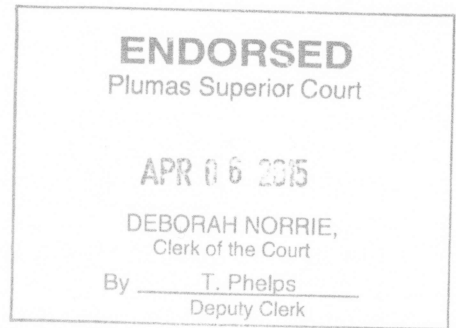


SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLUMAS



Date: April 6, 2015

Hart, Joshua

Plaintiff,

vs.

Plumas Sierra Rural Electric

Defendant.

Case Number: **SC SC15-Q0003**

RULING ON COURT TRIAL

This small claims case came before the Court for trial on March 20, 2015. Plaintiff Joshua Hart (hereinafter referred to as "Hart") and Shelly Yockey, the office manager of the Defendant utility cooperative, Plumas Sierra Rural Electric Cooperative (hereinafter referred to as "PSREC") appeared, testified and presented evidence, and the Court took the matter under submission.

Plaintiff filed a claim against the Defendant for wrongfully disconnecting his electricity, and for \$431.91, representing the costs of supplies he incurred during the outage. Plaintiff's electricity was disconnected on February 19, 2014, as a result of not paying a utility bill for \$229.60 to the Defendant. This bill was calculated on fees for an "opt out policy" adopted by PSREC after replacing Plaintiff's smart meter with an analog meter at Plaintiff's request.¹ Plaintiff testified he never agreed to pay any opt-out fees for changing out the meter and for the monthly charge for PSREC to manually read the meter each month. Plaintiff presented the Court with a letter from his physician, stating that he has a condition, Electromagnetic Field Hypersensitivity, which causes him to suffer from

¹ Plaintiff, however, continued to pay for the electricity he used, up until the power was disconnected by the Defendant.

headaches and other medical symptoms when exposed to radio frequency from smart meters. Plaintiff also provided the Court with a copy of the California Public Utility Code section 453(b), which provides, in part: “No public utility shall prejudice, disadvantage, or require different rates or deposit amounts from a person because of ancestry, **medical condition**, marital status or change in marital status, occupation, or any characteristic listed or define in Section 11135 of the Government Code.” (emphasis added)

Defendant office manager testified that PSREC is a member owned cooperative, and the members sign an agreement that they will abide by the rules and laws of the cooperative. Defendant conceded that at the time Plaintiff requested an analog meter, that PSREC had no policy for charging the fees it now imposes. The policy was voted on by the board on August 28, 2013, and the policy implemented a fee in the amount of \$81.22 for the cost of changing out the meter and \$15 per month for reading the meter. Plaintiff was subsequently charged for this fee. Defendant did confirm that there were members that were not charged a monthly fee, as they lived in remote areas and those members are able to self-read the meter.

Although it is unclear whether PSREC is considered a “public utility” subject to the public utility code, as some cooperatives have been found to be “public utilities”, the Court finds that PSREC should be subject to the same non-discrimination policy, and that Defendant has been subjected to an additional fee because of his medical condition. Plaintiff has provided proof of his medical condition that substantiates his claim that Defendant’s smart meters cause him to suffer certain medical problems. Defendant did not dispute his medical condition. Nor did Defendant provide the Court with a sufficient basis to refuse Plaintiff’s request to read his own meter without charge, other than to argue

that some customers will cheat on reporting their monthly usage. Defendant, however, has the remedy of cancelling service to those customers that cheat on their usage.

Therefore, the Court finds in favor of the Plaintiff, and orders Defendant to cancel the opt-out fee and monthly fee for reading the analog meter, allowing Plaintiff to self-read the analog meter. This ruling is narrowly applied to the Plaintiff only, due to the fact that the policy was implemented after the meter was changed to an analog meter, and due to Plaintiff's unique medical condition that was substantiated by his physician. The Court will not, however, grant Plaintiff's request for other costs incurred in living without electricity, as there is no basis or legal grounds for recovering these costs.

Dated: April 6, 2015



Janet A. Hilde
Judge of the Superior Court

cc: Joshua Hart,
Plumas Sierra Rural Electric, 73233 State Route 70, Portola, CA 96122