

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Valerie Lessley,

Complainant,

vs.

Pacific Gas and Electric Company (U39E),

Defendant.

(ECP)
Case 09-01-008
(Filed January 22, 2009)

Valerie Lessley, complainant.

Joseph Au, Senior Project Manager, Pacific Gas and Electric Company, for defendant.

DECISION DISMISSING COMPLAINT

This matter was heard by Administrative Law Judge Victor D. Ryerson under the Commission’s Expedited Complaint Proceeding Rules on March 20, 2009, in San Francisco. The hearing concluded, and the matter was submitted, on that date.

Summary

Complainant Valerie Lessley (Lessley) filed this complaint for a Commission order to relieve her from responsibility for paying defendant Pacific Gas and Electric Company (PG&E) \$1,312.31 in unpaid charges that were transferred to her present account. PG&E transferred these charges from an

account established in her name at another residence, based upon PG&E's Commission-approved tariffs.

Lessley was homeless at the time the account was established, says she never resided at the address associated with the account, and did not request the establishment of the service. She believes the account was established with identification information from her purse, which was stolen approximately nine months before the account was established.

Although the evidence provides no clear explanation of how the account was established, the greater weight supports PG&E's position that Lessley is responsible for the unpaid charges. Accordingly, we deny Lessley's request for an order relieving her from the obligation to pay the disputed charges and dismiss the complaint.

Background

Lessley resides with one of her daughters at a Pittsburg residence on El Pueblo Avenue (El Pueblo), which she leases through the auspices of the Housing Authority of Contra Costa County. She moved into El Pueblo on November 20, 2007. For at least two and one-half years prior to that, Lessley says she was homeless. She testified that she spent her homeless years living variously at friends' houses, in sheds, in cars, and outdoors.

The previous tenant at El Pueblo had closed the PG&E account on September 28, 2007, but the gas service remained on. Gas consumption continued after Lessley moved into that residence, although she had not requested the establishment of an account. On February 4, 2008, PG&E sent a letter to El Pueblo concerning the gas usage, and shut off the service on March 11, 2008, after receiving no response to the letter. PG&E immediately received a request from Lessley to start service, and confirmed that service

would be started with a retroactive date of December 18, 2007. The El Pueblo account has been active from that date to the present.

PG&E had a record of an open account in Lessley's name at a different Pittsburg address on Davi Avenue (Davi) with unpaid charges of \$1,312.31. That account had been established on July 15, 2007. Pursuant to Electric Tariff Rule 8.C, PG&E transferred the unpaid balance to Lessley's El Pueblo account, because the Davi account had never been closed.

Lessley contested the transferred charges, and denies any responsibility on the grounds that she did not open the account or live at the Davi Avenue address at any time. She claims that her purse, which contained her driver's license, Social Security card, credit report, credit card and birth certificate, had been stolen on October 17, 2006, while she was homeless. She contends that the Davi account was fraudulently established with stolen identity information from her purse.

At the time PG&E established the disputed Davi account, service was shut off at the residence. There was an outstanding balance on the previous customer record, which was in the names of Anthony Bun and Julie Johnson, so PG&E requested identification and proof of residence from the applicant to open the new account. In response, on July 16, 2007, PG&E received a facsimile transmission with a cover page bearing Lessley's signature and a phone number with the suffix 6622, a copy of a rental agreement bearing Lessley's signature, and a copy of a California driver's license issued to Lessley on April 11, 2006. After receiving this information, PG&E connected service at the Davi address on July 19, 2007.

Electric service remained on at Davi until February 7, 2008, and gas service until February 18, 2008, when the unpaid balance came to PG&E's attention and

it was disconnected. PG&E subsequently notified Lessley that it had transferred the Davi balance to the El Pueblo account.

On April 8, 2008, PG&E received Lessley's notification that she disputed the transferred charges. In response, PG&E sent her a fraud packet requesting documentation that she was a victim of identity theft. Lessley's first response lacked a police report concerning the identity theft and proof of her previous residence. PG&E sent her an additional fraud packet to complete and return, but Lessley returned it on July 3, 2009, without a police report. Finally, in October 2008, Lessley furnished a Pittsburg Police Department incident report dated June 29, 2008, and the fraud packet was complete.

After reviewing the completed fraud packet, PG&E concluded that Lessley was responsible for the transferred charges. The two items upon which PG&E relied most were Lessley's 2006 driver's license, a copy of which had been furnished in support of the July 2007 Davi service request, but which also remained in her possession, and Lessley's signature on the rental agreement for Davi, which matched the signature on subsequently furnished documents, including an affidavit in the fraud packet.

Lessley explained that she still has a very authentic looking color copy of her 2006 driver's license despite the theft of her purse, because she had copied that document on her computer shortly after it was issued. She also pointed out that the lease agreement for Davi, which bore her signature as lessee and a date of July 12, 2007, was countersigned by the lessor on December 5, 2004, raising the question whether it was authentic or was created by an identity thief. She contends that these inconsistencies support her position that the account was started by someone who had obtained her identity information.

Using records from the Tax Assessor, she also traced the Davi property's recent chain of title, and interviewed Asharfan Nisha Hafiz, who owned the property from October 23, 2007, until June 6, 2008, when he lost it through foreclosure. He told Lessley that the tenants, Anthony Bun and Julie Johnson, remained in possession after he lost the house.

PG&E's account and service records reflect that Lessley used a home telephone number with a 9818 suffix not only for the El Pueblo account, but also for a much older account at an entirely different address that was closed in 2003. The 9818 number was provided as the home number on July 19, 2007, to start the Davi account, and continues to be the number used at that address. On January 21, 2008, Lessley's daughter, Jennifer Santos, used the 9818 number for DSL service she ordered from AT&T.

Lessley relies upon a number of items of correspondence sent to her by various public agencies between early April and late August 2007 to demonstrate that she did not live at the Davi address during that time period. The address to which these letters were directed was on Atherton Avenue in Pittsburg, and is the residence of Michael Hernandez, a friend who permitted Lessley to use his address as her mailing address while she was homeless. Hernandez testified at the hearing to corroborate that Lessley was homeless until she moved into El Pueblo, and that she used his address for mailing purposes for a number of years.

Discussion

PG&E's Commission-approved tariffs entitle PG&E to not less than two days' advance notice from a residential customer when that customer wants to terminate liability for payment for service, and further authorize PG&E to transfer unpaid charges to the customer's new residential account. (Electric

Rule No. 11 A.1; Electric Rule 8 C.) These rules apply unless the customer is excused from liability by extraordinary circumstances, such as fraud.

Although the exact circumstances of the establishment of the Davi account have not been conclusively shown by the evidence, inconsistencies in the evidence suggest that the account was not started by someone with stolen identity documents but by Lessley, or someone acting with her cooperation, using documents created for that purpose.

The disputed account was established after Bun and Johnson terminated the previous account at the Davi property, and after a lapse of several weeks. There is no evidence that Bun and Johnson occupied the property after terminating their account, and Lessley's theory that they opened a new account at the same premises by using her stolen identity documents is based upon pure speculation.

The perpetrator of the theft of Lessley's identification documents has never been identified. In fact, Lessley did not even file a report of the incident with the police until many months after the date of the theft, which is not what one would expect, considering the nature of the items Lessley claimed were in the purse. She finally filed an incident report with the Pittsburg Police Department in response to PG&E's requirements for completing the fraud report, and the officer who took the report noted that Lessley gave no reason for her delay in reporting the matter.

The documents furnished to PG&E to establish the account were of questionable authenticity, but they are directly linked to Lessley. At the hearing, she produced a very convincing copy of her 2006 driver's license, a copy of the same document that she had used to open the Davi account. She attributed the fact that she could do so, even though her license had been stolen, to the

circumstance that she had uploaded an image of the license into her computer within two weeks after it was issued, and has been using homemade facsimiles of the license for various purposes because she no longer has the original.

The lease agreement furnished to PG&E is particularly strong evidence of Lessley's own involvement in starting the account. Lessley's distinctive signature, which appears on many documents throughout the record, is on the document as lessee and bears a date in her handwriting that is consistent with the request for establishment of service at Davi. The signature on behalf of the lessor, on the other hand, bears a December 2004 date, suggesting that the lease was created from a blank document specifically to establish the service, even though the premises were not actually leased at all.

Considering Lessley's peripatetic lifestyle, it is logical that she would maintain a stable mailing address at Hernandez' Atherton Avenue home until she moved into her El Pueblo residence. The fact that she continued receiving her mail there after the Davi account was established carries little weight in proving that the Davi account was started fraudulently by someone else.

There is no evidence in the record demonstrating who, if anyone, legally occupied the Davi property after Bun and Jonson vacated it. Under the circumstances, we must conclude that PG&E acted properly in transferring the unpaid balance of the Davi account to Lessley's El Pueblo account and deny her request for relief.

Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and Victor D. Ryerson is the assigned Administrative Law Judge in this proceeding.

O R D E R

IT IS ORDERED that:

1. Case 09-01-008 is dismissed.
2. Case 09-01-008 is closed.

This order is effective today.

Dated _____, at San Francisco, California.