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**BRITISH COLUMBIA
UTILITIES COMMISSION**

**ORDER
NUMBER G-92-15**

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

and

**British Columbia Hydro and Power Authority
A Complaint filed by P.M.**

BEFORE: L. F. Kelsey, Commissioner
C. A. Brown, Commissioner
K. A. Keilty, Commissioner
D. M. Morton, Commissioner
May 28, 2015

O R D E R

WHEREAS:

- A. On November 4, 2014, a customer (P.M.) of British Columbia Hydro and Power Authority (BC Hydro) filed a complaint with the British Columbia Utilities Commission (Commission) concerning two bills for P.M.'s commercial rental property in the amounts of \$649.25 and \$5,186.22 for a period of vacancy at the property. P.M. disputes these bills because service was not requested and BC Hydro should have disconnected the service after the previous tenant vacated the premise (Complaint);
- B. On November 13, 2014, BC Hydro provided a response to the P.M. Complaint;
- C. P.M. submitted additional information to BC Hydro through the Commission complaints process on December 8, 2014. BC Hydro provided a response on January 9, 2015;
- D. On February 9, 2015, P.M. submitted another response and a request for more information was sent to BC Hydro on March 13, 2015. BC Hydro provided a response on April 15, 2015 and P.M. responded on May 15, 2015; and
- E. The Commission reviewed the Complaint and the submissions received.

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NOW THEREFORE pursuant to sections 63 and 83 of the *Utilities Commission Act*, sections 2.1 and 2.2 of the British Columbia Hydro and Power Authority (BC Hydro) Electric Tariff and for the reasons attached to this order as Appendix A, the British Columbia Utilities Commission determines that BC Hydro is only authorized to bill P.M. for 500 kWhs, the threshold when BC Hydro initiates an unsigned account review at a commercial premise. BC Hydro is directed to waive all other charges billed to P.M. for the period August 28, 2012 to January 5, 2014.

DATED at the City of Vancouver, in the Province of British Columbia, this 29th day of May 2015.

BY ORDER

Original signed by:

D. Morton
Commissioner

Attachment

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REASONS FOR DECISION

1.0 COMPLAINT OVERVIEW

On November 4, 2014, the British Columbia Utilities Commission (Commission) received a complaint from P.M., the landlord of a commercial property in Nanaimo, BC. The complaint is regarding two bills he received for a period when his rental property was vacant between two tenants. P.M. submits that he should not be responsible for the charges because service was not requested and BC Hydro should have disconnected the service after the previous tenant vacated the premise (Complaint).¹ The two bills for the vacant period (August 28, 2012 to January 5, 2014) totaled \$649.25 and \$5186.22.²

In response to the Complaint, BC Hydro explained the steps the company took to establish responsibility for service after the tenant's account was terminated on August 27, 2012. Application for Service Notices were sent to the premises and the mailing address of the landlord.³ Notices were sent on September 3, 2012, September 24, 2012, February 4, 2013 and February 22, 2013.⁴ On February 22, 2013, April 24, 2013 and December 9, 2013, BC Hydro attempted to contact P.M. by telephone and left messages advising that an application for service was required in order to avoid disconnection.⁵

When the new tenant contacted BC Hydro to open an account, P.M. states that the tenant was advised the tenant would only be permitted to establish a new account and receive service if the landlord accepted responsibility for the vacant period.⁶ P.M. states that he was "held hostage and was forced to make an application" so that the tenant would be able to have service.⁷ P.M. states that the premise was "closed tight" and "hydro was not used or needed" during the vacant period.⁸

In response to the Complaint, BC Hydro explained the unsigned account review process for commercial accounts. Seven days after an account is closed BC Hydro issues an Application for Service Notice and if there is no response, an Application for Service Final Notice is issued.⁹ Additionally, if no service application is received

¹ P.M., Email dated November 4, 2014.

² BC Hydro, Email dated November 13, 2014

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ P.M., Email dated December 8, 2014

⁷ Ibid.

⁸ Ibid.

⁹ BC Hydro, Email dated January 9, 2015

after 500 kWh of consumption is registered the unsigned account review is initiated and the service may subject to disconnection.¹⁰

In this particular case, BC Hydro did not disconnect the service for the following reason:

“Disconnection of the meter in question would have interrupted power to a part of the premises which was assumed to be a business and operational. BC Hydro acknowledges that in this case, considerable time was taken to try and resolve this issue with [P.M.] and its intentions were to avoid disconnection of service and interruption to his business.”¹¹

BC Hydro is of the view that P.M. is responsible for the electricity consumption during the vacant period because he agreed to a backdated application from the date the previous tenant vacated the premise.¹² Furthermore, according to BC Hydro, pursuant to sections 2.1 and 2.2 of the Electric Tariff, the landlord of a premise is responsible for electricity consumption after a tenant vacates a premise if a new tenant does not take responsibility.¹³ The landlord is responsible the day after the tenant terminates the service agreement.¹⁴

P.M. remains of the position that he is not responsible for the electricity consumption during the vacant period because “there was no due diligence done by the utility,” he “never requested any service” and BC Hydro continued to provide service for a long period of time without a response to the Application for Service Notices.¹⁵

2.0 LEGAL FRAMEWORK

2.1 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.

¹⁰ BC Hydro, Email dated April 15, 2015

¹¹ Ibid.

¹² BC Hydro, Email dated January 9, 2015 and April 15, 2015,

¹³ BC Hydro, Email dated January 9, 2015,

¹⁴ Ibid.

¹⁵ P.M., Email dated May 15, 2015,

2.2 BC Hydro Electric Tariff

Section 2.1. Application for Service (in part)

"...a contractual relationship shall be established by the taking of Electricity in the absence of an application for service or signed service agreement."

Section 2.2. Term of Service

Unless otherwise specifically provided in these Terms and Conditions, the Rate Schedules, or any service agreement between BC Hydro and the Customer, the term of service and obligation to pay the rates under the applicable Rate Schedules and any charges pursuant to these Terms and Conditions shall commence:

(a) in the case of Premises requiring physical connection or re-connection of service, on the day when BC Hydro's service is connected to the Point of Delivery for the purpose of supplying Electricity; or

(b) in the case of already connected Premises, on the day the Customer's right to possession of the Premises commences.

and shall continue for an indefinite period thereafter until terminated by either party in accordance with these Terms and Conditions.

3.0 COMMISSION DETERMINATION

The Commission has reviewed the information provided by BC Hydro and P.M. and determines that, **for the reasons set out below, in accordance with sections 63 and 83 of the *Utilities Commission Act* and sections 2.1 and 2.2 of the Electric Tariff, BC Hydro is only authorized to bill P.M. for 500 kWhs, the threshold when BC Hydro initiates an unsigned account review at a commercial premise. Therefore, all other charges billed to P.M. must be waived for the following period: August 28, 2012 to January 5, 2014.**

The tenant vacated P.M.'s premise and closed the BC Hydro account on August 27, 2012. P.M., the landlord, assumed the service would be disconnected after the account was closed by the tenant. Accordingly, P.M. did not contact BC Hydro to set-up an account, nor did he contact BC Hydro to close the account because he assumed the tenant closing the account would result in the service being disconnected.

Pursuant to section 2.1 of the Electric Tariff a contractual relationship is established by the taking of electricity and pursuant to section 2.2 of the Electric Tariff, a customer is obligated to pay the approved rates from the day the customer's right to possession commences until the service agreement is terminated by either party.

P.M., as the landlord and owner of the premise, effectively applied for service the day after the account was terminated by the tenant because, under section 2.1 of the tariff, an application for service or “a contractual relationship shall be established by the taking of Electricity in the absence of an application for service or signed service agreement.” The consumption during the vacant period while correctly charged to the landlord is still defined as unsigned consumption as the landlord has not expressly applied for service. Under section 2.2 of the tariff P.M.’s right to possession of the premise also occurred the day after the account was terminated by the tenant, and thus the term of service and obligation to pay the rates applied to P.M. as of that day.

However, the question of this complaint is whether it is reasonable for BC Hydro to allow unsigned consumption to endure indefinitely. BC Hydro’s internal policy is that at 500 kWh of unsigned consumption BC Hydro may take further action to disconnect the premise. This BC Hydro internal policy indicates that there is a threshold at which to check whether unsigned consumption should continue. BC Hydro failed to take appropriate action according to its internal policy and did not disconnect the service. BC Hydro’s threshold of 500 kWhs was exceeded by approximately 50,000 kWhs and no response to the Application for Service Notices was received, yet BC Hydro continued to provide service for over one year without a signed account. Accordingly, it is unreasonable to hold the landlord responsible for the consumption over the entire vacant period.

Given that BC Hydro failed to follow its internal policies regarding unsigned accounts and failed to disconnect the unsigned account in a timely manner, the Commission finds that BC Hydro must take some responsibility for the lengthy delay in disconnecting the service. As such, P.M. shall only be billed up to the threshold when the unsigned account review process is to proceed (500 kWh). Therefore, BC Hydro is only authorized to bill P.M. for 500 kWh of electricity consumption during the vacant period (August 28, 2012 to January 5, 2014) and all other charges during this period must be waived.