

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Brandi Galasso,

Complainant

vs.

Southern California Edison Company (U338E),

Defendant.

(ECP)
Case 13-09-021
(Filed September 30, 2013)

Brandi Galasso, appearing for herself, Complainant.
Prabha Cadambi and Vanessa Kirkwood, appearing for
Southern California Edison Company, Defendant.

DECISION GRANTING PARTIAL RELIEF

1. Summary

This decision partially grants Brandi Galasso’s expedited complaint, which sought relief by way of an adjustment and refund for overbilling and service charges due to estimated meter reads from September 30, 2010 through August 2012.

2. Procedural Background

Complainant contacted the Commission’s Consumer Affairs Branch after Complainant’s service was disconnected on July 31, 2012. CAB facilitated a conversation between Complainant and Southern California Edison Company (SCE). During that conversation, SCE advised Complainant that she owed \$2,433 to the utility and would be required to pay an \$80 reconnection charge before

service would be restored. In addition, Complainant was advised that she would need to provide safe access in order for SCE to install a SmartConnect meter.

On September 30, 2013, Complainant filed the instant complaint. On December 11, 2013, SCE timely answered the complaint. A hearing was held on December 19, 2013. During the hearing the assigned Administrative Law Judge (Judge) clarified the issues in dispute. Although Complainant disputed her electricity bill, it became apparent during the hearing that in addition to the contention of overbilling due to estimation of her energy usage, Complainant had been removed from the California Alternate Rates for Energy (CARE) rate. Complainant also cared for her disabled elderly mother and may have been eligible for a medical baseline allocation.

During the hearing both parties expressed an interest in trying to settle the issues in dispute. SCE requested several documents and a site visit from Complainant in order to determine whether Complainant's bills could be adjusted. As a result, the Judge provided additional time for the parties to schedule the site visit and to pursue settlement.

A telephonic status conference was held on January 16, 2014. As a result of the status conference, SCE requested additional documentation regarding Complainant's eligibility for CARE and for qualification for a medical baseline allocation. The parties exchanged information with each other between January and March 2014. Subsequently two telephonic status conferences were held on March 12, 2014 and May 16, 2014.

SCE provided a final settlement offer to Complainant on May 22, 2014, which Complainant rejected the same day.

3. Factual Background

Complainant states she has been residing at her single utility residence in the Fontana area with her family, including her dependent child and disabled mother since June 21, 2006. Complainant began taking service from Southern California Edison Company (SCE) when she moved into the residence. SCE is an investor-owned utility providing electricity service under the jurisdiction of the Commission.

Beginning in March 2010 and continuing through August 2012, SCE estimated Complainant's electrical usage. SCE claims it was unable to read Complainant's meter due to the presence of "a large, unrestrained dog" on Complainant's property.¹ Complainant alleges that her utility bills were substantially higher during the estimation period than when SCE was taking actual meter readings. Complainant believes she was charged for electricity she did not use because SCE's estimation of her usage was too high. On July 31, 2012, Complainant's service was disconnected at the pole for non-payment. SCE restored service to on August 3, 2012, upon payment of amounts due.

On August 23, 2012, SCE gained safe access to Complainant's property to replace her analog meter with a SmartConnect meter. As part of the meter replacement, SCE read the analog meter. SCE issued a 3-month rebill for overestimation of usage based on the final read of the old meter and credited Complainant's account in the amount of \$526.92 for the period of May 19, 2012 to August 17, 2012.

¹ In her January 17, 2013 communication, Complainant acknowledged that SCE is allowed to estimate bills during the time SCE personnel were unable to access her meter.

Complainant has been on the California Alternate Rates for Energy (CARE) rate schedule for most of the period at issue through the present.² However, at various times, Complainant was asked to recertify that she was eligible for the CARE rate.³ SCE removed Complainant from the CARE rate in July 2013. SCE states that Complainant was removed from CARE because SCE did not receive the required documents to verify eligibility.

SCE restored Complainant to CARE in September 2013, as a result of documentation Complainant provided during the parties' settlement discussions. However, SCE subsequently requested additional documentation from Complainant to remain in the CARE program due to her high usage.⁴ Since then, it appears Complainant was again removed from the CARE program. Although Complainant provided SCE with food stamp statements to prove her income, SCE requested verification from the Internal Revenue Service (IRS) that neither Complainant nor her mother filed income tax returns.

4. The Complaint

Complainant alleges that Southern California Edison Company (SCE) fraudulently estimated her electricity usage and overbilled her for electricity she did not use. More specifically, Complainant believes that SCE must recalculate her bill for the two-year period at issue, between March 2010 and August 2012, because SCE failed to read her meter. Complaint asserts that SCE wrongly estimated her prior usage. Complainant claims that SCE should not have been

² CARE provides significant electricity bill relief to reduce financial hardship for low income families across California.

³ SCE requested verification of eligibility in July 2013.

⁴ Complainant's high usage is likely due to operation of equipment such as an air conditioner.

permitted to estimate her usage for such an extended period of time; that SCE failed to notify her that she had to restrain her dogs, and that she used less electricity than SCE estimated. Furthermore, she asks that her bills be reduced.

SCE adjusted three months of Complainant's bills after obtaining actual meter reads resulting in an adjustment totaling \$526.92. Subsequently, during the pendency of this proceeding SCE issued a credit to a Complainant for the amount of \$512.75⁵ on December 9, 2013 and \$250.42 on April 10, 2014 as a matter of customer relations. As of April 10, 2014, there remains a past due balance outstanding of \$1,042.20.

In addition, Complainant expressed frustration with how SCE has adjusted her bills; providing credits and then placing what appear to be those same charges back onto her account. Complainant questions whether or not SCE has the right to make such changes with no explanation. Complainant has also raised accusations that SCE is making such adjustments fraudulently.

Complainant states that she feels harassed by the need to continually recertify for the CARE rate and questions why SCE seems to lose documentation she submits. Further, Complainant expressed frustration with SCE's recent requirement that she provide IRS verification that no income tax returns were filed, as she has been unable to get the IRS to provide such verification. Complainant contends that submission of her food stamp statements should be sufficient.

⁵ Complainant claims that SCE had put one of the charges it had credited to her account (\$194) back on one of her bills.

During the hearing it became apparent that Complainant has been caring for her disabled elderly mother since moving into this residence. SCE requested documentation during the hearing to explore whether Complainant could be placed on a medical baseline because of Complainant's assertions that her mother's doctor advised the temperature be kept cool for medical reasons. As discussed in detail below, Complainant provided the requested medical certification. SCE also requested a site visit to verify that Complainant was only able to use electricity for heating her home and might qualify for an all-electric baseline.

5. Discussion

A customer, who disputes the accuracy of a bill, has the burden of proof to show that the billing was improper. The Commission has reiterated this rule in numerous billing complaint cases; this controlling principle is well summarized in *Kent vs. SCE*, 2000 Cal. PUC LEXIS 185:

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* (1993), 48 CPUC2d 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. at 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.* at 7.)

Here, Complainant's bills were estimated. Cal. Pub. Util. Code § 770(d) provides that:

The commission shall require a public utility that estimates meter readings to so indicate on its billings, and shall require any estimate that is incorrect to be corrected by the next billing period, except that for reasons beyond its control due to weather, or in cases of unusual conditions, corrections for any overestimate or underestimate shall be reflected on the first regularly scheduled bill and based on an actual reading following the period of inaccessibility.

We find that SCE provided the required notice on Complainant's bills that her usage was based on estimation.⁶ Although SCE would normally be required to correct each billing period within the following billing period, it was unable to gain access to read the meter because of an unrestrained dog(s) in Complainant's yard. SCE Tariff Rule 17(A) states:

Estimated Usage: When regular, accurate meter readings are not available or the electric usage has not been accurately measured, SCE may estimate the customer's energy usage for billing purposes on the basis of information including, but not limited to, the physical condition of the metering equipment, available meter readings, records of historical use, and the general characteristics of the customer's load and operation.

As a result of a least one unrestrained dog,⁷ we find that SCE's estimation of Complainant's monthly usage during the period at issue was reasonable.⁸

⁶ Complainant provided copies of her bills with her Complaint.

⁷ Although SCE is not required to advise customers to restrain animals, SCE might consider reminding customers that they need to provide safe access to a customer's meter in order to get the actual read.

⁸ Complainant admitted that she has small and medium sized dogs and that she believes SCE personnel might have confused them with the neighbor's pit bulls.

We find Complainant failed to rebut the presumption that SCE's billing was proper. SCE's estimation of Complainant's usage was reasonable based upon our review of Complainant's usage history. For example, historical usage records show that Complainant's daily average usage (actual) between August 2009 and June 2010 was 54.39 Kilowatt-hour (kWh) per day. Using historical meter reads, SCE estimated Complainant's daily average usage at 54.40kWh/day for purposes of calculating monthly bills during the period at issue. We find that Complainant has not provided evidence to show that SCE has fraudulently tampered with her meter or fraudulently altered Complainant's bills.

Although Complainant disputes the accuracy of SCE's billing beginning in March 2010, we can only address billing beginning in September 2010. California Code of Civil Procedure Section 338 provides a three year statute of limitation on an action upon a liability created by statute, other than a penalty of forfeiture. Complainant filed the instant action on September 30, 2013 so relief can only extend to September 30, 2010.

5.1. Service Charges

Complainant further disputes numerous Field Assignment and Reconnection Charges that are repeatedly placed on her bill. These charges resulted from SCE having to manually disconnect Complainant's electricity at the pole for non-payment.

SCE had offered to make certain adjustments to Complainant's outstanding balance due provided Complainant subsequently withdrew the complaint. SCE offered the following credits:

- a) Credit Field Assignment Charges = \$272.00
- b) Credit Reconnect Charges = \$194.00

c) Credit Late Payment Charges = \$46.75

Total amount credited to the account = \$512.75

Complainant declined the settlement offer.

5.2. Baseline & Assistance Programs

In accordance with Pub. Util. Code § 739, residential customers are provided a daily Baseline allocation. Baseline quantities are the designated daily amounts of kWh that electric power customers can purchase at the currently effective baseline rate, essentially the lowest standard rate. Energy utilized above the baseline quantity is charged at a higher rate per kWh.

Complainant has had difficulty paying her electricity bills. She is the primary provider for her family that includes a dependent minor and disabled mother on fixed income. Complainant's usage is high (exceeds her baseline allocation) and, as a result, Complainant's bills have been high. During the course of the proceeding, Complainant disclosed her mother's medical needs.

Complainant's disabled mother has resided with Complainant since they moved into the residence in 2006. Complainant was unaware that she could request an additional quantity of energy along with her baseline quantity (at the lower rate per kWh) due her mother's medical condition. SCE explained the Medical Baseline program to Complainant during the course of this proceeding and requested documentation to verify that she qualified. Complainant provided documentation, which satisfied SCE's requirements. SCE has increased Complainant's baseline allocation to account for the medical needs of her mother.

Based on the information provided at hearing, coupled with the medical verification provided by Complainant's mother's physician during the course of this proceeding, we believe that Complainant's mother was eligible for a medical

baseline allocation for the full period at issue during this complaint. We direct SCE to adjust Complainant's bills, beginning September 30, 2010 through the present. This should provide Complainant some additional relief by increasing the amount of electricity she can use at the lower baseline rate.

We next address Complainant's eligibility for CARE. Although we sympathize with Complainant regarding her frustration with having to re-certify her eligibility for the CARE program, it is important that CARE serve those who qualify for the program. Complainant provided SCE with sufficient information to establish that she met income criteria to qualify for CARE. SCE's subsequent requirement to provide additional documentary evidence was triggered by Complainant's high usage. Pursuant to Pub. Util. Code § 739.1, SCE may require additional income verification IF use exceeds 400 percent of baseline.

Complainant lives in SCE Region 10 which allows her 11.0 kWh per day in the winter and 15.5 kWh per day in the summer. SCE provided a summary of Complainant's usage by season showing that her usage often exceeded 400 percent of baseline.

As discussed above however, Complainant established that she qualified for an additional allotment of electricity (16.5 kWh per day) in addition to her applicable seasonal baseline during the pendency of this complaint. SCE requested the additional verification at about the same time it placed her in the medical baseline program.⁹ If we add the additional baseline allocation for the

⁹ SCE's request for additional verification was made when Complainant's usage exceeded her basic allocation before SCE became aware of Complainant's qualification for an additional medical baseline allocation.

medical baseline program, Complainant's usage does not exceed 400 percent of baseline.¹⁰

Complainant provided sufficient documentary evidence to show that she qualified for CARE. Complainant established that her mother receives a set income of \$567 a month. Complainant has also shown that her family's income allows her to qualify for food stamp assistance. Because we have determined that Complainant qualifies for additional medical baseline allocation and find that her usage does not exceed 400 percent of her baseline allocation including the additional medical baseline allocation, Complainant does not need to obtain or provide further income verification at this time to remain in the CARE program.

6. Conclusion

Complainant has failed to rebut the presumption that her bills were improper. SCE was permitted to estimate her usage because of an unrestrained dog or dogs in Complainant's yard. SCE provided the required notification of its estimation on Complainant's bills. SCE's estimates of Complainant's usage were reasonably based on historical usage.

Although SCE has information about various programs to assist its customers who are experiencing financial hardship or caring for a disabled family member, it can be difficult to know which programs are appropriate and to assemble the documentation necessary to qualify for these programs.

¹⁰ Complainant's summer baseline allocation would be 15.5 kWh +16.5 kWh and her winter baseline allocation would be 11.0 kWh +16.5 kWh based on her residence in SCE Region 10.

We find Complainant eligible for medical baseline as of September 30, 2010, and we direct SCE to recalculate Complainant's bills beginning in September 30, 2010 applying the medical baseline. In addition, we find that Complainant's usage does not exceed 400 percent of her baseline (basic allocation plus additional medical baseline allocation). As a result, Complainant is not required to provide additional income verification at this time.

Complainant will have an outstanding balance due after these adjustments are made. In order to assist Complainant in bringing her account current, SCE shall waive any outstanding late payment charges currently due and shall divide the outstanding amount owed by Complainant into 12 monthly payments.

7. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner, and Katherine Kwan MacDonald is the assigned Administrative Law Judge and the Presiding Officer in this proceeding.

O R D E R

IT IS ORDERED that:

1. Brandi Galasso's complaint for fraud is denied.
2. Brandi Galasso's request for rebill for an overestimation of usage is denied.
3. Southern California Edison Company shall place Brandi Galasso on a Medical baseline retroactively starting September 30, 2010 and shall recalculate Brandi Galasso's outstanding balance due.
4. Brandi Galasso does not need to provide additional income verification to Southern California Edison to remain in the California Alternative Rates for Energy (CARE) program. Southern California Edison Company (SCE) shall recalculate Brandi Galasso's bills based on a CARE rate starting July 2013.

5. Complainant Brandi Galasso's past due amount shall be recalculated after waiving the late payment charges. The outstanding past due amount shall be divided into 12 equal amounts and added to Brandi Galasso's monthly bills over a 12-month period following issuance of this decision.

6. Case 13-09-021 is closed.

This order is effective today.

Dated _____, at San Francisco, California.