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ORIGINAL

Decision No. 74611

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THOMAS Q. CHAPMAN, Complainant, vs, SAN DIEGO GAS AND ELECTRIC CO., Defendant,	Case No. 8730 (Filed November 28, 1967)

Thomas Q. Chapman, in propria persona, complainant.
Chickering & Gregory, by Donald J. Richardson, Jr. and C. Hayden Ames, for defendant.
N. R. Johnson, for the Commission staff.

O P I N I O N

Complainant requests an order (1) requiring defendant to cease and desist from its selective practices in placing the electrical energy requirements of businesses operated in homes on its general service rate schedules and (2) requiring defendant to define "domestic service" in Rule 1, Definitions, of its filed tariff schedules. Defendant denied the material allegations concerning such selective practices.

The matter was heard and submitted before Examiner Main on April 5, 1968 at San Diego.

Background and Nature of Complaint

In 1960 complainant applied for electric service to his home and sometime later moved a beauty shop operated nearby by his wife to his home. The beauty shop is listed in the Classified telephone directory and has a business telephone. Its electric

load consists of two 890-watt hair dryers, one 150-watt light, one hi fi installation, and, perhaps in summer months, a room air conditioner.

The beauty shop, as a commercial load on a residential meter, came to defendant's attention through one of its claim representatives who called upon complainant at his home concerning a claim for damages to complainant's TV and radio equipment which had been exposed to a surge of excess voltage as the result of an impairment in defendant's circuitry.

Since 1929 it has been defendant's consistent position that its electric domestic service rate schedules (Schedules D) are not applicable to non-domestic loads other than those which qualify as welder service or incidental farm service pursuant to special conditions therein. Hence, for a home-operated business, defendant requires that the electric light, heat or power for commercial activity be separately metered or, if combined with domestic use, that the entire use be billed on the general service rate schedules (Schedules A).

Complainant asserts that Schedules D, through their special condition relating to incidental farm service, unjustly and unfairly discriminates against home-operated businesses in favor of farms; that defendant does not place all home-operated businesses on Schedules A but practices an undisclosed selectivity in such placement; that the term "domestic service" as used in Schedules D is not defined in defendant's filed rules applicable to electric service.

Incidental Farm Service

The applicability clause of Schedules D reads as follows:

> "Applicable to single phase domestic service for lighting, heating, cooking, water heating, and power, or combination thereof, in single family dwellings,flats, apartments, and bungalow court units, separately metered by the utility; to common use service under Special Condition (b); to multi-family accommodations under Special Condition (d); and to incidental farm service under Special Condition (e)."

Special Condition (e) of Schedules D reads as follows:

> "Incidental Farm Service. Incidental farm service used in the production of farm crops and produce will be supplied under this schedule when combined with domestic service and supplied through the same meter as the domestic service for the farm operator's residence, provided the transformer capacity required for the combined load does not exceed twice the normal capacity required for the single-family domestic load of that residence."

Schedules D were made applicable to incidental farm service pursuant to Decision No. 53528 dated August 3, 1956, in Application No. 36579, from which decision we quote:

> "Applicant has not permitted and does not now propose the combination of service for commercial operations with domestic service, under the guise of incidental farm use. Incidental farm use would not include installations which, due to size or use, are primarily commercial in character, as for example large hatcheries and dairies, or where electricity is used in the processing or retail selling of products. Applicant's proposed method of determining which load is incidental farm use is to limit the transformer capacity to twice that required for the domestic load alone."

We note the distinction drawn between production, on the one hand, and processing or retail selling, on the other, in the above quotations. We also observe an obvious dissimilarity between farms and home-operated businesses generally, that is, the former are by their nature in rural areas mostly whereas the latter are not.

Whether conditions and circumstances justify home-operated businesses receiving the same rate treatment as farms is a question of fact; the complainant has failed, however, to develop on this record the conditions and circumstances, similar or otherwise, necessary to determine that fact. Thus, complainant has not sustained the burden of proof. Also, it appears that perhaps a more appropriate concern as to discrimination would arise if home-operated businesses were placed on Schedules D while their non-home-operated counterparts or competitors were retained on Schedules A.

Enforcement

To enforce its practice of not permitting commercial loads to be served on Schedules D, defendant relies primarily upon its processing of new applications for service and upon its computers, which have been programmed to pick up marked changes in a customer's use of electricity. In addition, defendant's meter-readers and certain other personnel are under instructions to report possible commercial loads on residential meters which they may encounter. On this record complainant has failed to show that defendant practices an undisclosed selectivity in placing home-operated businesses on Schedules A.

Definition of "domestic service"

Defendant contends that "domestic service" as used in the applicability clause of Schedules D, which has been set forth hereinabove, is clear in the context in which it is used and thus as a practical matter is so defined.

In the appendix to Rule 20, Line Extensions, of defendant's filed tariff schedules, numerous definitions are set forth, including one of "domestic service" which reads as follows:

> "Domestic Service: Service for residential use at a dwelling premises. Any service for other than residential use at a dwelling premises may be served through the domestic service meter only where such nondomestic connected load does not exceed 300 watts for lighting or 2 hp for power."

The definitions in said appendix were filed pursuant to the following ordering paragraph in Decision No. 59801 dated March 22, 1960, in Case No. 5945 (Investigation into Extension Rules of Natural Gas and Electric Utilities):

> "3. Each respondent shall revise its definitions of tariff terms to include (preferably in Rule No. 1) the appropriate list of definitions contained in Appendix E, attached hereto, by suitable tariff filing in accordance with General Order No. 96, to be filed and made effective coincident with the filings prescribed by ordering paragraphs 1 and/or 2 above."

Defendant contends that these definitions were placed in Rule 20, which was permissible, to avoid an adverse effect on defendant's earnings position; that had it been required to file the definitions in its Rule 1, it might have been forced to appeal the decision in Case No. 5945; that the definitions apply only to its Rule 20.

It is obvious that most of these definitions would serve equally well throughout defendant's filed tariff schedules; however, the second sentence in the definition of "domestic service" is an exception, since it is incompatible with the manner in which defendant has applied Schedules D for many years both before and after the definitions were filed as an appendix to its Rule 20.

Southern California Edison Company placed these definitions in its Rule 1, Definitions, and applies them throughout its tariff schedules; Pacific Gas and Electric Company placed the definitions in its Rule 15, Line Extensions. The record indicates that Pacific Gas and Electric Company does not use the definition of domestic service in its Rule 15 to determine the eligibility for domestic rates; it uses that definition only in applying Rule 15. The record does not disclose the historical application of Southern California Edison Company's domestic service rate schedules to small non-domestic loads at residences.

Defendant estimates that if the definition of domestic service in the appendix to its Rule 20 were used to determine eligibility for domestic rates, it would result in a revenue reduction of $150,000 per year.

Although (1) a definition of "domestic service" in the uniform line extension rule of electric utilities, which is incompatible with the applicability of domestic service rate schedules, is undesirable, and (2) by the above-quoted ordering paragraph from Decision No. 59801, the Commission expressed in effect a preference for the inclusion within domestic service of up to 300 watts for lighting and 2 hp for power of non-domestic loads, the evidence does not indicate that the defendant has failed to comply with the decisions and orders of the Commission in the manner that it is applying and enforcing its filed rate schedules and rules. In the circumstances, we do not consider that this complaint proceeding and its record provide an adequate basis to change either the applicability of defendant's rate schedules or the definitions in its Rule 20.

Findings and Conclusion

The Commission finds that:

1. When electric light, heat or power for commercial activity is required on same premises with domestic use of electricity, defendant requires that such commercial use be separately metered or, if combined with domestic use, that the entire use be billed on the general service schedule.

2. The definition of "domestic service" in defendant's Rule 20, Line Extensions, is not used to determine eligibility for domestic rates; said definition is applicable within Rule 20 only.

3. Without reliance upon the definition of domestic service in defendant's Rule 20, the term "domestic service" as used in the applicability clause of defendant's domestic service schedules cannot be properly construed to include commercial or non-domestic loads.

4. Defendant's domestic service schedules are not applicable to non-domestic loads other than those which qualify as welder service or as incidental farm service pursuant to the special conditions therein.

5. Complainant failed to sustain the burden of proof that defendant's domestic service schedules unreasonably discriminate against home-operated businesses in favor of farms.

6. The evidence indicates that businesses operated in homes are not placed on defendant's general service schedules on an undisclosed selective basis, as complainant asserts, but are so placed on a uniform basis consistent with finding 1 above.

The Commission concludes that the complaint should be dismissed.

C. 8730 MO

O R D E R

IT IS ORDERED that the complaint in Case No. 8730 is dismissed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 27th day of AUGUST, 1968.

William Symons, Jr.
President

Commissioners

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