

ORIGINAL

Decision 82 07 099 July 21, 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Dennis E. Hansen, Geraldine Hansen, et al.,
 Complainants,
 vs.
 Pacific Gas & Electric Co.,
 Defendant.

Case 11014
(Filed August 10, 1981)

O P I N I O N

Introduction

Dennis E. and Geraldine Hansen (complainants) reside in Atascadero and care for 12 handicapped and foster children. As part of physician-prescribed therapy, complainants have installed a used above-ground pool, heated to 110 degrees, for use and exercise by the children. Furthermore, the developmentally delayed children are extremely prone to respiratory problems and cannot maintain their health in an unheated home.

Complainants claim that current lifeline allowances fail to recognize the distinct needs of a household such as theirs and discriminate against "special-needs" children by failing to acknowledge and accommodate their unique requirements. Complainants allege that they have to pay 118% higher rates than people who have only two or fewer children. As further evidence of discrimination, complainants note that residents of the San Joaquin Valley are given higher air-conditioning lifeline allowances than residents of Atascadero even though Atascadero is subject to more extreme seasonal temperature variations.

Complainants ask the Commission to quadruple their lifeline allowance to 1,760 kilowatt-hours (kWh) to reflect the number of people residing in their household. They further request the same lifeline allowances provided to San Joaquin Valley residents and an additional allowance for the pool pump and electric appliances used in running their large home.

In its response, Pacific Gas and Electric Company (defendant) states that the relief sought by complainants raises issues concerning (1) per capita rates, (2) the air-conditioning lifeline allowance, and (3) operating a pool for medical reasons. Defendant points out that the subject of per capita rates has been raised by the Commission staff (staff) in Exhibit 4 in Order Instituting Investigation (OII) 77 as a subject for further investigation. Furthermore, defendant notes that in Decision (D) 93317 dated July 22, 1981 in OII 77, the Commission set a lifeline allowance for electric residential air-conditioning for the area in which complainants reside. While the allowance set is less than that applicable to residents of the San Joaquin Valley, it is based on energy usage and weather data supported by the record in that proceeding. Concerning complainants' request for an extra allowance for running their swimming pool pump, defendant contends that its tariffs do not provide for an additional lifeline allowance under the circumstances set forth in the complaint.

It is defendant's position that the relief requested by complainants raises issues which have been the subject of other Commission proceedings; they are not the proper subject of a complaint proceeding.

Discussion

The instant complaint seeks Commission authorization of additional lifeline allowances to enable complainants to provide an affordable, healthy, and secure environment for foster and handicapped children under their care. Seemingly, it would be in the interests of a progressive and benevolent society to encourage individuals, such as complainants, to provide a service which ultimately benefits all members of that society. Unfortunately, it is not within the province of the Commission to determine which class of individuals or which types of activity should be encouraged through economic incentives. Such a decision is most properly made by the Legislature, our elected representatives.

Essentially, the complaint presents the following two issues:

1. Should residents of Atascadero, such as complainants, receive the same lifeline air-conditioning allowances as residents of the San Joaquin Valley?
2. Are the current lifeline allowances discriminatory in their failure to acknowledge the special needs of complainants' household and to grant allowances on a "per capita" basis?

The first issue is the subject of extensive proceedings in OII 77. The stated purpose of OII 77 is to establish, on a statewide basis, fair, efficient, credible, understandable, and consistent lifeline volumes of gas and quantities of electricity for space cooling. In doing so, consideration will be given to differentials in energy needs caused by geographic and climatic differences.

With respect to the second issue, our response, while unsatisfying to complainants, is straightforward and simple. The Legislature in mandating the establishment of lifeline allowances did

not provide for "per capita" allowances. In D.86087 dated July 13, 1976 in C.9988, the Commission carefully interpreted Public Utilities (PU) Code § 739(a), the portion of the lifeline statute mandating lifeline volumes and quantities.¹ The key terms "necessary," "minimum," "average," "residential," and "user" were examined in detail and definitions consistent with the Commission's perception of the Legislature's intentions were selected. Irrespective of the worthiness of complainants' request, we are bound by the clear language of the statute which calls for lifeline allowances necessary to supply the minimum needs of the average residential user. No provision or allowance is made for size of family. We cannot unilaterally carve out an exception for complainants. Such an action would not only usurp the power of the Legislature but would also place the Commission in the untenable position of legislating which competing classes of residential users, i.e., the handicapped, the poor, the sick, etc., should be favored with economic relief in the form of reduced rates. This determination is appropriately reserved to the Legislature.

¹ "739. (a) The commission shall designate a lifeline volume of gas and a lifeline quantity of electricity which is necessary to supply the minimum energy needs of the average residential user for the following end uses: space heating and cooling, water heating, lighting, cooking, and food refrigerating. In estimating such volumes and quantities, the commission shall take into account differentials in energy needs between utility customers whose residential energy needs are supplied by electricity and gas. The commission shall also take into account differentials in energy needs caused by geographic differences, by differences in severity of climate, and by season."

While we cannot grant the relief requested by complainants, we can suggest an alternate approach which could reduce complainants' monthly bill. Currently, complainants receive service under the domestic schedule D-IXC which is the residential rate schedule for their type of usage. If complainants were billed on an alternate schedule, A-1, which covers general service, they could realize about a 10% annual saving on their energy bill. To qualify for the general service schedule, complainants would need to claim that their residence is a commercial enterprise. This could be accomplished by a statement that complainants receive revenue for the care of foster children and other related business activities. We recommend that complainants and defendant explore this alternative.

Based upon all of the foregoing, we will deny C.11014.

Findings of Fact

1. Complainants reside in Atascadero and provide care for 12 handicapped and foster children.

2. Complainants do not receive any additional lifeline allowances beyond the minimum average allowances authorized by the Commission.

3. OII 77 is a statewide investigation to establish fair and workable lifeline allowances for space cooling on a statewide basis.

Conclusions of Law

1. The Legislature in mandating the establishment of lifeline allowances did not provide for such allowances on a per capita basis.

2. Complainants should address their request to the Legislature for increased lifeline allowances which reflect their special needs.

3. C.11014 should be denied since it requests relief which is beyond the scope of proper Commission action.

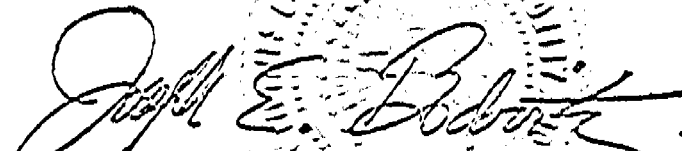
O R D E R

IT IS ORDERED that the complaint in C.11014 is denied.
This order becomes effective 30 days from today.
Dated Jul 21 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

Commissioner Leonard M. Grimes, Jr.,
being necessarily absent, did not
participate.

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


Joseph E. Bodovitz, Executive Director

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Complainants claim that current lifeline allowances fail to recognize the distinct needs of a household such as theirs and discriminate against "special-needs" children by failing to acknowledge and accommodate their unique requirements. Complainants allege that they have to pay 118% higher rates than people who have only two or fewer children. As further evidence of discrimination, complainants note that residents of the San Joaquin Valley are given higher air-conditioning lifeline allowances than residents of Atascadero even though Atascadero is subject to more extreme seasonal temperature variations.

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