

Decision 99-11-018 November 4, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Freda D. Pechner,

Complainant,

vs.

Pacific Gas and Electric Company,

Defendant.

(ECP)

Case 99-07-038

(Filed July 20, 1999)

Freda D. Pechner, complainant.

Mary M. Camby, for Pacific Gas and Electric Company,
defendant.

O P I N I O N

Freda D. Pechner (Pechner), complainant, alleges defendant, Pacific Gas and Electric Company (PG&E), has erroneously backbilled her for \$2,163.84 for the period July 24, 1997 through March 7, 1998 for alleged "stolen" utility usage of \$1,562.51 obtained by meter tampering, \$52.06 interest, and \$549.27 investigative and meter replacement costs. Pechner contends: (1) the water heater was often inoperable and on a timer to be used from 6 a.m. to 11 p.m., (2) the electric oven was also inoperable during the billed period, and (3) there was no working refrigerator on the premises after October 1, 1997. Pechner requests a refund of the amounts paid toward this balance plus interest on any excessive amount billed. Pechner does not calculate this amount.

PG&E contends that its investigation shows Pechner's tenant, her stepson, admitted he had tampered with the electric meter and had requested a new one

on March 5, 1998. PG&E's investigation showed an inverted meter and test link with burred screws, broken outer meter glass, and inoperable meter when service was in use. PG&E initiated an investigation after getting a tip from an individual who had a dispute with Pechner's stepson. PG&E previously backbilled Pechner \$406.56 for service during the period December 26, 1988 through October 19, 1990 before Pechner established service in her name based upon an investigation of average usage at the premises when it was occupied.

A hearing was held in Auburn, California under the Commission rules for expedited proceedings (Resolution ALJ-163) on August 26, 1999. Both parties presented witnesses and argument regarding the above-stated facts. This matter was submitted on August 26, 1999 at the conclusion of the hearing.

Unauthorized Usage

Pechner argues that it is illogical to assume anyone would admit to tampering with an electric meter under the circumstances. At the hearing, Trevor Urlich, her stepson, denied that he had admitted to tampering. He testified that he asked an acquaintance who worked for PG&E if he could obtain a new meter because the glass on his meter was broken. Mike Haenny, the PG&E employee, testified that he recalled Urlich indicated the meter was "messed up" and his impression was that Urlich was stealing power. He later relayed his opinion to a friend, who called PG&E with this tip.

However, regardless of the disputed testimony, there is physical evidence of tampering with the connection which registers usage. Ted Smith, PG&E's investigator of unauthorized usage, testified that he found the meter in this condition: glass broken, panel screws missing so that meter could be removed without dislodging the electric panel, metal test link installed backwards, two screws holding test link significantly burred (scratched and gouged by a tool

used to unscrew the screws), and burned sockets. Smith presented the meter for inspection.¹

Pechner argues that the premises was vandalized recently, and Urlich indicated the box smoked and sparked after he discovered the glass was broken. However, this would not explain the scarred, burred screws and the test link that was unquestionably reversed. These are on the back side of the meter, which is lodged into sockets on the electric panel. It is reasonable to conclude that a vandal has nothing to gain by such reconfiguring of the electric meter. It is also reasonable to assume that this reconfiguration was to aid unlawful usage.

At the time the meter was found it registered power, although with the test link installed improperly, i.e., on the reverse side. However, this circumstance does not weaken the inference that unlawful usage was occurring. In fact, one engaging in unlawful usage would likely reconnect the power monthly so that the meter would not be reported by the meter reader as not functioning when it was read for billing.

It is also reasonable to assume that the person engaging in meter tampering is the user of service, who generally pays the bills. In this case the tenants use the service and the stepmother (Pechner) pays the utility bills because she manages the house for a client who lives in Hong Kong. It is still reasonable to assume the tenant is the one who engaged in tampering, especially since he attempted to find another meter before the broken glass was reported. Therefore, there is sufficient evidence to conclude that the meter was tampered with to reduce usage and that the tenant, Trevor Urlich, committed or was aware of these unlawful acts. However, based upon prior Commission caselaw, it is not

¹ Exhibit 3, the electric meter in question, Serial Number J41257, was left in the custody of PG&E.

necessary to determine who actually engaged in the tampering. The criteria for such factual issues is whether the electricity was consumed and not paid for and whether the subsequent backbill is reasonable. (*Albert Schoux vs. Pacific Gas and Electric Company* (1995) 61 CPUC2d 530, 532-534.) There is little dispute in this proceeding that the electricity service was used. The accuracy of the backbill is discussed below.

Calculation of Unauthorized Usage and Investigative Costs

PG&E used a methodology approved by the Commission to calculate the tenants' normal usage to estimate the unbilled amount. (Decision 86-06-035 addresses how retroactive bills due to meter tampering may be calculated.) PG&E selected five all-electric accounts in the same area as Pechner's residence and used their percentage of total usage throughout the year for each month as a basis for Pechner's estimated usage. PG&E used July 1997 as the tenants' amount of estimated daily usage because this month appeared to be normal, whereas other usage during the period was erratic and illogical. For example, winter months had significantly *lower* usage than summer months, implying there was no heat all winter. PG&E multiplied each percentage by the actual usage in July to obtain each corrected monthly bill. Subtracting the billed usage from the estimated correct usage, PG&E derived the monthly amounts unbilled. Smith concluded that the meter tampering occurred during the entire period of Urlich's occupancy from July 1997 to March 1998 because the usage for most months is illogical. Recently, PG&E corrected an error in one month where the number of billing days, 29, was inaccurately billed as 19. PG&E refunded Pechner \$160.33, including an amount for interest, on July 14, 1999.

Pechner's argument that inoperable appliances on the premise make this calculation excessive is without merit since it is the actual normal month of Pechner's usage as well as the monthly percentage of the average customer's

usage which is used to estimate corrected monthly usage. Thus, the methodology to calculate usage and the resulting estimates are reasonable.

Pechner argues that the investigation costs are inflated since PG&E includes both direct and indirect costs. We find this argument without merit since both types of costs are incurred in such an investigation, direct labor and use of the equipment, facilities and other staff of the company. These amounts appear to be reasonable.

We conclude that the calculation of the retroactive bill is reasonable.

O R D E R

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

This order is effective today.

Dated November 4, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL WOOD
Commissioners