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Decision No. 89120 JUL 25 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BRYAN R. EAGAN, Complainant, vs. SAN DIEGO GAS & ELECTRIC COMPANY, Defendant.	(ECP) Case No. 10526 (Filed March 21, 1978)

Bryan R. Eagan, for himself, complainant,
James Stobb, for defendant.

OPINION AND ORDER

The complainant requests an order that he be granted reparation in the amount of $42.27 which represents the difference between the rate that he was billed and had paid, and the rate he should have been billed under the additional lifeline rate allowances he feels he was entitled to during the period from December 1, 1976 through January 3, 1978 for electric energy consumed. In addition, the complainant requests that the defendant be ordered to renotify its customers of the availability of additional lifeline allowances.

The defendant denies that the complainant is entitled to any reparation and alleges that it mailed a lifeline questionnaire to complainant in September 1976 to determine entitlement to additional lifeline allowances beyond the basic allowance and that complainant failed to respond to said questionnaire.

A hearing was held in San Diego on May 25, 1978 before Administrative Law Judge William A. Turkish, pursuant to Section 1702.1 of the Public Utilities Code and Rule 13.2 (Expedited Complaint Procedure) of the Commission's Rules of Practice and Procedure. The matter was submitted on that date.

The complainant testified that he does not remember ever seeing the September 1976 mailing of the lifeline questionnaire, which the defendant alleges it had mailed to each residential customer, or if he did, he failed to complete and mail it back through oversight. He testified that he learned that he was entitled to an additional lifeline allowance beyond the basic allowance, which the defendant granted to all residential users of electric energy, sometime in late 1977 or early 1978, and feels that the defendant should apply the additional lifeline allowances he is entitled to, retroactive to December 1, 1976. He testified further that, in his opinion, the manner in which the defendant notified its customers of the possibility of additional lifeline allowances was deficient in that many customers throw away the pamphlets and other literature which accompany their monthly bill without reading same because they are considered "junk" material. As a result, he feels a great many customers of the defendant are unaware that they may be entitled to additional lifeline allowances.

The defendant testified that electric energy lifeline allowances were implemented effective January 1, 1977 in accordance with its filed tariffs. According to the defendant's testimony, a Declaration of Lifeline Eligibility pamphlet was mailed to each residential customer in September 1976 in which customers were advised that they would automatically receive an electric lifeline allowance for lighting, food refrigeration, and cooking and that additional lifeline allowances were available for electric home heating and electric water heating upon the completion and return

of the declaration within 15 days. The mailing of such declaration to its customers was ordered by the Commission in D.86087 and D.86572. In addition, the defendant mailed a lifeline question and answer pamphlet to all of its residential customers in February and March 1977 which described monthly lifeline allowances and informed its customers to contact the defendant if a customer believed his or her lifeline allowance was incorrect or if the customer had failed to return the September questionnaire/declaration to the defendant. The defendant contends that it cannot grant the complainant additional lifeline allowances prior to the complainant's notification to the defendant that he was entitled to the additional allowance for the electric water heater and electric space heater in his home as this would amount to discrimination and a preferential rate reduction in violation of its filed tariffs. The defendant testified that its nonlifeline rates increased in July 1977 and that if the complainant was determined to be entitled to a retroactive refund, it would amount to $17.89 which represents the difference between basic lifeline and additional allowances, for 8,760 kilowatt-hours consumed by the complainant for the period in issue.

The defendant was directed to submit a report and analysis of the results of its lifeline questionnaire mailings to its customers following the hearing and such report has been submitted. The report states that the defendant mailed 564,425 lifeline questionnaires to its residential customers in September 1976. This was an "exception" type questionnaire in that only those customers with all-electric service were asked to respond in order to obtain the additional lifeline allowances since the basic allowance was automatically granted to all residential customers. A total of 42,500 residential dwellers responded out of the approximately 50,798 residential customers who have all-electric service and who would be eligible for the additional

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lifeline allowance. This represents an 83 percent response. The defendant feels that its mailings, television spot announcements, and news releases, with the resultant high response, were reasonable and adequate to inform its customers of the lifeline allowances and that it should not be put to the expense of additional mailings to its more than 600,000 residential customers because such cost would be a recoverable expense, causing higher rates to its rate-payers.

Discussion

Application of defendant's Rule No. 3 requires that we deny the requested relief. That rule, amended in response to Decisions Nos. 86087 and 86572 in Case No. 9988, provides, in significant part, that:

> "The utility may require a residential customer, or prospective residential customer, to complete and and file with it a Declaration of Eligibility for Lifeline Rates before lifeline rates are granted for consumption above the basic allowances. If a Declaration of Eligibility for Lifeline Rates is required, then lifeline allowances based on the declaration will become effective for service rendered during the billing period in which the Declaration of Eligibility for Lifeline Rates is filed by the residential customer or the first billing period of a prospective residential customer." (Emphasis added.)

Permitting complainant to enjoy the benefits of additional lifeline allowances for a period prior to "the billing period in which the Declaration...is filed by the residential customer" would result in a violation of defendant's tariff. On this basis alone we must deny relief.

We recognize the fact that in this modern age of mass advertising and its accompanying proliferation of so-called "junk mail," many people discard such items received in the mail without reading the contents. This is the prerogative of the recipient. However, in exercising such prerogative, the recipient runs the risk of discarding information of potential value as well. To grant retroactive benefits to those of the defendant's customers who discarded the defendant's lifeline informational mailings without reading them and who at some later date discover the availability of the additional allowances and demand retroactive allowance of same would be tantamount to absolving the customer of any responsibility which calls for some affirmative action on his or her part and places the entire burden upon the defendant. The basic lifeline allowances were applied automatically without any affirmative action on the part of the customer. However, since at the time only 9 percent of its residential customers were utilizing all-electric residential service out of approximately 564,500 total residential customers and the defendant was unable to identify them, questionnaires were mailed to all 564,500 residential customers and 42,500 customers responded. This represents an 83 percent response from the approximately 50,798 residential customers believed to be all-electric service customers. Additional lifeline information

pamphlets were mailed to all customers in February and March 1977 and the defendant also issued several news releases and purchased television time for its spot commercials on the subject. The defendant failed to respond to these mailings and media messages and admits that he probably discarded the mailings as "junk mail." We see no justification to now reward him with retroactive benefits under these circumstances.

We recognize, as the complainant urges, that there are customers who may yet be unaware that they may be entitled to additional lifeline allowances. However, to order the defendant to repeat its efforts to notify the approximately 17 percent or 8,635 customers who failed to respond to the previous mailings and announcements would, in our opinion, subject the defendant to undue cost and burden. Such an order would require the defendant to mail such information to all of its current 600,000 customers in order to reach the 8,635 customers who failed to respond previously. Since they failed to respond to the defendant's reasonable efforts in the past, there is no reason to believe that they would respond now. A 100 percent response is always desired but seldom achieved. Therefore, we believe that the 83 percent response to the defendant's previous efforts is sufficient when weighed against the cost of ordering the defendant to repeat its efforts.

The Commission concludes that the relief requesting retroactive application of additional lifeline allowances to the complainant and additional notification to defendant's residential customers of the lifeline allowances by the defendant should be denied.

IT IS ORDERED that the relief requested is denied.

The effective date of this order shall be thirty days after the date hereof.

Dated at San Francisco, California, this 25th day of JULY, 1978.

Robert Batinovich
President
William Symons Jr.
Vernon L. Sturgeon
Claire T. Dedrick
Commissioners

I concur:
as attested
Richard D. Gerald

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D.

RICHARD D. GRAVELLE, Commissioner, Concurring:

I concur with the denial of relief to the complainant. However, the complainant articulates the problem of insuring the public is apprised of rate design elements, and the expense ramifications to the utility service user.

The existing formats of energy utility bills throughout the state are inadequate to the extent they do not explain - on their face - the rate design innovations adopted by the Commission. For example, where inverted rates are applicable, the bills do not show in which rate tier the monthly usage culminates. Rate design innovations to encourage conservation must, to be truly effective, be constantly explained to the public. During this time of energy shortage, in which we seek to at least slow the growth of utility generating plant expansion, the public must be re-educated. We utility regulators, just as utility companies, have had to re-evaluate traditional approaches to rate design. Often, what we take almost for granted, because of daily immersion in regulation, is incomprehensible jargon to the public.

I understand that the Commission's Utilities Division branches are studying ways in which monthly bills should be revised so customers may have a better chance of understanding where they and their usage stand in our rate structures. I urge the staff to give this undertaking high priority. Perhaps the availability of additional lifeline quantities could be routinely placed on the utility bill. I urge the staff to give this idea consideration in the course of its study.

Richard D. Gravelle

RICHARD D. GRAVELLE, Commissioner

San Francisco, California
July 25, 1978