

KJ

Decision No. 83084

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Carl F. Brasek

Complainant,

v.

San Diego Gas & Electric Company

Defendant.

ORIGINAL

Case No. 9724

ORDER OF DISMISSAL

Complainant is a gas and electric customer of defendant.

Complainant alleges that the rate structure of defendant is such that the unit cost to him of a kilowatt hour of electricity or a therm of natural gas is increased as he reduces his consumption of these commodities. Complainant does not take issue with the reasonableness of the total earnings of defendant, but only the system of charges under existing tariffs which appears to complainant to penalize a customer for lowering his energy consumption. Complainant asks that the tariff charges of defendant be readjusted, without reducing defendant's present earnings level, so as to provide an incentive to the small user of energy to make conservation efforts.

Section 1702 of the Public Utilities Code provides, in part:

"...No complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water, or telephone corporation, unless it is signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city or city and county within which the alleged violation occurred, or by not less than 25 actual or prospective consumers or purchasers of such gas, electricity, water, or telephone service."

The Legislature has restricted the jurisdiction of this Commission to consider complaints concerning the reasonableness of rates by utility customers unless they are signed by at least 25 actual or potential consumers. Complainant was the sole signatory to this complaint. Thus the Commission is without jurisdiction to entertain the complaint, and it must be dismissed.

Complainant's assertion, in his response to the Commission's letter giving him an opportunity to amend his complaint, that he does not dispute defendant's rate of return does not save his complaint. Section 1702 makes reference to "...any rates or charges..." not the total earnings of the utility. Were complainant successful in his complaint a total restructuring of defendant's tariffs would be required.

Complainant is not without a remedy. He may bring the issue of rate spread among the classes of customers before the Commission in any rate application or investigation involving defendant. He may also attempt to interest other actual or potential customers of defendant to join him in a complaint, or induce the appropriate municipal officials to sign such a complaint. However, under existing law, the Commission has no discretion in this matter.

FINDINGS:

1. Complainant has filed a complaint challenging the reasonableness of defendant's existing rates and charges for gas and electricity.

2. The complaint was not signed by at least 25 potential or actual customers or by the appropriate municipal authorities, as outlined in Section 1702 of the Public Utilities Code.

CONCLUSIONS:

The complaint must be dismissed for noncompliance with the jurisdictional provisions of Section 1702 of the Public Utilities Code.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 2nd. day of JULY, 1974.

Vernon L. Sturgeon  
President  
William Synovis Jr.  
[Signature]  
[Signature]  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.