

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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October 5, 2012

Mr. Joaquin Bonilla

Mr. Jeremy Feliciano
Consolidated Edison Company
4 Irving Place, 9th Floor
New York, NY 10003

Subject: Informal Hearing Decision
Case #115414 – Joaquin Bonilla

Dear Mr. Bonilla and Mr. Feliciano:

An informal hearing concerning the above case was held on September 27, 2012 at 90 Church Street, New York, NY. Ms. Ana Cervantes (the complainant) represented Mr. Joaquin Bonilla (the customer) at the hearing. Mr. Jeremy Feliciano represented the company, Consolidated Edison (Con Edison). Based on all the information presented, I uphold staff's initial determination that the charges rendered on the customer's electric account are correct as billed.

Complainant's Position

The customer's mother, Ms. Ana Cervantes contacted the Office of Consumer Services (OCS) on April 18, 2011. The balance on the customer's account at that time was \$11,086.81 and there was a disconnection notice in effect. She indicated that she, on behalf of her son, had been working with a company representative. The customer had numerous prior cases, including case number 101106. The customer had been disputing high electric bills for the past six (6) years. Ms. Cervantes contends that she owns the home and believes that someone outside the house is stealing electricity "out of the ground." She claims that the winter bills, even though she does not have electric heat (she has oil heat), are higher than the summer bills when air conditioning is in use. She asked for a high bill investigation, field check, and an appliance survey.

When the complainant last contacted the company, the representative stated that the bills are correct and her son needs to pay them. Furthermore, she was advised to contact the OCS.

The complainant contends that in 2009, someone was making payments in the amount of \$50.00 towards her son's account. Although she does not know who was making these payments, they were made for approximately seven to nine months. While she was disputing the billing of her son's account, she was also attempting to arrange a deferred payment agreement. The complainant disputed our initial findings and believes that there is a shared meter condition with a neighboring house. The complainant requested a further investigation and indicated that she would be submitting additional information to our office for review.

When the customer's mother contacted our office on May 16, 2012, she indicated that there was a meter removal order in effect. She stated that the company claimed that her son did not cooperate with the investigation. In addition, she claimed that when an inspection was performed, the company representatives could not explain how the electricity was being used and advised her son to hire a professional to trace the lines going into the meter.

On July 20, 2012, the customer submitted documentation which consisted of court papers, copies of letters received from the company and our office, billing statements, property transfer report, meter seizure notice, and billing invoices.

On July 24, 2012, the customer and his mother wrote again to our office and reiterated that she had been disputing the billing on his account for the past seven years without anyone attempting to conduct a thorough investigation. The customer contends that one or more houses are diverting his service or someone within the company is making this happen. The customer claims that property foreclosure fraud exists and feels that the overall legal system is at fault.

The customer stated that based on this situation, she cannot bear to deal with the problem even if the company was to give him a minimum deferred payment agreement since she is unable to pay these high bills. He claims to have asked the courts to request an internal investigation but the courts have denied him his civil rights to a formal investigation by the appropriate authorities.

At the time of the informal hearing, the complainant stated that her son (the customer) was unable to attend the hearing due to personal reasons. She claims that this detached house was purchased in 2004. Shortly afterward, she noticed that the bills were considerable higher than surrounding homes even though there are only three (3) occupants in the household.

During the discussion, the complainant asserted that she contacted the company regarding her high bill concern and, according to the company's initial field report, she was advised that no irregularities were found. However, at the time of a follow up inspection, she claimed that the company found some irregularity in the electric service registering on the meter but failed to note it on the field report. The complainant

claimed that she also made requests that our office perform an inspection but that it was never arranged.

The complainant suspects that there is collusion between the company and real estate investors which affects the buyer's market for the homes in her area. In addition, the complainant contends that even though the homes in the area are detached, the house next door is somehow diverting the electric service from her residence, which resulted in the high usage recorded. She believes that, based on the number of occupants in the house and the types of appliances in use, there is no way she had the potential to use the amount of electric service that was billed.

In regards to the balance on the account which was \$16,838.96, the complainant stated that the mortgage had to be paid in lieu of the electric bills. The complainant indicated that she was interested in a payment arrangement that she can afford but the company has been unwilling to assist her. She stated that she would pay \$500.00 next week and contact the company representative to make an agreement. The complainant added that she was going to contact the Attorney General's Office to file a complaint due to the aforementioned issues she described.

Company's Position

In its July 19, 2011 written response, the company stated an inspection of the customer's meter and service was performed on April 1, 2011. The account balance at that time was \$10,706.35. At the time of the inspection, no irregularities were found. The high usage recorded was attributed to the use of electric heating. A meter reading of 48660 was obtained from the electric meter (#7605512). The electric load at the time of the visit was 720 watts. The appliances observed in the seven (7) room home where three (3) occupants reside were as follows:

- 5,000 BTU air conditioner
- Electric baseboard heating
- 1,500 watt electric heater
- 50 gallon/4,500 watt hot water heater
- 20 cubic foot frost-free refrigerator
- two (2) computers & printer
- washing machine
- toaster oven
- two (2) color televisions & two (2) cable boxes
- oil burner
- 1,140 watts of electric lighting

A company representative contacted the customer as requested by OCS. However, the customer did not wish to schedule an appointment or discuss terms for a deferred payment agreement on the undisputed balance of \$5,559.32. An appointment for May 17, 2012 was arranged to test the customer's meter. The meter was tested and found operating at 100.28 percent accuracy which is in accordance with the applicable regulations pertaining to the testing of electric meters.

Also, on May 17, 2012, an inspection of the premises was performed and a load of 5,538 watts was found. The service classification was verified as being correct and no irregularities were found. There were no air conditioners noted in the report and oil is noted to be the heating source. The report stated that the load dropped to 658 watts when a 220 volt circuit breaker was left off. The complainant was to leave the breaker off and check if the hot water became cold. It was determined that if the water became cold, the cause of the high usage was due to the hot water heater. If the hot water was not affected, the complainant was advised to contact an electrician.

At the time of the hearing, the company representative reiterated the results of both inspections and the meter test mentioned earlier. He also indicated that the company attempted to perform additional inspections on separate occasions but access was not available. The representative mentioned that the undisputed arrears were in the amount of \$8,444.59, while the account balance was \$16,838.96. Attempts to negotiate a mutually agreeable payment arrangement were made; however, they were not successful. At the hearing, a definite agreement had not been made other than the complainant stating that a payment of \$500.00 could be made next week.

Analysis

The issue to be addressed here is whether the customer was billed correctly for the service that was used and recorded on the electric meter.

The customer has been receiving electric service from the company since November 9, 2004. The account was initially billed on the residential service classification (SC-1) until November 10, 2004. The account was then billed on the residential–water heating service classification (SC-21) which is the current and more advantageous rate. The customer had numerous prior contacts with our office which primarily involved threats of service termination and deferred payment agreements, some of which were in default by the customer.

Under the current case number, OCS initially wrote to the customer on November 10, 2011. It was explained that the company performed a field inspection on April 1, 2011 at which time no shared meter or irregular conditions were found. The customer was advised that based on the electric load survey, the appliances found in the house were capable of using the electricity that had recorded on the electric meter. Based on the information provided, the account was found to have been billed correctly.

On May 18, 2012, OCS wrote again to the customer and explained that another inspection was performed at our request by the company on May 17, 2012. It was reported that there was no evidence of a shared meter or any irregular condition that might have resulted in additional electric service being recorded on the electric meter. In addition, the customer was advised that the company tested the electric meter and found it operating in accordance with the applicable provisions of the regulations pertaining to the testing of electric meters. The customer was again advised that the electric appliances found in the house could account for the higher than anticipated electric usage. Based on this information, it was again determined that the charges rendered on the customer's electric account were correct. The balance on the account at the time was \$15,201.15.

It is important to emphasize that the May 17, 2012 company field report stated a load of 5,538 watts was found at the time of the visit. However, upon turning one circuit breaker off, which appears to supply service to the 4,500 watt hot water heater, the load decreased to 658 watts. Depending on the settings of the hot water heater, the system is capable of using the large amount of service that the complainant is disputing.

Like an odometer in an automobile, electric meter readings are cumulative and continue to rise as energy is consumed. If an incorrect reading is used or if usage is estimated any under or overbilling is corrected automatically when the next actual reading is obtained. In this case, the bills rendered for the past two years were solely based on actual readings.

In addition to the meter inspections, the meter test performed by the company has verified that the meter in question was operating within the accuracy limits required by the New York State Public Service Commission. Furthermore, the Commission has consistently found that the readings of an accurately recording meter are conclusive of use.

A review of the customer's payment history shows the last payment made was on April 19, 2011; at which time, the balance on the account was \$11,011.81. The current balance is now \$16,838.96. While the complainant appeared to understand that current charges would need to be paid in addition to monthly installments, it appeared that the complainant has financial problems and cannot afford to pay monthly bills.

Decision

Based on my review of the documentation and information presented, I find that the charges rendered are correct as billed. Therefore, the billing is sustained. If either party disagrees with this decision, an appeal may be filed with the Commission. The appeal procedures are set forth below.

APPEAL PROCEDURE

If you believe that this decision is incorrect, you may appeal to the Commission. The basis for an appeal to the Commission is limited to one or more of the following grounds:

- (1) The hearing officer made a mistake in the facts in the case or in the laws or regulations which affected his or her decision; or
- (2) The hearing officer did not consider evidence presented at the hearing or review, which resulted in an unfavorable decision; or
- (3) New facts or evidence, not available at the time of the hearing, have become available, and could affect the decision on the complaint.

If you choose to appeal, your appeal must be in writing and must contain an explanation of the facts or conclusions in the decision with which you disagree, the reasons for your

disagreement, the relief or remedy sought from the Commission, and documentation of your position or legal arguments supporting your position.

The appeal should be filed within fifteen (15) days after the informal hearing or review decision is mailed, and may be filed electronically or by regular mail. To file electronically, e-mail your appeal to the Secretary of the Public Service Commission, Jaclyn A. Brillling, at:

Secretary@dps.ny.gov

If you are using regular mail, send your appeal letter to:

Jaclyn A. Brillling, Secretary
Public Service Commission
Three Empire State Plaza
Albany, New York 12223

A copy of the appeal letter should also be sent to the opposing party. Appeals of Informal Hearing Decisions become a matter of public record and are listed on the Commission's website. Both your appeal letter and the informal hearing decision will be available to members of the general public (subject to limited redaction in the case of residential customers)

The Commission may make a determination on your appeal, reject it, return the case to the informal hearing officer for additional consideration, order a formal evidentiary hearing on the complaint or take such other action as it deems appropriate.

Sincerely,

John P. Thompson
Informal Hearing Officer
Office of Consumer Services

cc: Ana Cervantes