Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Desserts on Us, Inc., Complainant, vs. Pacific Gas and Electric Company, Defendant. (U 39 M)	(ECP) Case 04-01-015 (Filed January 8, 2004)

OPINION GRANTING RELIEF IN PART AND DENYING RELIEF IN PART

Desserts on Us, Inc. (Complainant) requests that Pacific Gas and Electric Company (PG&E) deduct $1,500 from its electric deficiency billing pursuant to its Line Extension Contracts for gas and electric service, and pay $2,000 in damages. Complainant seeks the billing reduction alleging delay by PG&E in providing a gas meter installation with sufficient pressure to operate Complainant's commercial oven, thereby causing delay in commencement of commercial operations, which in turn contributed to lower electric usage and Complainant's inability to meet the revenue requirement under the contract.

PG&E states that it has at all times been responsive to Complainant, and has timely met all contractual obligations in accordance with information provided by Complainant.

Today's decision requires PG&E to delay by one year the date for commencing calculation of deficiency billings. Complainant's requests for a $1,500 deduction from PG&E's deficiency billing of $7,764.64, and for $2,000 in damages, is denied. This proceeding is closed.

Procedural Summary

By ruling of the assigned administrative law judge dated February 3, 2004, this proceeding was re-calendared under the Commission's Expedited Complaint Procedure (Rule 13.2). PG&E filed its answer to the complaint on February 23, 2004. Complainant replied on March 24, 2004, and this matter was submitted for decision on the pleadings.

Positions of the Parties

PG&E states that on August 6, 2001, when Complainant contracted for a gas service extension, Complainant did not indicate the need for any pressure level other than standard pressure. On August 27, 2001, at the time of installation, PG&E installed a larger than normal standard pressure meter service to accommodate additional load which Complainant said it planned to install. On December 12, 2001, Complainant's oven installers called PG&E saying that the gas service was insufficient. PG&E responded that the service was appropriately sized for the connected load as provided by Complainant on August 27, 2001, and PG&E advised the installers to verify their data. PG&E says it did not hear back until later in December 2001, when Complainant contacted PG&E. PG&E then visited the site and advised Complainant that the in-house piping was too small. Over seven months later, on August 5, 2002, PG&E provided a higher pressure meter installation at extra cost.

Complainant argues that PG&E should have installed the higher pressure meter installation in the first instance. Complainant seeks a $1,500 deduction

from PG&E's deficiency billing and $2,000 damages to cover costs for the repeated visits of the oven installers.

Discussion

Complainant did make an error when advising PG&E about its needs for gas service. However, since this is a commercial installation, PG&E should have, at least, asked about the customer's in-house piping, and made the appropriate allowance in sizing the meter installation. Since the necessary pressure already existed in PG&E's line, it would have been a simple matter for PG&E to have erred on the safe side and installed a higher pressure meter service at the outset. Both parties seem to have contributed to the delay. The delay, in turn, caused both lower gas usage and lower electric usage, triggering deficiency billings. However, the purpose of the deficiency billing is to protect ratepayers from subsidizing uneconomic line and service extensions. Complainant states that as of December 2003, the facility has been in full production and has met energy usage requirements consistently since then. Therefore, since there would be no unfair impact on ratepayers, we conclude that a reasonable resolution of this dispute would be for PG&E to delay by one year the start date of any deficiency billings. Complainant's request for a $1,500 deduction and $2,000 damages should be denied for the reason that the Commission does not award damages. Today's decision does not set a precedent for future such cases.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company shall delay by one year the start date for calculating revenue deficiencies in Complainant's gas and electric line and service extension contracts.

2. Complainant's request for a $1,500 deduction from the deficiency billing, and $2,000 for damages, is denied.

3. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.