

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Maclyn Erickson,

Complainant,

vs.

Southern California Edison Company,

Defendant.

(ECP)  
Case 03-09-017  
(Petition filed for Modification  
August 2, 2004)

**OPINION DENYING PETITION FOR MODIFICATION  
OF DECISION (D.) 04-05-014**

**1. Summary**

The Commission denies the request of Maclyn Erickson (Complainant) for payment of interest by Southern California Edison Company (SCE) on a refund of \$1,022 for alleged overcharges for electricity used at her residence. The refund had been ordered because SCE was unable to produce Complainant’s meter for further independent testing to support SCE’s claim that the meter tested within the limits of accuracy prescribed by the Commission. There is, however, no basis for the Commission to conclude that Complainant was overcharged. By ordering SCE to refund an amount based on the entire difference in usage for the 14-month period in dispute and the corresponding prior period, the Commission has already afforded relief to Complainant that is equitable and more than generous. The petition for modification is denied, and this proceeding is closed.

## **2. Procedural Summary**

On August 2, 2004, Complainant filed a petition for modification of D.04-05-014 disputing the amount of the refund provided by SCE and requesting interest on the refund. SCE filed its response on August 27, 2004. On November 16, 2004, Complainant filed a supplement to her petition in which she agreed that the \$1,022 amount refunded by SCE was correct; however, she still contended that she was entitled to interest.

## **3. Background**

Prior to filing this complaint, Complainant resided in a single family dwelling in Palm Desert from April 1991 to August 2001. The dwelling had a swimming pool, air conditioning, washing machine, electric dryer, and two refrigerators with one of the refrigerators located outside. In January 2001, Complainant questioned her bills for the year 2000 and also requested that the meter be changed. SCE tested the meter and found it to be operating within the limits of accuracy prescribed by the Commission. However, at the insistence of Complainant, SCE replaced the meter on February 9, 2001. After the meter was replaced, recorded consumption dropped. Complainant contends that the original meter was defective.

Following a hearing on the complaint, and SCE's admission that it no longer had the original meter in its possession for additional independent testing, the Commission ordered SCE to refund the difference in usage for the 14-month period in dispute and the prior period (D.04-05-014). SCE refunded the amount of \$1,022.

## **4. Discussion**

We deny Complainant's request for interest since there is no basis for the Commission to make such an award. SCE did not have the evidence to back-up its claim that the original meter tested within the limits of accuracy prescribed by

the Commission, so the Commission ruled against SCE. Contrary to Complainant's belief, the Commission's decision is not a finding that Complainant had actually been overcharged by the difference in the dollar amounts for the two periods in question. Rather, the Commission specifically rejected Complainant's argument that the burden of proof falls on SCE to explain why readings reverted to lower levels once the new meter was installed. The Commission stated:

"We reject Complainant's argument that the burden of proof is on SCE to explain the higher than normal usage for the 14 months at issue. Expecting SCE to determine the amount of energy used as well as the manner in which it was used would require an unacceptable intrusion into the lives of SCE's customers, and would also invite manipulation by customers, who can control their usage to some degree while it is being monitored.

We also reject Complainant's argument that SCE's equipment should have been tested by a neutral third party. SCE's tariffs provide that the customer may witness the meter test. If the customer wanted third-party testing, that request should have been made before or at the time the test took place, and would have been at the customer's expense. A copy of SCE's meter test results was provided for the record, and it shows that the meter tested within the limits prescribed by the Commission. The meter was actually operating "slow," in favor of the customer. However, given the dispute at hand, SCE should have retained the meter for possible later independent testing." (Pp. 3 and 4, D.04-05-014)

Accordingly, Complainants request for interest should be denied.

## **5. Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Bertram D. Patrick is the assigned ALJ in this proceeding.

**O R D E R**

**IT IS ORDERED** that:

1. The petition for modification of Decision 04-05-014 is denied.
2. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.