

Decision No. 83906**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

H. H. CAMERON,

Complainant,

vs.

Case No. 9812

SOUTHERN CALIFORNIA EDISON COMPANY,

Defendant.

ORDER OF DISMISSAL

Complainant has filed a complaint nearly identical to the complaint filed in Case No. 9592. Both complaints concern the sound level of defendant's facilities. The first three pages of the present complaint are verbatim repetition of the issues raised in Case No. 9592. The requested relief is identical to that requested in Case No. 9592. The following additional statements are included in the present complaint:

"I took into consideration all possible factors of noise elimination when I purchased my home. I was amazed to discover that the defendant would be allowed such a relocation of utilities from a Business district 9 blocks away to a residential area, and also adding a large transformer (1 st pole west of my home, July, 1973) and removing the small transformers and 4 K.V. Wires, when they were aware of my sensitive hearing. Why add more noise!

"Enclosed are letters which refer to the wires not being connected to any wires by the front and side of my home.

"Why were they not honored?

"I cannot afford to move and have tried every alternative, without receiving relief. My health is being ruined from the constant hum. I need prompt Action, Now!"

Case No. 9542 was the subject of a complete hearing on December 3, 1973 and the requested relief was denied on March 12, 1974 (Decision No. 82559). A petition for reconsideration was denied on April 30, 1974 (Decision No. 82814).

By letter dated October 30, 1974, defendant points out that the present complaint is identical to the complaint filed in Case No. 9592 and that the additional paragraphs cover matters which were testified to at the hearing of Case No. 9592.

Complainant was advised on November 6, 1974, of defendant's claim that the same factual matter had been previously litigated and that if this claim were correct and there were no new facts or changed circumstances alleged in her complaint, the complaint must be dismissed.

Complainant's response on November 19, 1974, captioned Amendment to Complaint, contends that the complaints were not identical because:

1) Exhibits Nos. 1, 2 and 3 presented in Case No. 9592 were not noted in the index or read into the transcript.

2) Enclosures sent with her present complaint should be acted upon.

3) She was not informed of the physical connection before the transformer was moved.

4) No instrument reading was taken inside her home after new meters were installed.

No additional facts were alleged.

After study of the complaint and amendment to complaint, the Commission cannot discern any new facts or changed circumstances that were not brought out at the hearing in Case No. 9592. Exhibits Nos. 1, 2 and 3 were received into evidence at the hearing and are a part of the case file. Attachments to the present complaint consist of copies of

these exhibits and copies of sound level measurements. Both were discussed at the hearing in Case No. 9592, which resulted in Decision No. 82559. This present action is really a collateral attack on Decision No. 82559, since it is based on the same facts. As such, the provisions of Public Utilities Code 1709 apply, "In all collateral actions or proceedings the orders and decisions of the Commission which have become final shall be conclusive."

Items 3 and 4 above do not present new facts but are simply reiterations of material previously considered. We must, therefore, dismiss this complaint.

IT IS ORDERED that the complaint herein is dismissed.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this
30th day of DECEMBER, 1974.

Vernon L. Sturgeon
 President
William Synovis J.
Thomas Moran
Robert E. McDavid
 Commissioners