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Decision 91-11-051 November 20, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Peter J. H. Walker,)
)
 Complainant,)
)
 vs.)
)
 Southern California Gas Company,)
)
 Defendant.)

ORIGINAL

(ECP)
Case 90-08-063
(Filed August 29, 1990)

O P I N I O N

Complainant, Peter J.H. Walker, alleges that defendant, Southern California Gas Company, violates its obligation to provide a baseline allowance for residential heating by refusing to apply the allowance for his gas fireplace equipped with radiant heat-emitting artificial logs. Walker deposited at the Commission the \$27 in dispute. Walker requests that the proper baseline allowance be credited to the accounts of all customers similarly situated.

Defendant contends that Walker's source of heat is not a permanent source or a "space heating" device within the meaning of Public Utilities Code § 739(a) or Decision 86087. Defendant requests that the complaint be dismissed.

At the evidentiary hearing on October 17, 1990, complainant explained that the gas fireplace is his sole source of heat even though an electric furnace is installed in his apartment complex. The electric furnace is not working in his unit. He stated that he had remodeled the gas logs to be a primary source of heat. Defendant's witness, George William James, testified that on the initial visit to Walker's apartment, the landlord indicated that heating was electric. James believes there was a wall

thermostat. He testified and offered written evidence of a company policy which classifies gas logs as "decorative" and not a primary or efficient source of space heating.

At the end of the proceeding, the assigned Administrative Law Judge requested the parties to submit a picture of the gas log fireplace in dispute. Subsequently, several photographs were submitted. However, defendant explained they were of an adjacent apartment and not the unit previously occupied by Walker. Walker objected to the receipt of these photographs into evidence. We sustain Walker's objection.

We conclude that Walker's use of the gas logs as a primary source of heat in the absence of an operable primary source of heat does not meet the requirements of § 739(a). There is little dispute that there is an electric furnace serving the apartment complex which was inoperable in Walker's unit for the period billed. Under these circumstances where the primary source is temporarily inoperable, unless the furnace is completely removed, it remains the primary source of heat. We also agree that the utility should not encourage customers to use known inefficient sources of space heating on a permanent basis by applying the baseline allowance to such sources.

ORDER

IT IS ORDERED that this complaint is denied and the Fiscal Office is directed to disburse funds on deposit with the Commission to defendant.

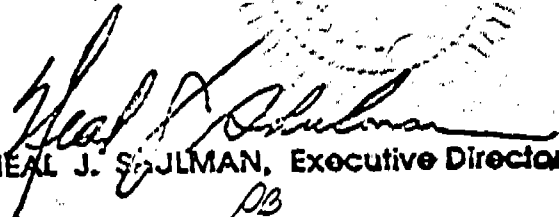
This order is effective today.

Dated November 20, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.

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


NEAL J. SPILMAN, Executive Director
PS