

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



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ORIGINAL

July 7, 1999

TO: PARTIES OF RECORD IN CASE 98-07-031
DECISION 99-07-001, Mailed 7/7/99

On June 2, 1999, 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 Procedure 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
by [signature]

Lynn T. Carew, Chief
Administrative Law Judge

LTC:mrj

Attachment

Decision 99-07-001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WESLEY CRAWFORD MUHAMMAD AND
SHONTELLE CRAWFORD MUHAMMAD,

Complainants,

vs.

PACIFIC GAS AND ELECTRIC COMPANY,

Defendant.

Case 98-07-031
(Filed July 8, 1998)

Wesley Crawford Muhammad, complainant.

Carole Hughes, Attorney at Law, for Pacific Gas and Electric
Company, defendant.

OPINION

Summary

22.4.1

This decision denies the complaint of Wesley Crawford Muhammad and Shontelle Crawford Muhammad (complainants) who failed to prove their allegations of improper, biased treatment of them and other similarly disadvantaged customers in the Bakersfield area.

Procedural History

In instructions to answer issued on August 5, 1998, the Commission categorized this proceeding as adjudicatory, and indicated that hearings are needed. No party appealed the categorization.

The Scoping Memo and Ruling of the Assigned Commissioner filed on October 14, 1998, confirmed the categorization and designated Administrative Law Judge (ALJ) William R. Stalder as the presiding officer in this proceeding. It also set forth the hearing schedule and defined the scope of the proceeding to consider the following issues:

- unfair treatment of the disadvantaged;
- overcharging with regard to the low-income residential assistance (LIRA) program, now known as the California Alternate Rates for Energy (CARE) program;
- overcharging with regard to the medical baseline allowance; and
- manipulating the Commission's rules and regulations regarding complainants' deposits and credit.

In addition, the hearing would address complainants' allegations of unresponsive treatment by Commission representatives.

Background

Complainants allege unfair and racially biased treatment of the disadvantaged by the Pacific Gas and Electric Company (PG&E), overcharging by PG&E of customers who are entitled to special rates, manipulating by PG&E of Commission rules and regulations regarding customer deposits, and unwillingness by PG&E to arrange for installment payment of bills.

Complainants also allege that Commission staff members work in the best interest of the utility and not the customer. They request (1) restoration of special allowances that they allege they are entitled to, and (2) refund for 65 months of overbilling due to not receiving those allowances. Complainants further request that the Commission (1) increase the LIRA discount from 15% to 30%, (2) order PG&E to not currently require security deposits from

complainants, and (3) hire an independent vendor to inspect all California utilities' gas and electric meters and report back to the Consumer Affairs Branch.

Hearing

An evidentiary hearing was held in Bakersfield on January 20, 1999. Complainants Wesley Crawford Muhammad and Shontelle Crawford Muhammad testified on their own behalf and also presented the testimony of Cassandra Ballestero.

Pacific Gas and Electric Company (PG&E) presented the testimony of Mary Camby, Senior Tariff Analyst; Truitt Carroll, Billing Analyst; and Manuel Ganoa, Senior Customer Service Representative.

Witnesses for Complainants

Wesley Muhammad

Mr. Muhammad testified that PG&E's Bakersfield office has shown a blatant and continuous disregard for the rights of the disadvantaged and African-American customers. PG&E has refused to grant medical baseline and low-income allowances, has bent and broken the rules of the federal government regarding discrimination, and PG&E's employees are racist and discriminatory regarding hiring of blacks. Mr. Muhammad also testified that PG&E refused to allow a local doctor to cosign for him in order to avoid the unfair deposit that PG&E required.

In an earlier similar complaint, Case 92-04-012, PG&E acknowledged the Muhammads' eligibility for both LIRA and for the medical baseline allowance. In 1990, the Muhammads submitted certification that their young son Rasul has a medical condition, sleep apnea, that will be with him all his life. Therefore, they question why PG&E would not continue the medical baseline allowance without further updates.

In this case, not only did PG&E not continue the medical baseline allowance, but it required a deposit of \$500 which is impossibly high for people who have low-income and have children with special needs. Rasul needs to use the exercise machine after every meal to burn off fat, and when it is being used, the air purifier must also be used to prevent an asthma attack. Assistance from Salvation Army, the REACH program, and Catholic Social Services, is not always available because they have limited funds, and those funds are typically exhausted early each month. When the electric service is turned off, the Children's Protective Services must be notified that a child is living in an endangered environment and the child must be removed to a safe environment.

Mr. Muhammad believes that PG&E deliberately lost their eligibility forms for the special allowances, requiring them to resubmit updated forms to verify their eligibility. As a result, when they moved, the special allowances did not follow them, and they were overcharged by PG&E. When he saw that the bill did not allow LIRA rates, he would go to the PG&E office, and usually would get into a confrontation and be calmed down by another PG&E employee and asked to leave the premises.

Shontelle Muhammad

Mrs. Muhammad testified that she has been disabled since 1992, and that the family's economic situation has not changed since. They were entitled to the medical and low-income allowances since their prior complaint went to hearing, yet when they moved in 1992 to 2501 Rosemarie Drive in Bakersfield, PG&E did not notify them that they needed to do anything, but the allowances were dropped. As Exhibit 6 indicates, the declaration of eligibility for medical baseline states that PG&E will review the declaration after two years and either allow it to continue, or notify the customer that a new declaration must be made. PG&E

did neither in this case. It is PG&E's responsibility to notify the customer when a form for such assistance must be submitted.

On cross-examination, Mrs. Muhammad admitted that in the former complaint she stated that on about March 24, 1992, she told PG&E that Rasul had not used the apnea monitor for a long time and did not want PG&E to call the Children's Protective Services anymore. Also, although she noticed that the LIRA rate was no longer indicated on the bill, she did not call PG&E, as she does not deal with PG&E, Wesley does. Usually PG&E sends forms for these allowances, and the Muhammads do not keep copies. They take the forms to the PG&E office in person.

Cassandra Ballestero

Ballestero testified that she receives a medical baseline allowance from PG&E for her mother, who lives with her. The baseline allowances help only slightly by providing those levels of usage at a lower rate, but many people think there is no charge for those levels of usage. The end result is that very little help is provided to the customer.

Witnesses for Defendant

Mary Camby

Camby explained that the name of its low-income rate program changed from LIRA to CARE, but the program remained the same. According to PG&E's records, complainants first received LIRA rates on April 19, 1990, at 3524 Columbus Street in Bakersfield. When they moved to 2501 Rosemarie Drive in Bakersfield, they recertified on June 30, 1992, for what was now CARE and there was no lapse of low-income rate qualification. When they moved to 512 Fig Street in Bakersfield and started service there on November 15, 1993, they no longer received these rates. Similarly, when they moved to 805 El Toro Drive in Bakersfield, they did not receive the CARE rates. During that time, certification

for CARE was handled by the Department of Economic Opportunity (Department) for PG&E. When certified, the Department would send electronically confirmation of the applicants' qualification. That was not done during the periods of the Muhammads' residence at the latter two addresses. When the Department handled the program, there was no automatic transfer of eligibility, so a customer would have to ensure that the rates continued at the new address. Shortly after PG&E took over the program in March 1995, it instituted an automatic transfer of these rates when a customer moves.

PG&E does require periodic recertification of the medical baseline eligibility. On April 8, 1994, PG&E sent a letter to complainants at the Fig Street address requesting recertification, since the two-year period of the original declaration had expired. No response was received. Recertification is needed because the person who qualified for the eligibility may no longer qualify for a variety of reasons, such as moving to another address, or a hospital, or dying.

The medical assistance program grants 500 kwh of electricity and 25 therms of gas at the baseline rate, but allows additional usage at the baseline rate for specific medical equipment that is certified to be required by the customer. This added allowance is based on the nameplate rating of the equipment and the number of hours it must be used. However, in complainants' case, the application for the additional medical allowance dated July 14, 1998, as shown in Exhibit 16, indicates that the El Toro Drive home was heated with gas and air-conditioned with electricity, "but heater is broken since 1994 but air conditioner is broken since 1995".

There is also a state program called LI-HEAP, which once a year provides assistance to people who need help in paying energy bills. The program sends a check to the utility for the account of customers who qualify.

Many bill-insert notices have been sent out to inform customers of the availability of low-income and medical allowances.

The reason for requiring a deposit from the Muhammads in July 1997 was that they had received multiple past-due notices, and seven 48-hour discontinuance of service notices in the preceding 12-month period. Rule 6 allows PG&E to require a deposit to secure such an account due to risk of non-payment.

Mr. Muhammad tried to have the deposit guaranteed by a third party. First, he brought a bill guarantee signed by a party alleged to be his grandmother. Because the signing party was not present, PG&E asked for the document to be notarized, or executed in the signing party's presence. When the party was contacted, she said she did not want to be responsible for the \$500 guarantee, so it was cancelled.

Next Mr. Muhammad requested that PG&E allow Dr. Chilombo to cosign for the deposit. However, Dr. Chilombo used as his address his place of employment, San Joaquin Community Hospital. PG&E normally allows a person to cosign based on the person's record of payments on his PG&E account. In this case since the account is the hospital, and since PG&E had no assurance that Dr. Chilombo was authorized to accept financial responsibility on the hospital's behalf, PG&E could not accept that as a surety for the deposit, and denied the request.

Truitt Carroll

Carroll testified that in his job in the customer service and credit area at PG&E, he attempted to keep informed of the various agencies that could assist people in Kern County who needed assistance in paying their utility bills, and advise such people of the programs. One of them called REACH is partially funded by PG&E stockholders, he believes.

Carroll made several arrangements with Mr. Muhammad for payments on overdue bills in order to keep their services on. Only on rare occasions did Mr. Muhammad honor the agreement.

Manuel Ganoa

Ganoa testified that he had less than pleasant encounters with Mr. Muhammad and felt threatened by him.

Discussion

22.4.1

Among complainants' allegations are PG&E's continual racially biased treatment of them and other African-Americans, and biased treatment of the economically disadvantaged. Complainants' own testimony does not support these allegations, and there is no other evidence in the record supporting them. PG&E refuted them in late-filed exhibit 22, which indicates PG&E's participation in community groups that assist low-income people including African-Americans and others. The exhibit also indicates many awards received by PG&E and its employees from community organizations. Finally, the exhibit lists educational and job training programs that PG&E has supported.

We conclude that there is no basis on which to find that PG&E treats African-Americans in a biased manner.

The Commission understands the difficulty complainants have had in paying their PG&E bills. It is apparent that a low-income family that needs air conditioning in Bakersfield will have high electric bills in the summer, and high heating bills in the winter, especially when living in a poorly insulated house. With both Muhammads disabled, their income is severely limited. The Muhammads apparently were informed of and sought assistance from available programs for low-income people, but since the funds are limited, they cannot adequately meet all the needs of these people.

Regarding deposits, PG&E's tariffs allow it to require deposits from customers who have a poor payment history. Complainants have such a history since they received many past due notices and 48-hour disconnect notices, and they failed to comply with agreements to pay past-due amounts in installments.

We find that PG&E requested deposits properly and in conformance with its approved tariffs, and we will not order PG&E to defer deposits as complainants request; to do so would be unfair and discriminatory to other PG&E customers. 22.3.1

The periods when low-income and medical allowances were not granted to complainants appear to be due not to PG&E's negligence, but rather due to complainants' failure to return forms. Mr. Muhammad argues that the forms that PG&E testified were mailed to complainants may have been lost in the mail. That is unlikely, but if it happened, it should have been apparent to complainants when they examined their bills that they were not receiving these allowances. Complainants kept no copies of the forms they believe they submitted to PG&E for these allowances.

Even had all forms been received, filled out, and returned by complainants, it is unclear whether complainants were eligible in all periods for the medical allowance. On March 20, 1992, Mrs. Muhammad told Mr. Mitchell of Child Protective Services that Rasul had not used the apnea monitor for a long time and was no longer seeing the physician that prescribed it, and that she would not allow PG&E to call Child Protective Services anymore.

Also, as indicated above, at complainants' El Toro Drive address, the heater had been broken from 1994 to 1998, and the air conditioner was broken since 1995. There is no provision for additional allowances for heating or cooling when the qualifying appliances are inoperable.

PG&E has presented credible evidence that it has attempted to properly deal with Mr. Muhammad. Since Mrs. Muhammad is not comfortable in dealing with the public, it was Mr. Muhammad who dealt with PG&E, and in person rather than through the mail. In these dealings he frequently got excited and acted in a manner that was at least perceived to be threatening, and he was asked to leave, or the police were called.

Mr. Muhammad also complains that he thought the medical and low-income allowances gave free energy. He was not told this by anyone from PG&E, rather it was merely his assumption. Both the eligibility forms and the bills clearly indicate that the allowances are for lower rates, not for free energy. We note that complainants were notified that free utility service is prohibited in their 1992 complaint decision, "Nor can we agree with complainants' argument that utility service is a natural resource which should be free. Free service is prohibited by Public Utilities Code § 532." (Decision 95-02-085 in Case 92-04-012 at mimeo. p. 9).

We deny complainants' request to increase the amount of the LIRA or CARE discount. We cannot make such a change retroactively. Moreover, complainants' request is a challenge to the reasonableness of a rate. Such a challenge cannot be made in a complaint unless certain jurisdictional requirements, spelled out in Public Utilities Code Section 1702, are met. Complainants do not meet these requirements.

The complaint alleges that Commission staff has been working in the best interests of the utility, not the customer. This allegation refers to the Consumer Services Branch (CSB), which in matters of this type reviews the informal complaint to see if there are obvious tariff violations by the utility, in which case CSB will take direct action. In other instances, they may seek settlement by the parties. Otherwise, the matter must become a formal complaint and go to

hearing. CSB is not charged with weighing the evidence of both sides, as is done through the formal hearing process. As far as this record shows, CSB has properly discharged its duties in handling this matter.

Finally, regarding complainants' request that the Commission hire an independent vendor to inspect all California utilities' gas and electric meters and report back to CSB, complainants provide no evidence that such a need exists or that the request would accomplish anything worthwhile. We deny the request.

Findings of Fact

1. Complainants allege widespread unfair, racially biased treatment of disadvantaged customers in the Bakersfield area.
2. Complainants request restoration of eligibility for special rates based on medical and low-income allowances.
3. Complainants request refunds for the periods they did not receive special rates.
4. Complainants did not adequately respond when forms necessary for the special rates were sent to them.
5. Complainants appear not to have been eligible for medical allowances for at least some of the period in question regarding special rates.
6. Before PG&E handled eligibility for low-income allowances, there was no automatic transfer of eligibility when a customer moved.
7. When PG&E took over administration of the low-income program, it instituted an automatic transfer of these rates when a customer moved.
8. PG&E assisted complainants in obtaining economic assistance.
9. Complainants have a poor payment record with PG&E.
10. PG&E required a deposit from complainants in the amount of twice the average monthly bill.

11. CSB properly handled this matter in the informal complaint stage.

Conclusions of Law

1. Complainants failed to meet their burden of proof in demonstrating that defendant treats any customers unfairly and in a biased manner.
2. Complainants did not demonstrate that they had returned application forms for special rates when requested to.
3. Complainants did not demonstrate that they were eligible for medical allowances when they didn't receive them.
4. PG&E complied with its tariffs in applying low-income and medical baseline allowances.
5. PG&E complied with its tariffs in requiring deposits from complainants.
6. The complaint has no merit and should be denied effective immediately.

O R D E R

IT IS ORDERED that:

1. The complaint in Case 98-07-031 is denied.
2. This case is closed.

This order is effective today.

Dated July 6, 1999, at San Francisco, California.