

Decision 89 12 034 DEC 1 8 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

David M. Gurewitz,)
)
 Complainant,)
)
 vs.)
)
 Southern California Gas)
 Company (U 904 G),)
)
 Defendant.)

ORIGINAL

Case 88-03-064
(Filed March 29, 1988)

ORDER OF DISMISSAL

By letter dated August 17, 1989, David M. Gurewitz (complainant) requested dismissal of his complaint, without prejudice.

Southern California Gas Company (SoCalGas), by letter dated August 22, 1989, opposed the request. SoCalGas argued for dismissal with prejudice.

We are guided by the Code of Civil Procedure which states:

"§ 581. Dismissal

"An action may be dismissed in the following cases:

"1. Plaintiff. By plaintiff, by written request to the clerk, filed with the papers in the case, or by oral or written request to the judge where there is no clerk, at any time before the actual commencement of trial, upon payment of the costs of the clerk or judge; provided, that affirmative relief has not been sought by the cross-complaint of the defendant, and provided further that there is no motion pending for an order transferring the action to another court under the provisions of Section 396b. If a provisional remedy has been allowed, the undertaking shall upon such

dismissal be delivered by the clerk or judge to the defendant who may have his action thereon. A trial shall be deemed to be actually commenced at the beginning of the opening statement of the plaintiff or his counsel, and if there shall be no opening statement, then at the time of the administering of the oath or affirmation to the first witness, or the introduction of any evidence." (CCP §581, emphasis added.)

Since complainant has requested dismissal before this case has gone to hearing, the Commission concludes that this case should be dismissed without prejudice.

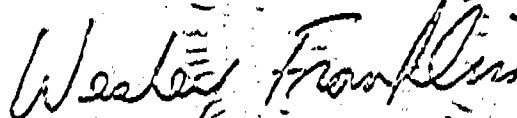
IT IS ORDERED that Case 88-03-064 is dismissed without prejudice.

This order becomes effective 30 days from today.

Dated DEC 18 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN S. OHANIAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.



WESLEY FRANKLIN, Acting Executive Director