

ORIGINAL

Decision No. 67451

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Edward J. Zucchero,

Complainant,

vs.

Dyke Water Company, a corporation,
Box 68, Garden Grove, California.

Defendant.

Case No. 7594
Filed April 15, 1963Edward Joseph Zucchero, complainant.
Dyke Water Company, by Chris S. Rellas,
defendant.OPINION AND ORDER

Complainant seeks an order directing defendant to refund the sum of \$76 paid defendant by complainant for water service rendered at 13311 Iowa Street, Westminster, complainant alleging that the bill therefor is unlawful.

Defendant denies the allegations of the complaint and as an affirmative defense alleges that the Commission does not have jurisdiction of the subject matter of the complaint.

Public hearing in the matter was held before Examiner Emerson on July 2, 1963, at Los Angeles.

In December 1962 or January 1963 (complainant is not sure which) complainant received two bills from defendant. One set forth an amount of \$60 for 12 months' service to complainant's swimming pool. The other, in the total amount of \$16, covered advance billing of two months' service for the swimming pool at \$5 per month and two months' flat rate residential service at \$3 per month, the two months'

billing being for January and February 1963. Complainant paid these bills.

Effective February 1, 1963, defendant's tariff covering flat rate residential water service was modified so as to eliminate therefrom any charge for swimming pools. The bill which defendant rendered to complainant for the billing period March and April 1963 was for a total amount of \$6 but carried a credit notation of \$5 (for applying the prior payment of the \$5 swimming pool charge for February to the flat rate charge) and showed a net amount due of \$1. Complainant paid this bill.

Complainant, relying primarily on newspaper accounts of this Commission's Decision No. 64838 in Case No. 7493 (issued January 22, 1963 and effective February 1, 1963) sought a refunding of \$76 from defendant. Failing to receive the same, he filed the complaint herein.

The evidence discloses that complainant had received water service for his swimming pool for a period of about three years but that prior to the billing here in question he had not been aware that defendant's tariffs contained a separately stated charge for service to swimming pools. The particular bill which he paid, but now seeks to have refunded, was for service actually rendered by defendant during the calendar year 1962. For such service, defendant had an effective tariff on file with this Commission. Although the Commission, in Decision No. 64838, eliminated the \$5 swimming pool rate, based on evidence that it would be unreasonable for the future, complainant presented no evidence herein which would indicate that that rate was unreasonable in 1957, when approved by the Commission, or during 1962, the year in which the service in question was rendered.

The Commission finds that the complainant has failed to prove that the swimming pool rate was unreasonable or unlawful during the period covered by the disputed billing. The Commission concludes that the complaint should be dismissed.

IT IS ORDERED that Case No. 7594 is hereby dismissed.

Dated at San Francisco, California, this 30th day of JUNE, 1964.

[Signature] President
[Signature]
George G. [Signature]
Fredrick B. [Signature]
 Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.