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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-184-13**

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**IN THE MATTER OF
the Utilities Commission Act, R.S.B.C. 1996, Chapter 473**

and

**a Customer Complaint filed by C.S.
against
British Columbia Hydro and Power Authority**

BEFORE: C.A. Brown, Commissioner
D.M. Morton, Commissioner
R.D. Revel, Commissioner
November 18, 2013

O R D E R

WHEREAS:

- A. On February 24, 2013, a customer (C.S.) of the British Columbia and Hydro Power Authority (BC Hydro) filed a complaint with the British Columbia Utilities Commission (Commission) concerning an adjusted bill invoiced on December 17, 2013;
- B. The adjustment to the bill represented underpayment over a period of 12 consecutive months due to estimated meter readings for the period from December 2011 to December 2012 inclusively;
- C. The customer indicated actual meter readings were not obtained by BC Hydro nor was the customer notified about the access issue for over eight months;
- D. On April 17, 2013 and on June 25, 2013, BC Hydro provided responses to the customer complaint indicating that BC Hydro did take action to rectify the meter access issue, however, timely resolution was not achievable. BC Hydro also indicated that back-billing is not an appropriate way to address this dispute and should not be applied in this case;
- E. Section 5.8 of BC Hydro's Electric Tariff Terms and Conditions describes the application of back-billing in the event of under-billing;
- F. Section 63 of the *Utilities Commission Act* requires BC Hydro to observe rate schedules unless the Commission consents to its charging compensation greater than or less than that specified in the schedules;

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G. The Commission has reviewed the information provided by the customer and BC Hydro and considers that application of BC Hydro's Electric Tariff with respect to back-billing is appropriate.

NOW THEREFORE as set out in the Reasons for Decision attached as Appendix A to this Order, the Commission Panel makes the following determinations:

1. Pursuant to section 63 of the *Utilities Commission Act*, and in accordance with section 5.8 of BC Hydro's Electric Tariff, the Commission directs BC Hydro to apply back-billing provisions on the customer's account.
2. Back-billing should begin with registered consumption from the period inclusive of December 7, 2012 for a six month duration.

DATED at the City of Vancouver, in the Province of British Columbia, this 19th day of November, 2013.

BY ORDER

Original Signed By:

D.M. Morton
Commissioner

Attachments



IN THE MATTER OF

**A CUSTOMER COMPLAINT FILED BY C.S.
AGAINST
BRITISH COLUMBIA HYDRO AND POWER AUTHORITY**

REASONS FOR DECISION

November 18, 2013

BEFORE:

C.A. Brown, Commissioner
D.M. Morton, Commissioner
R.D. Revel, Commissioner

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1.0 EXECUTIVE SUMMARY

On February 24, 2013, the British Columbia Utilities Commission (Commission) received a complaint from C.S., a British Columbia Hydro and Power Authority (BC Hydro) residential customer. C.S.'s complaint was a result of a period of time from December 2011 to December 2012, when BC Hydro submits it was unable to access the meter room in C.S.'s condominium building due to a faulty key.

C.S.'s last actual meter reading occurred on October 11, 2011 and the scheduled meter readings on December 2011, February 2012, April 2012, June 2012, August 2012 and October 2012 did not occur. As a result, from December 9, 2011 until August 8, 2012, estimated bills were issued to the customer. From August 2012 to December 2012 no bills were issued to C.S. because after five consecutive estimated bills, BC Hydro's billing system stops automatically. BC Hydro gained access to the meter room and issued an invoice to C.S. on December 17, 2012 for (1) actual consumption from August 9, 2012 to December 7, 2012 and (2) the billing adjustment for the under-estimated consumption over the entire period from October 12, 2011 to August 8, 2012.

The December 17, 2012 adjusted invoice was in the amount of \$1,071.95. Upon receipt of the invoice C.S. complained to BC Hydro, however, due to lack of resolution, C.S. filed a complaint with the Commission under section 5.8 (Back-Billing) of the Electric Tariff. According to section 5.8, "back-billing means the re-billing by BC Hydro for services rendered to a Customer because the original billings were discovered to be either too high (over-billed) or too low (under-billed)." Further, section 5.8 limits the amount of back-billing to the lesser of:

1. The duration of the error;
2. Six months for residential, small General service (commercial) or irrigation; or
3. One year for all other customers or as set out in a special or individually negotiated contract with BC Hydro

Given that under-billing occurred, C.S. asserts that section 5.8 of the Electric Tariff should be applied in this case. In this circumstance, C.S. would be re-billed for only six months of estimated consumption from the date of the last actual meter reading (December 7, 2012).

For reasons which follow, the Commission finds that BC Hydro must apply section 5.8 of its Electric Tariff and back-bill the customer for registered consumption from the period inclusive of December 7, 2012 for a six month duration.

2.0 BACKGROUND

C.S. resides at a condominium complex in Richmond, BC. The meter that registers the electricity consumption is contained in a meter room on the second floor of the building. Both BC Hydro and C.S. stated that at times the meter room is locked and at times unlocked.

On October 11, 2011, an actual meter reading was obtained from the meter by a BC Hydro meter reader. The scheduled meter readings following (December 2011, February 2012, April 2012, June 2012, August 2012 and October 2012) did not occur. Through those months, BC Hydro stated that C.S.'s meter room was inaccessible because "...the key on file no longer worked" (BC Hydro, June 25, 2013 Letter).

On May 31, 2012, five months after the discovery of the meter access issue, BC Hydro contacted the property manager of the building by telephone for a replacement key. On June 20, 2012, BC Hydro picked up a replacement key. On August 9, 2012, BC Hydro attempted to gain access to the meter room but alleges that the replacement key was found to be faulty.

BC Hydro contacted the property manager on August 17, October 5, and November 13, 2012 to request a second replacement key (BC Hydro, June 25, 2013, Letter). C.S. indicates that the property manager did not receive a notice on August 17, 2012 and that the key was ready for pick up in October 2012 (C.S. July 25, 2013, Letter). In early-December 2012, a second replacement key was retrieved and used for the next meter reading on December 7, 2012 (BC Hydro June 25, 2013, Letter). This key worked and BC Hydro was able to successfully gain access to the meter room.

After receiving the adjusted invoice on December 17, 2012, C.S. contacted BC Hydro on numerous occasions to discuss the billing adjustment and subsequently filed a complaint with the Commission on February 24, 2013.

2.1 The Utilities Commission Act

Utilities Commission Act

Section 63: A public utility must not, without the consent of the commission, directly or indirectly, in any way charge, demand, collect or receive from any person for a regulated service provided by it, or to be provided by it, compensation that is greater than, less than or other than that specified in the subsisting schedules of the utility applicable to that service and filed under this Act.

Section 83: If a complaint is made to the commission, the commission has powers to determine whether a hearing or inquiry is to be had, and generally whether any action on its part is or is not to be taken.

2.2 C.S. Complaint

In the complaint, C.S. outlines several key arguments:

1. The adjusted invoice "...goes against the spirit of the text implied by the introduction of Section 5.8 of the British Columbia Hydro and Power Authority Electric Tariff, by allowing a major adjustment of billing over an extended period of time."
2. Due to the long duration of consecutive estimates, actual electricity consumption could not be monitored effectively.
3. The bill estimate "...was not a fair evaluation based on past usage or seasonal variation, nor was it close to the actual cost."
4. Given the issues with access to the meter room and the inaccuracy of the estimates, C.S. should not be responsible for this entire bill. C.S. believes that section 5.8 of the Electric Tariff should be applied in this case because the billing adjustment was major, not minor. (C.S., February 24, 2013, Letter)

2.3 BC Hydro Comment and Response

BC Hydro provided its formal response to the complaint on April 17, 2013 and on June 25, 2013. In its letter dated June 25, 2013, BC Hydro states that "...the back-billing provisions have no application in bill estimation situations." BC Hydro provides the following reasons:

1. The sentence quoted by the BCUC ["In the case of a minor adjustment to a Customer's bill, such as an estimated bill or a monthly Equal Payment billing, such adjustments do not require back-billing treatment to be applied."] is what is known as "for removal of doubt" or "for greater certainty" wording. As such, it is merely intended to displace some unintended meaning that a reader might possibly give to a document or part of a document if the wording were not included, but generally is given little weight insofar as the purposive interpretation and application of the overall document is concerned.
2. The back-billing provisions are intended to address, and be applied in, cases of "billing error." This is made clear in the concluding wording of the general part of Section 1 Definition, and although the types of things identified in the enumerated sub-clauses in that section are stated to be non-exhaustive, they are all manifestly "billing error" situations.
3. In contrast, BC Hydro's position is that estimated bills, and any adjustments to the estimations once an actual reading is obtained, do not constitute a "billing error" or involve rebilling to correct a "billing error." An estimate, clearly identified as such on the bill, does not purport to be a determination of the electricity actually consumed in the applicable period, and it should be apparent to a customer receiving such a bill that a billing adjustment will be made once an actual meter reading has been obtained. Specific authority for BC Hydro to make such estimates and to adjust them at a later date is contained in point 2 of Section 5.2 Billing in BC Hydro's Electric Tariff Terms and Conditions.
4. While BC Hydro strives to estimate consumption as accurately as possible, and in the normal course of things hopes and expects that any billing adjustment once an actual meter reading is obtained will be "minor," it is clear that BC Hydro has no control over this. Either from limitations on the historical information available to BC Hydro at the time it must make its estimation or from other factors beyond BC Hydro's control (e.g., customer inadvertently leaves baseboard heating on for an extended period, a change of customer occurs and the new customer has a very different usage pattern from the former customer, etc.), only once the actual meter reading is obtained and the results are compared to the earlier estimation(s) made can BC Hydro know whether an adjustment is "minor" or "major," or possibly somewhere in between. (BC Hydro, June 25, 2013, Letter)

3.0 DETERMINATION AND REASONS

Pursuant to sections 63 and 83 of the *Utilities Commission Act*, and in accordance with BC Hydro's Electric Tariff, the Commission makes the following determination.

3.1 Apply Section 5.8 of the Electric Tariff

For Reasons which follow, the Commission directs BC Hydro to apply section 5.8 of its Electric Tariff.

3.1.1 The invoice adjustment was major, not minor

The Commission considered whether or not the amount of money in question qualifies as a 'major' or a 'minor' adjustment, which, in part, determines whether or not section 5.8 of the Electric Tariff applies. The Panel concludes that given the size of C.S.'s typical monthly bills, the amount of \$1,071.95 in a lump-sum back invoice amounts to a 'major' adjustment.

3.1.2 BC Hydro's failure to properly follow its own policies and procedures

The Commission considered BC Hydro's general policy framework around back-billing, and the duty of service BC Hydro has to its customers. The Panel notes that much of the correspondence sent to the Commission in response to this complaint differs from the characterization of the appropriate policies and procedures for incidences of consecutive estimates. In particular, the Panel noted BC Hydro's account of their response to the meter access issue, from a letter sent to the Commission on June 25, 2013:

"Ms. Simpson asserts that she was not given any notice by B.C. Hydro concerning the access issues, nor that there were problems with the billing of her account. B.C. Hydro maintains, however, that Ms. Simpson was made aware of the estimates through a printed message on her invoice during the estimated billing period; a bill message stating 'Your bill shows an estimate' is displayed near the top of every estimated bill (see Attachment 1). Additionally, for meter access issues, a message will display on a customer's bill requesting contact to resolve the issue (see Attachment 2)."

This response differs from BC Hydro's stated policies and procedures as outlined in the compliance filing arising from Order G-83-11 (Order G-83-11 directed BC Hydro, in part, to file a report with the Commission that reviews its processes relating to meter access issues and identifies measures that could minimize consecutive estimates):

"2.1 Current Procedures Relating to Meter Access and Location/Consecutive Estimates:

When access to a meter cannot be obtained or the meter cannot be located and an actual meter reading cannot take place, a process is in place currently for Accenture Business Services for Utilities (ABSU) Field Service Operations (FSO). Meter Readers are instructed to make every attempt to contact customers to obtain access or to get direction on the location of the meter. Telephone calls should be made to the customer or a note should be left at the premises requesting the customer to contact BC Hydro to discuss the location of the meter, but this does not always happen. Also, meter readers are inconsistent in entering contact information in BC Hydro's billing system so that it can be established that attempts have been made to gain access or locate a meter.

The process to be followed is set out in ABSU's Centre of Excellence (ACE) procedures document, excerpts from which (relevant to Mr. Hall's complaint, and which are also used for ABSU services to FortisBC) are set out as follows:

Meter Reading Access

Meter Readers Responsibilities

- *When a Meter Reader encounters an access issue while reading meters he/she will attempt to locate and secure permanent access to the meter. The Meter Reader will:*
 - *Knock at the front door and attempt to arrange access;*
 - *Look for any signs or postings at the premises indicating Owner/Manager or Real Estate Agent - attempt to contact the owner, manager or Real Estate Agent where there is a sign posted;*

Messages left will be directed to the Care Centre number - ensure the message includes the complete service address;
[...]

- *Enter a No Read code in the HHC (hand held device);*
- *Add a freeform message indicating what was done to resolve the access issue and any available contact information.*
- *The Meter Reader will follow up on the access from the Meter Conditions Report to ensure the access issue is resolved. All follow-up action taken to gain access will be recorded on a contact (Class/Action 1700/1000) when the access is resolved a contact (Class/Action 1700/1200) will be created.*

When an actual meter reading cannot be obtained, and a 'No Read' code is entered into the reader's handheld device, this code converts to a 'No Read Report.' The following is the process found in the ACE procedures document the meter reader is instructed to follow to attempt to gain access or locate meters."

The Commission does not view BC Hydro's own account of the actions taken in response to their inability to read C.S.'s meter to be representative of the standards outlined in this compliance filing. No attempts to contact C.S. directly by phone were outlined in BC Hydro's letters, nor were efforts to contact the building manager made for several billing cycles until five months after discovery of the meter access issue.

3.1.3 Further Analysis

As explained in the Background section, BC Hydro, for a number of reasons, does not believe that it is appropriate to apply section 5.8 of the Electric Tariff in this case. It would appear that the basis of BC Hydro's argument not to apply section 5.8 of the Electric Tariff is due to the statement in the Tariff: "In the case of a minor adjustment to a Customer's bill, such as an estimated bill or a Monthly Equal Payment billing, such adjustments do not require back-billing treatment to be applied."

While BC Hydro's focus is that an estimated bill or a Monthly Equal Payment billing does not require back-billing to be applied, we find that the intent of the statement in the Tariff is to address regular or standard estimated billings, or monthly equal payment billings. These instances may be deemed minor as the adjustments are made within no more than a two-month timeframe. However, in the unique circumstances involving C.S., regardless of the estimated invoices being produced, the adjustment over the 12 month period was neither minor in duration nor in dollar amount. BC Hydro's customer service efforts to promptly resolve the issues are less than satisfactory by the standards of the customer, and the Commission.

Notwithstanding BC Hydro's assertion that the consumption billed to C.S. is an accurate reflection of her actual consumption, the fact remains that regular, accurate billing is an important price signal used by customers to measure the effects of their own energy consumption decisions.

Applying section 5.8 in this case is also determined to be reasonable because the provision of back-billing takes into account the fact that BC Hydro is permitted to estimate invoices for a reasonable period of time. Therefore, BC Hydro is permitted to bill the customer for the six month period from the date an actual reading was verified, 12 months after the discovery of a meter access issue (December 7, 2012).

4.0 SUMMARY OF DETERMINATION

In summary, as twelve months passed before an actual meter reading was taken, the Commission finds that BC Hydro did not take adequate action to obtain an actual reading. **The Commission finds that section 5.8 of the Electric Tariff does apply in this case.** BC Hydro must apply section 5.8 of its Electric Tariff for C.S.'s disputed December 17, 2012 invoice. BC Hydro must begin the back-billing period from December 7, 2012.

BC Hydro's Electric Tariff, Section 5.2 (2)

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(iii) The bill rendered will be the sum of:

Amount A, multiplied by the number of days between the date of the earlier meter reading and the effective date of the change in Rate Schedule, divided by the number of days between the successive meter readings, and,

Amount B, multiplied by the number of days between the effective date of the change in Rate Schedule, and the date of the later meter reading, divided by the number of days between the successive meter readings; or

(d) if the bill is being rendered in accordance with the conditions set out in this Tariff under the heading "Pay As You Go Billing", "Monthly Equal Payment" or "Pre-Authorized Payment with Discount".

2. If meter readings cannot be obtained for any reason, the demand or consumption or both may be estimated by BC Hydro and used for billing purposes, and the next bill, which is based on actual meter readings, will be adjusted for the difference between estimated and actual use over the interval between meter readings. Estimated bills are deemed to have the same force and effect as bills which are based on actual meter readings.
3. If any meter fails to register or registers incorrectly, the consumption or demand or both may be estimated by BC Hydro and used for billing purposes.
4. If meters are read at longer or shorter intervals than the period set out in the applicable Rate Schedule, the minimum charge, the service charge, the number of kilowatt hours in each step and, if applicable, the demand charge set out in such Rate Schedule shall be prorated before the bill is calculated.

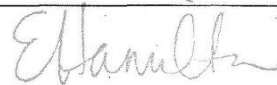
Prorated calculations will be based on a 365-day year.

5.3. Payment of Bills

Bills will be rendered as often as deemed necessary by BC Hydro. The due date for payment of bills shown on the face of the bill is the first business day after:

- (a) the twenty-first (21st) calendar day following the billing date; or
- (b) such other period as may be defined in a special contract.

ACCEPTED: MAY 30 2008
ORDER NO. G130 07 G171 07



COMMISSION SECRETARY

BC Hydro's Electric Tariff, Section 5.8

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5.7. [Deleted]

5.8. Back-Billing

Pursuant to the *Utilities Commission Act*, this Tariff constitutes the consent of the Commission to allow BC Hydro, in the circumstances specified herein, to charge, demand, collect or receive from its Customers in respect of a regulated service rendered a greater or lesser compensation than that specified in the subsisting schedules of BC Hydro applicable to that service.

In the case of a minor adjustment to a Customer's bill, such as an estimated bill or a Monthly Equal Payment billing, such adjustments do not require back-billing treatment to be applied.

1. Back-billing means the re-billing by BC Hydro for services rendered to a Customer because the original billings were discovered to be either too high (over-billed) or too low (under-billed). The discovery may be made by either the Customer or BC Hydro, and may result from the conduct of an inspection under provisions of the federal statute, the *Electricity and Gas Inspection Act* ("EGI Act"). The cause of the billing error may include any of the following non-exhaustive reasons or combination thereof:
 - (a) stopped meter
 - (b) metering equipment failure
 - (c) missing meter now found
 - (d) switched meters
 - (e) double metering
 - (f) incorrect meter connections
 - (g) incorrect use of any prescribed apparatus respecting the registration of a meter
 - (h) incorrect meter multiplier
 - (i) the application of an incorrect rate
 - (j) incorrect reading of meters or data processing
 - (k) tampering, fraud, theft or any other criminal act.

ACCEPTED: OCT 4 2010
ORDER NO. G13410


COMMISSION SECRETARY

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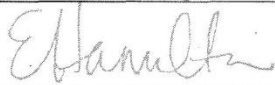
2. Whenever the dispute procedure of the EGI Act is invoked, the provisions of that Act apply, except those which purport to determine the nature and extent of legal liability flowing from metering or billing errors.
3. Where metering or billing errors occur and the dispute procedure under the EGI Act is not invoked, the consumption and demand will be based upon the records of BC Hydro for the Customer, or the Customer's own records to the extent they are available and accurate, or if not available, reasonable and fair estimates may be made by BC Hydro. Such estimates will be on a consistent basis within each Customer class or according to a contract with the Customer, if applicable.
4. If there are reasonable grounds to believe that the Customer has tampered with or otherwise used BC Hydro's service in an unauthorized way, or evidence of fraud, theft or other criminal act exists, then the extent of back-billing will be for the duration of the unauthorized use, subject to the applicable limitation period provided by law, and the provisions of items 7, 8, 9 and 10 below do not apply.

In addition, the Customer is liable for the direct (unburdened) administrative costs incurred by BC Hydro in the investigation of any incident of tampering, including the direct costs of repair, or replacement of equipment.

Under-billing resulting from circumstances described above will bear interest at the rate normally charged by BC Hydro on unpaid accounts from the date of the original under-billed invoice until the amount under-billed is paid in full.

5. In every case of under-billing or over-billing, the cause of the error will be remedied without delay, and the Customer will be promptly notified of the error and of the effect upon the Customer's ongoing bill.
6. In every case of over-billing, BC Hydro will refund to the Customer all money incorrectly collected for the duration of the error, except that, if the date the error first occurred cannot be determined with reasonable certainty, the maximum refund period will be 6 years back from the date the error was discovered. Interest will be paid to the Customer at a rate equal to BC Hydro's weighted average cost of debt, calculated for BC Hydro's most recent fiscal year.
7. Subject to item 4 above, in every case of under-billing, BC Hydro will back-bill the Customer for the shorter of:
 - (a) the duration of the error; or
 - (b) six months for residential, small General Service (commercial) or irrigation; and
 - (c) one year for all other Customers or as set out in a special or individually negotiated contract with BC Hydro.

ACCEPTED: MAY 30 2008
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8. Subject to item 4 above, in every case of under-billing, BC Hydro will offer the Customer reasonable terms of repayment. If requested by the Customer, the repayment term will be equivalent in length to the back-billing period. The repayment will be interest free and in equal instalments corresponding to the normal billing cycle. However, delinquency in payment of such instalments will be subject to the usual late payment charges.
9. Subject to item 4 above, if a Customer disputes a portion of a back-billing due to under-billing based upon either consumption, demand or duration of the error, BC Hydro will not threaten or cause the discontinuance of service for the Customer's failure to pay that portion of the back-billing, unless there are no reasonable grounds for the Customer to dispute that portion of the back-billing. The undisputed portion of the bill shall be paid by the Customer and BC Hydro may threaten or cause the discontinuance of service if such undisputed portion of the bill is not paid.
10. Subject to item 4 above, in all instances of back-billing where changes of occupancy have occurred, BC Hydro will make a reasonable attempt to locate the former Customer. If, after a period of one year, such Customer cannot be located, the over- or under-billing applicable to them will be cancelled.

5.9. DATAPLUS Service

DATAPLUS service is only available as an option to any Customer on Collective Billing currently enrolled on DATAPLUS. The service will provide the Customer, on a monthly basis, a computer diskette containing the billing information of the Customer's Collective bill. For each Collective Master Account on DATAPLUS service, the Customer shall pay an annual charge as set out in the Schedule of Standard Charges.

6. RATES AND CHARGES

6.1. Rates

The rates to be charged by and paid to BC Hydro for electric service shall be the rates set out in the Rate Schedules from time to time in effect and contained in the Electric Tariff of BC Hydro, which is available at www.bchydro.com or upon request.

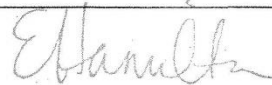
BC Hydro will endeavour to provide the Customer with information and advice with respect to all rates available to the Customer from time to time, but in every case the selection of the rate used shall be the sole responsibility of the Customer.

ACCEPTED:

MAY 30 2008

ORDER NO.

G130 '07 G171 '07



COMMISSION SECRETARY