

ORIGINAL

Decision No. 50135

In the summer of 1953 complainant Armstrong underwent the
BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GEORGE H. ARMSTRONG, }
Complainant, }
vs. }
PACIFIC GAS AND ELECTRIC COMPANY, }
a corporation, }
Defendant. }

Case No. 5519

Norman S. Menifee, for complainant.
Ralph W. DuVal and John C. Morrissey, for
defendant.
Paul A. McCarthy, City Attorney, for the
City of Belmont.
J. T. Phelps, for the Commission staff.

O P I N I O N

Complainant brought this proceeding against Pacific Gas and Electric Company for the purpose of obtaining an order from the Commission requiring the utility to install a meter and furnish him with electric current. Defendant filed a written answer contending that it was not legally justified in furnishing the complainant with service and that the Commission is without jurisdiction to order it to do so.

Hearings were held on the matter before Commissioner Potter and Examiner Power at San Francisco on March 24, 1954 and before the examiner alone at Belmont on April 26, 1954.

At these hearings evidence was presented by complainant, a retired electrical contractor, and by a neighbor in complainant's behalf; by three employees in behalf of Pacific; and by four officials of the City of Belmont, in which city complainant's house is located. There is no substantial conflict in the evidence and from it the following facts appear.

elevation from the door of Armstrong's garage to the street in front of it. City officials seem to have objected from the start to the manner in which Armstrong proposed to construct his driveway. The drop is quite steep and for that reason is often referred to as a "ramp." The dispute between complainant and city officials over the construction of this driveway had not been resolved at the time application was made for electric service. The evidence shows that it was this disagreement about the driveway and not the condition of the electric wiring in the house that induced the appropriate city officials to refuse final clearance to the building, and in particular to the electric wiring.

The parties seemed to be of the opinion that there was a conflict in this case between State and local jurisdiction over the matter of electric wiring. The facts as we see them, however, do not reveal such a conflict. The evidence shows, for example, that the wiring complies with the local ordinance applicable to that subject. For that reason there seems to be no reason arising out of the local regulation which would prevent the utility from carrying out its duty to serve Armstrong. It is obvious and we so find that, at the time the inspectors declared themselves finished with their duties at this house and so notified their superior, there was no remaining reason why electric service should not be furnished to the complainant by defendant.

The question of the Commission's jurisdiction was urged by counsel for defendant and by the City Attorney. Neither cited any authority for his position. We hold that the Commission does have jurisdiction to grant complainant the relief he here seeks.

There is no merit in the contention that we do not have the necessary
 (1)
 authority:

The complainant has been deprived of service to which he was and is entitled for a period of several months; consequently, we will make this order effective as of its date.

O R D E R

A complaint having been filed, and answered, public hearings having been held thereon, the matter having been argued and submitted, and the Commission being of the opinion and finding that complainant is entitled to receive electric service at his residence located at No. 1 Virginia Avenue in the City of Belmont, San Mateo County, from the defendant herein,

IT IS ORDERED that defendant shall, within five days after the effective date of this order, install an electric meter and thereafter begin and continue to render electric service to complainant in accordance with its filed rates, rules and regulations.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 7th
 day of June, 1954.

Edward E. Mitchell
 President
Justus J. Caserio
Benjamin P. Potter
Gene Higgins

Commissioners

(1) Const. of Calif., Art. XII, Sec. 23; Public Util. Code, Secs. 701, 702, 761, 1702; Pacific T. & T. Co. v. Eshleman (1913) 166 Cal. 646; Bay C.T. Co. v. Los Angeles (1940) 16 C.2d 772; Los Angeles R. Corp. v. Los Angeles (1940) 16 C.2d 779.