

ORDER NO. 13 244

ENTERED: JUN 27 2013

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UCB 61

ACTION ACCESSORIES/R&T MFG.,
LLC,

Complainant,

vs.

PORTLAND GENERAL ELECTRIC
COMPANY,

Defendant.

ORDER

DISPOSITION: COMPLAINT GRANTED IN PART AND DENIED IN PART

In this order, we find for the complainant, Action Accessories/R&T Manufacturing, LCC, to the extent indicated and deny the complaint in all other respects.

I. PROCEDURAL HISTORY

Complainant filed a formal consumer complaint on January 16, 2013 alleging improper and unjustified charges by Portland General Electric Company. PGE filed its answer on February 1, 2013. A telephone prehearing conference was held on March 14, 2013. The parties filed a joint statement of stipulated facts, facts in dispute, and issues for resolution on April 22, 2013. A hearing was held on June 6, 2013 in Portland, Oregon, at which time the record was closed.

II. FINDINGS OF FACT

Complainant operates a business at leased property in Portland, Oregon and is a non-residential standard service customer of PGE. At the landlord's insistence, electricity is provided to the property by PGE via three separate meters, each of which has a separate customer account. At the times relevant to this dispute—June 2010 to March 2013—complainant had three separate accounts with PGE under the name R&T Manufacturing, LLC. These accounts are identified as Account A, Account B, and Account C.

Beginning with billings issued in June 2010 for all three accounts, Complainant began a consistent pattern of paying the PGE bill approximately 30 days after the due date of the current bill. The payments covered only amounts equal to those identified on each bill as "current charges;" and excluded the payment of late charges and field service charges, even as those charges continued to accumulate.

For example, the June 2010 bill for Account A had a due date of July 20, 2010. The balance forward was \$0.00 and the current charges were \$408.96.¹ Complainant did not pay the \$408.96 due until August 19, 2010.² By that time, the July 2010 bill had issued and was due on August 18, 2010, with a balance forward of \$408.96, and current charges of \$249.01.³ Complainant did not pay the July bill until September 9, 2010, again remitting only the \$249.01 for current charges. By that time, the August 2010 bill had issued seeking payment of \$238.70 in current charges and a total balance of \$513.58. Complainant paid bills for Accounts B and C in similar fashion.

Due to the unpaid balances, PGE began sending complainant disconnection notices for non-payment and making field visits to the complainant's premises. Generally, a field visit is intended to result in either a payment in whole or part by a customer or in the disconnection of service.

PGE assessed a \$20 field visit charge against each of the three accounts on numerous occasions, beginning on July 19, 2010 for Accounts B and C, and August 17, 2010 on Account A. Thus, the first field visit charges were assessed almost immediately, even before the payment for the second month of service was due. On March 21, 2011, May 18, 2011 and virtually every monthly bill thereafter through April 2012, field visit charges were assessed on Account A, with similar patterns in Accounts B and C. During the period in dispute, PGE assessed field visit charges totaling \$240 for Account A, \$260 for Account B, and \$220 for Account C. PGE did not intend to disconnect complainant's service during any of the field visits.

With the average outstanding monthly balances on each account steadily increasing, on June 13, 2011, PGE sent a letter to the complainant notifying it that if the accounts were not brought current by June 16, 2011, PGE would require deposits to be paid on each account. The letter also advised that if one of several options for securing the account were not established, deposits equal to two months' average billing would be assessed in three installments, beginning August 15, 2011, and held for a minimum of one year.⁴

On August 15, 2011, PGE notified the complainant by letter that it had begun to assess the security deposits on each of the accounts.⁵ For Account A, PGE assessed deposits of \$227, \$227, and \$226 on the bills due September 20, October 18, and December 20, 2011

¹ PGE Exhibit 101.

² PGE Exhibit 104.

³ PGE Exhibit 101.

⁴ PGE Exhibit 107.

⁵ *Id.* at 2.

bills, respectively. On Account B, PGE assessed deposits of \$304, \$303, and \$303, for those billing periods. For Account C, PGE assessed deposits of \$197, \$197, and \$196.

On August 18, 2011, PGE called the complainant to explain that the entire due amounts, rather than just current charges, needed to be paid by the listed due date. In the months immediately following the phone call, complainant paid the current charges within the proper time frame. Complainant also made additional one-time payments on Account A (\$519.63 on November 21, 2011), Account B (\$464.33 on October 18, 2011), and Account C (\$359.22 on December 23, 2011).

As 2012 began, complainant paid current charges in a timely fashion; additional payments were again made on Account A (\$521.96 on February 24, 2012), Account B (\$502.92 and \$496.54 on February 24, 2012) and Account C (\$391.00 on February 6, 2012). For service through the end of February, 2013, complainant continued to pay current due charges in a timely manner. However, no further payments were made toward the deposits, interest charges or field visit charges.

As of March 1, 2013, the closing date of the subject matter of this complaint, complainant's outstanding balances, including current charges late, payment charges and field visit charges were as follows:

Account A: \$1,594.58
Account B: \$2,046.55
Account C: \$1,365.56

III. CONCLUSIONS OF LAW

Complainant disputes PGE's assessment of late charges, security deposits, and field visits charges. It also challenges PGE's allocation of payments to outstanding charges. We address each separately.

A. Late Payment Charges

Complainant asserts that the late payment charges were improper, because standard business practice is to pay invoices "net 30 days." Complainant is incorrect. OAR 860-021-0125 governs payment of utility bills, and provides that the due and payable period be no less than fifteen days after the billing transmittal for all current charges. Because the due date for the bills on each account was at least seventeen days after the transmittal date of the bills, PGE billing due dates were in accordance with our rules.

OAR 860-021-0126(1) further permits an energy utility to apply a late-payment charge to customer accounts not paid in full each month, provided the utility has filed the late-payment charge in its rate schedule. PGE Tariff PUC Oregon E-18, Tenth Revision Sheet No. 300-1 sets forth PGE's rules on defined and miscellaneous charges. Under the approved tariff, the late payment charge is 1.8 percent per month of the delinquent balance. None of the evidence in the record indicates that the late payment charges

assessed on complainant's accounts were not calculated according to PGE's tariff and our rules. We therefore find the late payment charges to have been calculated according to the approved method, subject to adjustments to field visit charges discussed below.

B. Security Deposit Requirements

Complainant next challenges PGE's assessment of security deposits on its three accounts. The rules for deposit requirements for nonresidential customers are set forth in Section E of PGE Tariff PUC Oregon No. E-18, First Revision of Sheet E-8.⁶ That provision allows, PGE to require a deposit of 1/6th of the estimated annual usage charge in the event that the basis for establishment of the customer's credit has materially changed.

We find that complainants' consistent failure to pay accrued charges by the due date in the customer bill constitutes a material change sufficient to warrant the deposits imposed by PGE. We conclude that the company acted within the terms of its tariff in adding the deposit requirements to the complainant's accounts.

C. Allocation of Payments

Complainant contends that PGE did not properly allocate its payments. Complainant explains that it intended that payments be applied to current charges, rather than to past due charges or amounts imposed for deposits.

PGE tariff second revision sheet F-6, paragraph E provides for processing the payments relative to this matter as follows:

The Company will allocate payments from Customers in the following order:

- 1) Past due deposits or installments;
- 2) Required deposits currently due;
- 3) Past due regulated charges for Electricity Services;
- 4) Current regulated charges for Electricity Services.⁷

We conclude that PGE properly allocated all payments made by complainant.

D. Field Visit Charges

Complainant next challenges PGE's assessment of multiple field visit charges. PGE tariff sheet no. H-2 provides as follows:

⁶ The Commission takes official notice of PGE Tariff PUC Oregon No. E-18, First Revision of Sheet E-8. Any party may object to the notice within 15 days of this order. *See* OAR 860-001-0460(2).

⁷ The Commission takes official notice of PGE Tariff PUC Oregon No. E-18, Second Revision of Sheet F-6. Any party may object to the notice within 15 days of this order. *See* OAR 860-001-0460(2).

A Field Visit Charge specified in Schedule 300 may be charged whenever the Company personnel visits a service address intending to reconnect or disconnect service, but due to customer action is unable to complete the reconnection or disconnection at the time of the visit.⁸

Beyond describing its general policies and practices, PGE did not offer any evidence tending to show that, on any of the alleged visits, PGE employees actually attempted to either obtain payment or disconnect service and were impeded by the customers from doing so. Despite all of the field visits, at no time during any field visit was complainant's service actually disconnected at any of the meters or a payment given to the visiting PGE employee.

Based upon this pattern of behavior of PGE in response to the payment patterns of the complainant, we find that PGE did not intend to disconnect complainant's service at the time of any field visit; neither did complainant's principals or employees impede any attempt by any PGE employee to disconnect service. We therefore conclude that the field visit charges on all three accounts were not in accordance with PGE's tariffs. These charges, and all of the late payment interest charges accrued thereon, are unlawful and must be removed.

IV. ORDER

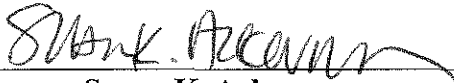
IT IS ORDERED that

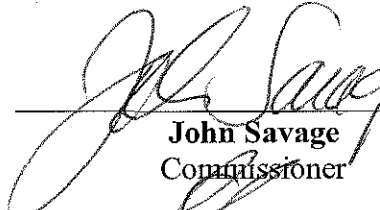
1. Within 15 days of the date of this order, Portland General Electric Company shall revise the records of R&T Manufacturing, LLC's accounts with Portland General Electric Company for the provision of electrical service covering the period between June 1, 2010 and March 1, 2013, as follows:
 - A. Account A: the amount due and owing shall be reduced by \$240.00 plus all late payment charges accrued thereon;
 - B. Account B: the amount due and owing shall be reduced by \$260.00 plus all late payment charges accrued thereon;
 - C. Account C: the amount due and owing shall be reduced by \$220.00 plus all late payment charges accrued thereon;
2. All other debits and credits to the accounts of R&T Manufacturing, LLC shall be assessed in accordance with the terms and conditions of the Portland General Electric Company tariffs currently on file with the Public Utility Commission of Oregon and with the applicable Oregon Administrative Rules.


⁸ The Commission takes official notice of PGE Tariff PUC Oregon E-18, Original Sheet H-2. Any party may object to the notice within 15 days of this order. See OAR 860-001-0460(2).

3. No later than 20 days after the date of service of this order, Portland General Electric Company shall certify to the Commission that it has complied with the provisions herein.
4. All other requests set forth in the complaint are denied.

Made, entered, and effective JUN 27 2013.


Susan K. Ackerman
Chair


John Savage
Commissioner


Stephen M. Bloom
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.