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Decision No. 83951

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GAETANO (DAN) SALVO,

Complainant,

vs.

SOUTHERN CALIFORNIA EDISON CO.,

Defendant.

Case No. 9814

ORDER OF DISMISSAL

Complainant alleges that defendant Southern California Edison Company (SCE) has willfully committed acts of harassment, nuisance, and discriminatory service, and has failed to provide and assure adequate, dependable, just and reasonable service.

Complainant asks for the following relief:

"COMPLAINANT REQUESTS AN ORDER:

1. Granting the complainant the original charge of \$58.27 [damages during disconnection, i.e. spoiled food];
2. Granting in addition thereto, the costs of this suit, \$30.00;
3. And granting further, for exemplary damages, the trebling of the foregoing charge and costs; and
4. A statement of assurance of continuous electric service, without interruption unless with apparent good cause."

No point would be served by detailing the allegations of the complaint, which include a one-day disconnection of service, or SCE's letter of apology and offer of settlement, which are appended as exhibits to the complaint.

Items 1 through 3 of complainant's prayer seek compensatory and exemplary damages. Such actions are permitted

under Section 2106 of the Public Utilities Code, as follows:

"Any public utility which does, causes to be done, or permits any act, matter, or thing prohibited or declared unlawful, or which omits to do any act, matter, or thing required to be done, either by the Constitution, any law of this State, or any order or decision of the commission, shall be liable to the persons or corporations affected thereby for all loss, damages, or injury caused thereby or resulting therefrom. If the court finds that the act or omission was wilful, it may, in addition to the actual damages, award exemplary damages. An action to recover for such loss, damage, or injury may be brought in any court of competent jurisdiction by any corporation or person.

"No recovery as provided in this section shall in any manner affect a recovery by the State of the penalties provided in this part or the exercise by the commission of its power to punish for contempt."  
(Emphasis supplied.)

However, such actions must be brought in a civil court. This matter was conclusively determined in Vila vs. Tahoe Southside Water Utility, 233 C.A.2d 469, 479 (1965):

"But section 2106 is the only statutory authority for recovery, by a person injured, of damages compensatory and exemplary. The commission has no authority to award damages." (Emphasis supplied.)

Therefore, we must dismiss items 1 through 3 of the prayer for lack of jurisdiction.

Item 4 of the prayer requests assurance that defendant will provide "continuous electric service without interruption unless with apparent good cause." This is an obligation already imposed on defendant as a public utility, pursuant to Section 451 of the Public Utilities Code:

"451. All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable

charge demanded or received for such product or commodity or service is unlawful.

"Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.

"All rules made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable."




If complainant believes that his service, at some time in the future, is not adequate he may bring an action before this Commission. His rights would not be enhanced by an order of the type requested, and there is no allegation of present interruption of service.

The Commission concludes that Items 1 through 3 of the prayer request relief beyond the jurisdiction of the Commission to grant. It further concludes that Item 4 of the prayer seeks protection already afforded to complainant pursuant to Section 451 of the Public Utilities Code, and the complaint does not state facts indicating a present cause of action.

IT IS ORDERED that the complaint herein must be dismissed.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 7th day of JANUARY, 1971.

  
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President  
  
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Commissioners