Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Patricia C. Prado, George P. Beaulieu, Kimballs Mobile Home Park Sub-Meter Customers, and Circle S Mobile Home Park Sub-Meter Customers, Complainants, vs. Robert H. Johanson dba Kimballs Mobile Home Park and Robert H. Johanson dba Circle S Mobile Home Park, Defendants.	(ECP) Case 05-04-024 (Filed April 26, 2005)

Patricia Prado and George P. Beaulieu, for themselves, and other sub-metered customers of Kimball's Mobilehome Park and Circle S Corral Mobilehome Park, complainants.
Robert H. Johanson, defendant.

O P I N I O N

Administrative Law Judge (ALJ) Victor D. Ryerson heard this matter in San Francisco on September 15, 2005. He kept the record open until October 6, 2005, to enable the parties to submit additional exhibits concerning the amount of refunds the complainants had received and the amount that remained to be paid. No additional exhibits were submitted directly by either party before the record closed, but Pacific Gas and Electric Company (PG&E) furnished a declaration

from senior tariff analyst Lena Lopez (with attachments) before the matter was submitted. It was received for the record as Exhibit 3, and the matter was submitted on October 6, 2005.

Although the complainants had proven that the defendants owed refunds to their tenants, the state of the record at the time the matter was submitted was inadequate to ascertain what the amount and distribution of the refunds should be. In order to finalize this matter, the ALJ issued a ruling on November 4, 2005, requiring the defendants to submit a final accounting of the refunds they received from PG&E during the calendar years 2001 through 2004 and that had not yet been distributed to tenants.

In compliance with this ruling, Blair D. Johanson (defendant's son) served a declaration on December 8, 2005, that set forth the total amount of refunds that had been issued to tenants of Kimballs Mobile Home Park (Kimballs), including complainant Prado. Prado submitted a letter objecting that defendants' response was inadequate. Defendants provided two additional declarations by Blair D. Johnson to address these objections, and the matter was resubmitted on January 4, 2006.

Public Utilities Code Section 739.5, subdivision (a), requires mobile home park owners who provide gas and electric service to their tenants through a submetered system to charge the tenants the same rates the serving utility would charge for comparable services. Consequently, the rates the defendant is obligated to charge tenants in the mobile home parks involved in this matter are those of PG&E, the serving utility. If an owner overcharges or undercharges tenants for service, subsequent adjustments must be made to the tenants' bills on the same basis as if the serving utility billed them directly, meaning that the owner stands in PG&E's shoes in this respect. Typically, owners provide refunds

in the form of credits to their tenants' monthly rent statements, but sometimes cash refunds are made.

Complainants are present and past tenants two mobile home parks owned by defendant Johanson, both located in San Pablo. Utility service is provided to the tenants of both parks by means of submetered distribution systems, and the defendant adds the charges for utilities to the tenants' monthly bills. The tenant billings are in actuality prepared and sent to the tenants by a third party, Park Billing Co. (Park).

The complainants allege that for the years 2001 through 2004 the defendant failed to pass through to tenants the full amount refunds the defendant received from PG&E. At the hearing, the complainants were unable to specify precisely what the total amount of the unpaid refunds was, because PG&E's initial response to their subpoena was incomplete. However, Prado testified that she believed the unpaid refunds to the tenants of the two parks could be as much as $5,000.

In response to the filing of the complaint, Blair D. Johanson, who manages the two parks, reviewed all of the PG&E bills and refunds for the period in question. He found one month, September 2003, for which full refunds had not been made to the tenants, and conceded at the hearing that defendant consequently still owes approximately $566 to tenants. He testified that this refund would be made to the tenants without delay. He did not believe any additional amount was due, but he could not ascertain the total amount of refunds that had already been credited to the tenants, because the records of

account were in Park's custody.[1] Blair Johanson and the defendant both represented at the hearing that they were willing to pay any additional refunds that might be due, as demonstrated by PG&E's records and the records of Park.

Exhibit 3, which is a reliable compilation of PG&E's refunds to defendant from 2001 through 2004, shows that the total refund amounts were $2,579.82 for Kimball's, and $5,157.60 for Circle S Mobile Home Park (Circle S). However, this exhibit does not indicate how much of the refunds defendant subsequently paid out to the tenants of the two mobile home parks. Blair Johanson's declarations state that refunds of $2,292.95 were paid to tenants of Kimball's and $4,135.32 to tenants of Circle S. Defendant explains that these totals were computed by multiplying the total amount of the refunds received from PG&E times each tenant's allocated percentage share of the total units of electricity actually used.

No refund was paid to complainant Beaulieu, because he allegedly owes defendant approximately $2,500.00 as the result of an unrelated dispute. The tenant of Kimball's space 38 had not received a refund of $30.71 as of the date this matter was submitted because of a pending unlawful detainer action. However, the latter dispute has been resolved, and Blair Johanson states that a $30.71 refund would appear on that tenant's January 2006 rent statement. He also states refunds were made to all "available" tenants of Circle S.

The figures furnished on behalf of defendant still do not fully account for the disposition of all of the refunds defendant received from PG&E. A discrepancy of $286.87 exists in favor of the tenants of Kimball's, and $1,022.28 in

[1] Neither witness testimony nor business records of Park were offered by either party at the hearing.

favor of the tenants of Circle S. Defendant must make these remaining refunds, using the same percentage basis as used to make the initial refunds so that the entire obligation will be discharged. In this connection, defendant should not withhold any refund owed to Beaulieu for the purpose of offsetting an amount claimed to be due, unless defendant does so pursuant to a valid court order or by agreement with Beaulieu.

O R D E R

IT IS THEREFORE ORDERED that:

1. The defendant shall pay to the present and previous tenants of Kimball's Mobile Home Park and Circle S Corral Mobile Home Park the remaining refunds still owed to them in accordance with Public Utilities Code Section 739.5 respectively, $286.87 and $1, 022.28. The amount of each individual refund shall be computed in proportion to the total units of energy used by the individual tenant.
2. Case 05-04-024 is closed.

This order is effective today.

Dated _____, at San Francisco, California.