

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6712

Petition of James Thurber vs. Central Vermont Public Service Corporation in re: dispute concerning the disconnection of electric service to petitioner's property located in Springfield, Vermont, and billing charges relating thereto --))))))	Hearing at Montpelier, Vermont June 27, 2002
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Order entered: 7/6/2005

PRESENT: Judith M. Kasper, Esq., Hearing Officer

APPEARANCES: James A. Thurber, Pro Se

Helen M. Fitzpatrick, Esq.
for Central Vermont Public Service Corporation

I. INTRODUCTION

This case concerns a billing dispute between Mr. James Thurber ("Mr. Thurber" or "Petitioner") and Central Vermont Public Service Corporation ("CVPS"). Mr. Thurber alleges that CVPS wrongfully charged his account for electric service during the summer months in the years 1999, 2000 and 2001, because CVPS did not disconnect his meter at those times, as he had requested.¹ In addition, Mr. Thurber contends that he was wrongfully charged for electric service as a result of defective equipment owned by CVPS. Mr. Thurber has requested that CVPS' bills to him be adjusted to correct these alleged errors, and that CVPS reimburse him for costs he incurred to have a private electrician investigate the problem.

CVPS denies the Petitioner's allegations and contends that it is entitled to collect the full amount billed to the Petitioner's account.

1. See exh. Thurber 1 at 1.

Mr. Thurber filed his petition in this billing dispute on June 3, 2002. A technical hearing was held on June 27, 2002. At the hearing Mr. Thurber represented himself, and Helen Fitzpatrick, Esq., represented CVPS.

In accordance with the provisions of 30 V.S.A. § 8, I hereby report the following to the Public Service Board ("Board").

II. FINDINGS

1. CVPS provides electric service to Mr. Thurber at a building, formerly known as the Palomar Motel ("the Palomar"), located at 2 Linhale Drive in Springfield, Vermont. Tr. 6/27/02 at 6 (Thurber); exh. Thurber 3.
2. At the Palomar, there is a "rate 13 meter" owned by CVPS ("meter") that is used as part of an electric heat storage system; the meter is used exclusively to measure electric power use required by that system. Tr. 6/27/02 at 7 (Thurber) and 44 (Auer).
3. The meter at the Palomar operates by shutting off at regular pre-set time intervals so that electricity is used only during off-peak hours. Tr. 6/27/02 at 7 (Thurber) and 54 (Auer).
4. The heat storage system includes a component called a "pigtail" which is comprised of two pieces, one of which is a hardwired to CVPS's meter. Tr. 6/27/02 at 88 (Smith).
5. The other piece of the pigtail interconnects with the meter, to provide a connection between the meter and the other components of the heat storage system. Tr. 6/27/04 at 46-47 (Auer); exh. CVPS-1.
6. The meter and the piece of the pigtail that is hardwired to the meter are owned by CVPS; the other piece of the pigtail, and all other components of the heat storage system, are owned by the customer, Mr. Thurber. Tr. 6/27/02 at 47 (Auer) and 88 (Smith).
7. On July 27, 2001, CVPS sent Mr. Thurber a letter, informing him that, during the period June 21 through July 23, 2001, electricity was being used at the Palomar during peak hours. Tr. 6/27/02 at 31 (Thurber); exh. CVPS -3.
8. On December 4, 2001, Mr. Thurber contacted CVPS and requested that someone from CVPS meet his electrician at the Palomar. Exh. Thurber-1 at 2.

9. On December 7, 2001, Mr. Thurber's electrician, Donald Bishop, met CVPS' meter reader and installer, Gary Smith, at the Palomar. Exh. Thurber-1 at 2; tr. 6/27/02 at 16 (Bishop) and 88 (Smith).

10. On December 7, 2001, Mr. Smith inspected the meter, discovered that there was a loose wire on the portion of the "pigtail" that is owned by Mr. Thurber, and changed the loose wire. Tr. 6/27/02 at 18 (Bishop), 88 and 90 (Smith).

11. As a follow up to the adjustment made to the "pigtail" on December 7, 2001, Mr. Bishop checked the meter on December 9, 10, 11, 12 and 13, 2001, and determined that the meter was turning on and off as it should. Tr 6/27/02 at 16-17 (Bishop); exh Thurber-1 at 2.

12. Mr. Thurber opened his CVPS "rate 13 account" at the Palomar on April 10, 1997. Tr. 6/27/02 at 50 (Auer).

13. When Mr. Thurber first bought the Palomar, he made a verbal request to the CVPS meter reader for CVPS to disconnect the meter entirely during the summer months. Tr. 6/27/02 at 8 and 25-26 (Thurber).²

14. In 1998, Mr. Thurber telephoned the CVPS call center at the beginning of the summer to request that the meter be disconnected and at the end of the summer to request that the meter be reconnected. Tr. 6/27/02 at 50 (Auer).

15. Mr. Thurber did not contact the CVPS office to make individual requests to have the meter turned off during the summers of 1999, 2000 and 2001, respectively. Exh. Thurber-1 at 1.

III. DISCUSSION

In this case, the Petitioner has alleged that he was charged excessive amounts for "rate 13 service" at the Palomar. He contends, first, that CVPS incorrectly charged him for electric service at the Palomar due to CVPS' defective equipment. He alleges, second, that he is entitled to an adjustment to his bill because CVPS did not comply with his request to disconnect his meter during the summers of 1999, 2000 and 2001. On the basis of the evidence in the record of

2. The evidence in the record does not include a specific date for this request.

this docket, for the reasons that follow, I conclude that CVPS should be authorized to collect the full amount it billed the Petitioner.

Defective Equipment

The evidence does not demonstrate that CVPS' equipment was either defective, or the cause of a malfunction in the heat storage system at the Palomar. In testimony given at the technical hearing, it was explained that the rate 13 meter at the Palomar is part of an electric heat storage system whereby electric heat is energized only during off-peak hours. The meter has two dials: the A dial measures electric power use during peak hours, and the B dial measures electric power use during off-peak hours.³ During June and July of 2001, the A dial on the meter at the Palomar was registering electric power use. CVPS became aware of this during its routine review of customer accounts, and, as a courtesy to Mr. Thurber, CVPS sent him a letter informing him of this. In its letter, CVPS also suggested that Mr. Thurber might want to have his electrician check the electric heat storage system.⁴

At some point prior to December 7, 2001, Mr. Donald Bishop (the Petitioner's electrician) inspected the heat storage system at the Palomar, and did not observe any problems on the Petitioner's equipment. Mr. Bishop testified that he checked the panel that belonged to Mr. Thurber but that he did not check the pigtail component of the system as part of his inspection.⁵

On December 4, 2001, the Petitioner requested that CVPS check the system,⁶ and on December 7, 2001, Gary Smith, a CVPS meter reader and installer, inspected the meter at the Palomar. Mr. Bishop was present. At that time, Mr. Smith examined the pigtail connection and

3. Tr. 6/27/02 at 44 (Auer).

4. The evidence further demonstrated that during prior summers, there was no indication that the A dial was registering electric power use. Tr. 6/27/02 at 59-60 (Auer); exh. CVPS-4.

5. Tr. 6/27/02 at 17 and 122-125 (Bishop). At the technical hearing there was considerable discussion about the fact that the pigtail connection could be accessed only by going behind the CVPS meter. However, both CVPS and Mr. Bishop acknowledged that it is not uncommon for private electricians to break the seal on CVPS meters, and move the meters, in order to do necessary electrical work. Tr. 6/27/02 at 48(Auer), 65-66 (Smith), 91-92 (Smith) and 125-126 (Bishop).

6. Exh. Thurber-1 at 2.

determined that there was a loose wire on the part of the pigtail that was not hardwired to the meter. Mr. Smith then replaced this loose wire. Over the following week, Mr. Bishop monitored the heat storage system and determined that it was working properly. No evidence was offered by any party to show that something other than the loose wire on the pigtail caused any problem with the heat storage system.

Mr. Bishop testified that he believed that the entire pigtail unit was the property of CVPS because it was his understanding that the pigtail was procured from CVPS. However, there was no evidence presented about how the part of the pigtail at issue was in fact obtained. CVPS' witness, Jaye Auer, testified that CVPS sells such a pigtail part to contractors so that it will match the plug part of the pigtail that is hardwired to CVPS' meter.⁷ In addition, Mr. Smith testified that CVPS' responsibility to its customers for electric power ends at the meter, and that, therefore, only the portion of the pigtail that is hardwired to the meter is owned by CVPS.⁸

On the basis of the evidence presented in this case, I am persuaded that the problem with the heat storage system at the Palomar was caused by a loose wire on the part of the pigtail that was not hardwired to the meter. I also am persuaded that the faulty part of the pigtail was not owned by CVPS, and, therefore, CVPS was not responsible for the maintenance and/or repair of that component of the heat storage system at the Palomar.

Disconnection Request

The Petitioner claims that he is entitled to an adjustment to his bill because CVPS did not comply with his requests to disconnect the meter at the Palomar during the summers of 1999, 2000 and 2001. He explained that, because the rate 13 meter is used only in conjunction with the electric heat storage system at the Palomar, there is no need to have the meter operational at all during the summer months.⁹

7. Tr. 6/27/02 at 131 (Bishop).

8. Tr. 6/27/02 at 88 (Smith).

9. Tr. 6/27/02 at 7 and 36 (Thurber).

Mr. Thurber testified that when he first bought the Palomar in April of 1997, he made a verbal request to the CVPS meter reader for CVPS to disconnect the meter entirely during the summer months. However, in his testimony, Mr. Thurber did not indicate whether he specified, as part of this verbal request, whether the words "summer months" referred only to the summer of 1997 (or whether these words referred to all summers for an indefinite period of time). In addition, Terrie Jackson, a meter reader supervisor for CVPS, and Gary Smith, a CVPS meter reader and installer, both testified that, when a customer asks a meter reader to make a change in their service, it is the meter reader's practice and responsibility to tell the customer to contact CVPS' call center.¹⁰ Mr. Thurber offered no evidence as to whether he had been directed by the meter reader to call the CVPS call center in order to make the disconnection request.

At the technical hearing, Jaye Auer¹¹ testified that CVPS' call center records contained no record of Mr. Thurber requesting disconnection of the meter in 1997.¹² However, Mr. Thurber's testimony as well as CVPS' call center records indicate that he did contact the CVPS call center at the beginning of the summer in 1998 to request disconnection of the meter, and at the end of the summer in 1998 to request reconnection of the meter.¹³ The meter was disconnected over the summer of 1998.¹⁴ Ms. Auer testified that CVPS' records did not include reference to any other requests made by Mr. Thurber regarding summer disconnection(s) of the meter.¹⁵

Ms. Auer further testified that CVPS has no way to discontinue a customer's service without express, and specific, direction from the customer to do so. She stated:

10. Tr. 6/27/02 at 79 (Jackson) and 89 (Smith).

11. Ms. Auer is CVPS' backup manager for customer services in the call center and training and development coordinator. Tr. 6/27/02 at 43 (Auer).

12. The Petitioner offered no evidence as to whether the meter actually had been disconnected during the summer of 1997.

13. Tr. 6/27/02 at 50-52 (Auer).

14. Tr. 6/27/02 at 50 (Auer).

15. Mr. Thurber also stated that, after he received the letter from CVPS in July 2001, he spoke with Ms. Jackson to request that the meter be disconnected, and that she had said that she would take care of it. Ms. Jackson testified that she did not recall that conversation, and that at no time from 1997 to 2002 did Mr. Thurber ever make a direct request to her for disconnection of the meter. Tr. 6/27/02 at 32 (Thurber), 78 and 82 (Jackson).

We could not assume that a customer would want it off every single year, because many times they don't elect to do it that way, and our system would not enable us to do it automatically, it has to be per customer call that asks for it . . .¹⁶

Ms. Auer explained that, at the Palomar, there are two different meters (one of which is the rate 13 meter) that measure electric power use for a single account in Mr. Thurber's name. Hence, CVPS could not simply turn off Mr. Thurber's account because an explicit request that a particular meter be disconnected also would be necessary.¹⁷

On the basis of the evidence in this case, I conclude that CVPS was not obligated to disconnect the Petitioner's meter at any time except over the summer of 1998 (when disconnection did take place). First, the evidence in this case is insufficient to show that Mr. Thurber made an unambiguous request in 1997 to the CVPS meter reader concerning his desire to have service disconnected *annually* during the summer months. Furthermore, in 1998, Mr. Thurber made requests through the CVPS call center that resulted in disconnection and reconnection of the meter. He did not make similar requests through the call center in 1999, 2000, and 2001.¹⁸ Considering the fact that Mr. Thurber had used the call center in 1998 to effectuate disconnection and reconnection of the meter, along with the fact that CVPS has a practice of disconnecting customers only upon specific request, I conclude that it would be unreasonable to expect CVPS to have assumed that it should have disconnected the meter at the Palomar automatically each summer.¹⁹

16. Tr. 6/27/02 at 70 (Auer).

17. Tr. 6/27/02 at 69-70 (Auer).

18. During the technical hearing, various contacts between Mr. Thurber and CVPS concerning delinquent payments were discussed. Mr. Thurber represented that, during a telephone conversation with Terrie Jackson of CVPS in 2001 related to delinquent payments, he requested disconnection of his meter. Ms. Jackson testified that she did not recall that conversation. Ms. Jackson is a CVPS meter reader supervisor. She testified that customers who want disconnections are referred to the CVPS customer call center. Tr. 6/27/02 at 79 (Jackson). CVPS' call center records do not contain reference to any request for disconnection made by Mr. Thurber in 2001.

19. I also make two additional observations related to this case. First, I note that, during the technical hearing, CVPS explained that a customer can disable his own heat storage system by having, as part of his own equipment, a circuit breaker available to switch on and off at his own behest. Tr. 6/27/02 at 63-64 and 95-96 (Auer). Second, I note that, at the technical hearing, Mr. Thurber acknowledged that he did not pay attention to his electric bills until

IV. CONCLUSION

For the reasons discussed above, I conclude that CVPS should be authorized to collect the full amount it has billed the Petitioner on his electric service account. I further conclude that the Petitioner is not entitled to reimbursement for costs he incurred to have his electrician investigate problems with the heat storage system at the Palomar. I therefore recommend that the Board deny the relief requested by the Petitioner.

This Proposal for Decision has been served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 14th day of October, 2004.

s/Judith M. Kasper

Judith M. Kasper, Esq.
Hearing Officer

he received a large accumulated bill, and he agreed that he needed to "take some blame." Tr. 6/27/02 at 133 (Thurber).

V. BOARD DISCUSSION

Oral argument before the Board in this docket was held on June 8, 2005. At that time, Mr. Thurber argued that "a meter which is owned by Central Vermont had a bad 'pigtail' on it which was not shutting down the storage heat in the summertime."²⁰ Mr. Thurber further contended that the "pigtail" was "part of the meter"²¹ and that if the *meter* had been working properly, the heat storage system would have shut off.²² The record in this case does not support that contention.

Testimony in this case given by Mr. Bishop (Mr. Thurber's electrician) and Gary Smith (a CVPS meter reader and installer) clearly indicates that the heat storage system malfunction was caused by a loose wire on the portion of the "pigtail" that was not hardwired to the meter.²³ As explained by Mr. Smith, "the part [of the pigtail] that's on the meter is hard wired directly in the meter, that part we [CVPS] own. Everything else is the customer's. The part that had the loose wire was the customer's property."²⁴

There is no evidence in the record of this case that the meter itself, or any integral part of the meter was faulty. Rather, the evidence demonstrates that the system failure occurred at the customer-owned point of connection between CVPS' meter and the rest of the customer-owned heat storage system.

We also note that at both the oral argument and the technical hearing in this docket, Mr. Thurber acknowledged that he needed to take some responsibility for the high electric utility bills about which he complains.²⁵ Had he monitored his bills, or responded more promptly to CVPS'

20. Tr. 6/8/05 at 5.

21. Tr. 6/8/05 at 6.

22. Tr. 6/8/05 at 11.

23. See Findings No. 10 and 11, above. Also, at the oral argument, Mr. Thurber acknowledged that the problem with the heat storage system was resolved once the "pigtail" that had fallen off of the meter was reconnected to the meter. Tr. 6/8/05 at 7-8.

24. Tr. 6/27/02 at 88. Jaye Auer, another CVPS employee, offered similar testimony concerning ownership of and responsibility for the portion of the pigtail that had the loose wire. Tr. 6/27/02 at 47 and 131.

25. Tr. 6/27/02 at 133 and 6/8/05 at 14-15.

July 27, 2001, letter to him concerning peak hour electric usage at Palomar, his exposure to electric service at the more costly rate might have been limited.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and conclusions of the Hearing Officer are adopted.
2. Central Vermont Public Service Corporation shall be authorized to collect the full amount it has billed the Petitioner on his account for rate 13 electric service provided at his building located at 2 Linhale Drive, Springfield, Vermont.
3. The Petitioner's claims for relief are denied.
4. This docket shall be closed.

Dated at Montpelier, Vermont, this 6th day of July, 2005.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: July 6, 2005

ATTEST: s/Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.