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ORIGINAL

Decision No. S0257 AUG 22 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EASY CONSTRUCTION COMPANY, INC.,)

Complainant,)

vs.)

SOUTHERN CALIFORNIA GAS COMPANY,)
a corporation,)

Defendant.)

Case No. 10499
(Filed February 14, 1978)

ORDER OF DISMISSAL

The complainant seeks an order requiring the defendant to provide a locator service with accurate information as to the elevation and location of its underground utility lines from the date they are installed. In addition, the complainant alleges that as a result of the failure of the defendant to provide accurate information as to the location of its underground utility lines, it has been damaged by a sum in excess of \$18,000 by reason of being required to have men and equipment on a job entailing the installation of a storm drain in the defendant's service area for an extended period of time beyond normal scheduling.

The defendant answered the complaint and concurrently filed a motion to dismiss the complaint for lack of jurisdiction.

In D.88934 dated June 13, 1978, we discussed in depth a virtually identical complaint by this complainant against Southern California Edison Company, and we dismissed the complaint both for lack of jurisdiction and the res judicata principle. We have compared each and every allegation of this complaint with the allegations of complainant's C.10498 and find that the sole significant difference is that the defendant here is other than

Southern California Edison Company. Accordingly, the principle of stare decisis is applicable here.

Findings

1. The Commission is without jurisdiction to order the defendant to pay damages to the complainant as requested by the complainant and based upon the facts alleged in the complaint.

2. The allegations in the complaint pertaining to the complainant's request for an order that the defendant provide accurate information of underground utility lines to its locator service from the day they are installed have been previously litigated in C.10038 filed January 26, 1976 resulting in D.86546 dated October 26, 1976, and such order has become final.

3. C.10498 filed on February 14, 1978 by this complainant is identical to this complaint in all material particulars, was dismissed by the Commission in D.88934 dated June 13, 1978, and such order has become final. The doctrine of stare decisis applies.

4. The complaint does not allege any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission as required by Section 1702 of the Public Utilities Code and Rule 9 of the Commission's Rules of Practice and Procedure.

The Commission concludes that the defendant's motion should be granted and that the complaint should be dismissed.

C.10499 EA

IT IS ORDERED that Case No. 10499 is dismissed.

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

Dated at San Francisco, California, this 22nd day of AUGUST, 1978.

Robert Bateman
President
William J. ...
Simon L. ...

Commissioners

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.