

GG

Decision No. 81611

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
PUBLIC UTILITIES COMMISSION

Francis H. Ferraro,

Complainant,

vs.

C. Wesley Bird and Jennie C. Bird  
(dba Wesmilton Water System) and  
California Water Service Company,

Defendants.

In the Matter of Petition of  
Francis H. Ferraro for rehearing,  
recission and/or reversal of  
Resolution No. W-1449.

**FILED**  
JUL 17 1973  
SAN FRANCISCO OFFICE  
Case No. 9567  
No. \_\_\_\_\_

Case No.           

ORDER DISMISSING COMPLAINT, REFILING DOCUMENT  
AS PETITION FOR REHEARING AND GRANTING REHEARING

Francis H. Ferraro filed a complaint against C. Wesley Bird and Jennie C. Bird (dba Wesmilton Water Service) and California Water Service Company alleging that action taken with respect to the service area of Wesmilton Water System, together with the Commission's adoption of Resolution No. W-1449, is improper. Complainant requests that the Commission (1) rescind or reverse Resolution No. W-1449; (2) institute an order of suspension and investigation; (3) proceed with a field investigation of the complaint; (4) provide proper protection for complainant and; (6) have its staff "... make an appraisal of a cooperative service."

The complaint as drawn does not state a cause of action within the provisions of Public Utilities Code Section 1702 in that the acts complained of are, in fact, acts done by the Commission and not acts done by a public utility. Thus, pursuant to Rule 12 of the Commission's Rules of Practice and Procedure, the complaint will be dismissed.

However, it is obvious to the Commission from the allegations made by Mr. Ferraro that the relief sought is a rehearing of Resolution No. W-1449. Thus, the ensuing order will direct a refiling of the dismissed complaint as a petition for rehearing of Resolution No. W-1449.

After considering each and every allegation in said petition for rehearing the Commission is of the opinion that good cause for rehearing has been made to appear.

IT IS ORDERED that:

1. The complaint is dismissed for failure to state a cause of action.
2. The Secretary is directed to refile the complaint as a petition for rehearing of Resolution No. W-1449.
3. Rehearing of Resolution No. W-1449 is hereby granted, said rehearing to be held before Examiner Banks in the Commission Courtroom, State Building, 350 McAllister Street, San Francisco, California, on July 27, 1973 at 10:00 a.m. at which time and place all interested parties may appear and be heard.
4. The Secretary shall forthwith serve certified copies of this decision by registered mail upon Francis H. Ferraro, 5355 N. Marcoa, Fresno, California, 93704; C. Wesley Bird and Jennie C. Bird, 617 Pine Avenue, Fresno, California, 93728; California Water Service Company, 1720 North First Street, San Jose, California, 95112; John B. Howard, Mayor, City of Selma, 1814 Tucker Street, Selma, California, 93662; Christen C. Jensen, 2504 Logan Street, Selma, California, 93662; and Rite Development Corporation, 1816 E. Front Street, Selma, California, 93662.

Dated at San Francisco, California, this 17th day of JULY, 1973.

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

Vernon L. Sturgeon  
President

[Signature]  
Commissioners

[Signature]  
[Signature], Commissioner