

Decision \_\_\_\_\_

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

Christel Osburn,

Complainant,

vs.

Pacific Gas and Electric Company,

Defendant.

(ECP)

Case 02-11-043

(Filed November 18, 2002)

**OPINION REQUIRING RESTORATION OF UTILITY  
SERVICES UPON PAYMENT OF DEPOSIT**

**Summary**

Christel Osburn (Complainant) alleges that Pacific Gas and Electric Company (PG&E) wrongfully disconnected electric and gas service to her residence in Oakland for nonpayment of her bill. Complainant claims that PG&E failed to credit to her account certain payments she made. PG&E disputes these assertions. The Commission concludes that Complainant failed to meet her burden of proof with regard to the alleged payments. PG&E is directed to restore services upon payment of a deposit by Complainant of \$270.

The Complaint is dismissed and the proceeding is closed.

**Background**

Complainant has been a PG&E customer since 1959.

On October 28, 1999, Complainant's electric service was disconnected for nonpayment of a balance of \$569.77. The Complainant called PG&E to dispute the delinquent status of her account, claiming payments had been made but were not credited to her account. The Complainant was advised to provide PG&E with proof of any payments not credited, or pay her balance due for restoral of service. Complainant did not do either, and service remained off.

On November 24, 1999, the Complainant filed an informal complaint with the Commission's Consumer Affairs Branch (CAB). The Complainant disputed the October 28, 1999, discontinuance of her service for nonpayment, and requested a credit of \$400 for three payments allegedly made in **1995** that were not credited to her account (plus interest). The Complainant provided copies of personal checks for two of these payments.

On November 29, 1999, PG&E responded to the Complainant, providing statements of account for the five years covering 1995 through 1999. Two payments, for which copies of the Complainant's checks were provided, were identified in the 1995 statement as properly credited to the Complainant's account in June 1995. PG&E was unable to locate the third payment that the Complainant claimed was made in 1995 because she could only identify the payment as a cash payment for "about \$140" made "in that period." Complainant was advised to provide proof of any payments not identified in the statements of account, and pay her outstanding balance of \$569.77 for restoral of service.

On December 7, 1999, CAB notified the Complainant that CAB was in agreement with PG&E's findings and closed the informal complaint investigation.

On December 28, 1999, PG&E restored electric service after Complainant deposited \$569.77 with the Commission and agreed to (1) file a formal complaint for adjudication of the disputed payments, and (2) pay a deposit of \$295 and a reconnection fee of \$20, which PG&E would bill to her. Complainant did not make these payments as agreed.

On March 16 and April 10, 2000, respectively, PG&E disconnected Complainant's electric and gas services for nonpayment of the agreed-upon amounts. And, CAB disbursed the impounded \$569.77 to PG&E for credit to Complainant's account.

### **Positions of the Parties**

Complainant seeks an order from the Commission directing PG&E to restore electric and gas service to her residence without requiring payment of a deposit and reconnection fees. She argues that her account was paid in full. Therefore, she should not be labeled a "nonpayment customer" and be required to pay a security deposit and reconnection fee.

PG&E states that the Complainant's account has been properly billed, that all payments have been applied to the Complainant's account, and that PG&E has responded timely and appropriately to numerous communications from the Complainant and from different agencies who have contacted PG&E on behalf of the Complainant, despite her failure to provide any verifiable information in support of her increasing claims. PG&E says it has provided ample opportunity for the Complainant to provide proof of her claims and considers the continued demands for relief of unsubstantiated, decades-old claims beyond any reasonable time frame for such disputes. PG&E points out that the only documented proof of payment provided by the Complainant were copies of two personal checks, and both payments were identified by PG&E as appropriately

and timely applied to the Complainant's account in 1995. PG&E says it has no reason to believe any payments were received by PG&E and not posted to the Complainant's account.

### **The Current Situation**

We address only the disputed charges that fall within the three-year statute of limitations as follows:

1. a \$240 deposit allegedly paid in 1998<sup>1</sup>
2. a \$20 reconnection fee billed to the Complainant's account on December 30, 1999, for disconnection of service on October 28, 1999, and restoration on December 28, 1999.
3. a \$40 reconnection fee (\$20 per connection) requested by PG&E, following the March 16, 2000, disconnection of the electric service, and April 10, 2000, disconnection of the gas service, and
4. a \$270 security deposit requested by PG&E for re-establishment of credit.

PG&E states that with regard to the issues set forth above, the Complainant has not specified when her payment towards the 1998 deposit was allegedly made. According to PG&E, its records confirm that the deposit was in fact requested on October 28, 1998; however, the deposit request was unpaid when it was canceled on February 19, 1999. PG&E asserts that even if a partial

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<sup>1</sup> Complainant also seeks return of a \$573 deposit allegedly paid in 1971. Complainant offered no proof of this payment. PG&E says it no longer has records from 1971; however, any deposits held on residential accounts are automatically applied to the account after 24 months.

payment had been made, PG&E would have had to “apply” the deposit as a credit to the account and PG&E would not have been able to simply “cancel” the deposit.

Further, PG&E submits that the \$20 reconnection fee billed to the Complainant’s account on December 30, 1999, was billed and collected appropriately, in accordance with PG&E’s Electric Rule 11.N.4.

At this time, PG&E offers to waive the \$40 in reconnection fees due to the time that has lapsed since the March 16, 2000, and April 10, 2000, disconnection of services.

However, PG&E believes that a security requirement of \$270 is warranted in order to safeguard against unpaid bills for any new service provided to the Complainant, based on prior disconnection for nonpayment and demonstrated intent of Complainant to withhold payment when she is in disagreement with the utility’s energy charges. PG&E also says that the \$270 deposit amount requested is reasonable, and well below the amount of \$420 that historical usage and current rates would justify, pursuant to PG&E’s Electric Rule 7.A.2.

## **Discussion**

Complainant did not attend the hearing held on January 9, 2003, in San Francisco. Also, Complainant has offered no evidence such as cancelled checks or receipts for money orders to support her claim of payments made to PG&E that were not credited to her account. Therefore, Complainant has failed to meet her burden of proof.

Nevertheless, we now turn to Complainant’s argument that *an account in dispute can never be disconnected but should be restored especially if credit in the account is available.*

We disagree with Complainant's interpretation of PG&E's tariff rules. The fact is that Complainant's electric service was disconnected on October 28, 1999, because her account was "past-due" in the amount of \$569.77. Apparently, Complainant's belief is that because her account later became "paid in full" after CAB disbursed to PG&E her \$569.77 deposit with the Commission, she is not a "nonpayment customer" and she should not be required to pay a deposit. We reject this argument because the reason PG&E asked for a deposit was that her account was past due; therefore, PG&E is entitled to require a deposit in accordance with its tariff rules. PG&E's Electric Rule 6.B.2. – Reestablishment of Credit – All Classes of Service states:

"2. A customer who fails to pay bills before they become past due as defined in Rule 11, and who further fails to pay such bills within five days after presentation of a discontinuance of service notice for nonpayment of bills, may be required to pay said bills and reestablish credit by depositing the amount prescribed in Rule 7. This rule will apply regardless of whether or not service has been discontinued for such nonpayment."

PG&E could have required payment of the deposit prior to restoration of service on December 28, 1999, but instead agreed to bill it to the Complainant to be paid upon the due date. PG&E further offered to make payment arrangements on this deposit in a letter dated December 29, 1999.

Furthermore, Complainant may re-establish credit before gas and electric service can be provided to her residence, pursuant to PG&E's Electric Rule 6.B.1. – Reestablishment of Credit – All Classes of Service:

"1. An applicant who *previously* has been a customer of PG&E and *whose electric service has been discontinued by PG&E during the last twelve months of that prior service because of nonpayment of bills*, may be required to reestablish credit by depositing the amount prescribed in Rule 7 for that purpose, and by paying bills

regularly due, except, an applicant for residential service will not be denied service for failure to pay such bills for other classes of service.” [Emphasis added.]

As stated above, Complainant was disconnected in October, 1999 because, at that time, her account was past due in the amount of \$569.77. Also, Complainant was disconnected in April, 2000 for failure to pay the deposit of \$295 and reconnection fee of \$20 which she agreed to pay. Thus, PG&E is entitled to request a security deposit under Rule 6.B.1.

Based on the Complainant’s prior service terminations due to nonpayment, we believe that the security deposit is warranted.<sup>2</sup> The security amount being requested is well under the amount provided for under PG&E’s Electric Rule 7 – Deposits. Section A.2 – Reestablishment of Credit, which states:

“2. The amount of deposit required to reestablish credit for both residential and nonresidential accounts may be twice the **maximum** monthly bill as determined by PG&E.”

In summary, we conclude that the complaint should be dismissed because Complainant has failed to meet her burden of proof.

### **Assignment of Proceeding**

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

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<sup>2</sup> PG&E’s records show that Complainant was also disconnected in February, 1999 and October, 1998 for nonpayment of her PG&E bills.

**O R D E R**

**IT IS ORDERED** that:

1. Pacific Gas and Electric Company (PG&E) shall restore electric and gas service to Christel Osburn's (Complainant) residence in Oakland upon payment to PG&E of a deposit of \$270 and \$13.30 for energy services that remain unpaid.

2. Complainant shall be responsible for any charges for inspection of her electric panel by the City of Oakland as a result of her service being dormant since March 2000.

3. The complaint is dismissed and the proceeding is closed.

This order is effective today.

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