and take appropriate remedial action.

7. Within 90 days of the date of this decision, the owners of Lamplighter shall submit a report to the Energy Division. The report shall indicate what measures Lamplighter took in order to implement all the provisions of this decision.

This order is effective today.

Dated February 1, 1999, at San Francisco, California.