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ORIGINALDecision No. 90062 MAR 13 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the determination of a lifeline volume of gas and a lifeline quantity of electricity and into gas and electric utility rate structures and the changes, if any, that should be made in presently constituted rate structures to provide a lifeline quantity of energy to the average residential user for specified end uses. (Re Phase II)

Case No. 9988
(Filed September 15, 1978)

UNICORN INDUSTRIES, a California corporation,

Complainant,

vs.

SOUTHERN CALIFORNIA EDISON COMPANY,
a corporation,

Defendant.

Case No. 10599
(Filed June 14, 1978)

SECOND SUPPLEMENTAL ORDER

The final opinion and order on the above referenced C.9988 was issued as D.88651 dated April 4, 1978. Ordering Paragraphs 3 and 4 of this decision were as follows:

- "3. Each respondent electric utility shall within ten days of the effective date of this order file necessary revisions to its rules and regulations to provide for separate metering by the utility

for electric service to each unit in new multi-unit residential facilities, except when a commitment for other than separate metering service has been made by the utility to the owner/developer prior to the effective date of this order. However, if said commitment has not been exercised by the initiation of construction within an ensuing period of twelve months, separate metering of electric service for each residential unit is required.

- "4. Each respondent gas utility shall file tariffs to provide for separate metering by the utility for gas service to:
- "a. New residential mobile home parks where such mobile home tenants use gas directly in gas appliances in each occupancy.
 - "b. New multi-unit residential structures where such multi-unit tenants use gas directly in gas appliances in each occupancy and which require venting.

"If a gas utility has made a written commitment to provide master metering service as provided in 4.b. prior to the effective date of this order, such commitment shall become null and void if construction does not commence within twelve months from the effective date of this order."

D.88969 dated June 13, 1978 modified portions of D.88651 and denied Southern California Gas Company's (SoCal) petition for rehearing and for reconsideration of D.88651. One of the modifications of D.88651 effected by D.88969 was Ordering Paragraph 3 which was clarified to encompass new mobile home parks as follows:

- "3. Each respondent electric utility shall within ten days of the effective date of this order file necessary revisions to its rules and regulations to provide

for separate metering by the utility for electric service to each unit in new multi-unit residential facilities, including new mobile home parks, except when a commitment for other than separate metering service has been made by the utility to the owner/developer prior to the effective date of this order. However, if said commitment has not been exercised by the initiation of construction within an ensuing period of twelve months, separate metering of electric service for each residential unit is required."

By its pleading filed June 2, 1978 Unicorn Industries (Unicorn) sought the reopening of C.9988 so that it could present evidence concerning the submetering of electrical services in new mobile home parks. Unicorn also filed C.10599 complaining of certain practices of Southern California Edison Company (Edison) regarding submetering of mobile home parks.

In addition, Western Mobile Home Association (WMA), by a petition filed May 18, 1978, sought modification of D.88561 to adopt WMA's proposal that a developer should have the right, in those cases where the utility cannot meet the park developer's construction schedule, to construct the utility system and then be reimbursed for such a system by the utility.

D.89196, dated August 8, 1978, reopened C.9988 for further hearing for the limited purpose of receiving evidence on the questions of whether submetering of electrical use in mobile home parks can be provided by master meter customers, and whether mobile home park developers should have the right to construct the electric and gas utility systems with reimbursement by the utility in those cases where the utility cannot meet the developer's construction schedule; consolidated C.9988 for hearing with C.10599; and suspended the provisions of Ordering Paragraph 3

of D.88651 (as amended by D.88969) pending further decision in the reopened proceeding.

On September 15, 1978, WMA filed its first supplemental petition for modification of D.88651 to stay Ordering Paragraph 4 of that decision. It was WMA's position that D.89196 was inadequate in that it inadvertently failed to suspend Ordering Paragraph 4 relating to submetering of gas service in the same manner that it had suspended Ordering Paragraph 3 relating to submetering of electric service. D.89525 dated October 17, 1978 contained a finding that "...suspending the requirements of Ordering Paragraph 4 could hinder gas conservation efforts during the pendency of such suspension..." and ordered that Ordering Paragraph 4 remain in full force and effect. On November 5, 1978 WMA filed its second supplemental petition requesting that D.88651 (as modified by D.88969, 89196, and 89466) be further modified to provide the developer, owner, or operator of a mobile home park the option of owning and maintaining his own electric and/or gas system provided that each unit served be submetered. WMA, in its second supplemental petition, noted that it seeks a stay of Ordering Paragraph 4 only for submetered mobile home parks and, therefore, conservation could not be defeated as indicated as a possibility in D.89525.

On November 14, 1978 Unicorn filed a petition for rehearing, reconsideration, or modification of D.89525 alleging that:

1. D.89196 staying Ordering Paragraph 3 of D.88651 is of little value to Unicorn because it would be unlikely for a mobile home park developer to submeter only one utility and, therefore, an electric subdistribution system would probably not be installed.

2. Direct metering of gas or electricity by a public utility does not serve the goal of energy conservation any better than direct metering of gas and electricity by a mobile home park operator.

3. There is no basis for differentiating between sub-metering of electricity as opposed to submetering of gas.

4. The California Legislature has acted numerous times in recent years to regulate submetering and by such regulation has approved the existence of such practice.

D.89757 dated December 12, 1978 granted rehearing of D.89525 for the limited purpose of receiving evidence on the issue of whether Ordering Paragraph 4 of D.88651 should be suspended or modified, but did not stay Ordering Paragraph 4.

Public hearings on the issue of whether or not mobile home park owners or operators should be granted the option of installing their own submetered gas and electric systems and resell gas and electricity to the residents of mobile home parks were held before Administrative Law Judge N. R. Johnson in Los Angeles on January 23, 24, and 25, 1979, and the matters were continued to April 3, 1979. At the hearing, Unicorn filed a notice of objection to the hearing, motion to dismiss the hearing, and motion to strike testimony. The relief sought by the filing is the restoration of the mobile home park industry to the status quo that existed prior to the issuance of D.88651. Unicorn believes that such Commission action is demanded because:

1. The question of whether submetering should be prohibited does not come within the ambit of C.9988 and should be the subject of a separate hearing.

2. This Commission's refusal to stay Ordering Paragraph 4 and modify Ordering Paragraph 3 of D.88651 is causing irreparable harm to businesses providing service and equipment to those desiring to submeter natural gas and electricity.

3. The Commission's staff has made no effort to contribute to the framing of the applicable issues.

4. Proper notice of this Commission's intention to prohibit submetering has not been provided to all of the persons who will suffer substantial loss of business if submetering is barred.

5. The installation of electrical and fuel gas equipment in new mobile home parks is subject to the jurisdiction of the State Commission of Housing and Community Development and not this Commission.

On February 8, 1979 WMA filed a Third Supplemental ✓
Petition for Modification of Decision No. 88651 and Request for Immediate Suspension of Ordering Paragraph 4 of Decision No. 88651. WMA noted that three days of hearing have been held in the reopened proceeding and allege that the evidence submitted during those three days fully justifies the suspension of Ordering Paragraph 4 to the extent it forbids utilities to provide gas service to new parks or new extensions in existing parks where the distribution system is to be owned and submetered by the park. WMA alleges the evidence stands unrefuted that irreparable harm is being done to future occupants of mobile home parks, to an important segment of the California economy which supplies gas and electric submetering systems, and to the mobile home park industry generally and that there is no problem of conservation or safety. According to WMA the conservation incentive is the same if the individual mobile home is separately metered by the utility or the park developer. Also, according to WMA, safety is not an issue

because the installation and maintenance of gas and electric master meter/submeter systems in mobile home parks is adequately governed by Chapter 5 of Title 25 of the California Administrative Code.

Also, on February 8, 1979 Unicorn filed a Motion for Stay and Modification of Ordering Paragraph 4 of Decision No. 88651 to the extent that this paragraph has the effect of prohibiting the submetering of natural gas in new mobile home parks. Unicorn requests that in considering the motion this Commission should direct its attention to the following:

1. The possibility of requiring public utilities to purchase mobile home park gas and electric systems is no longer an issue.

2. The requested modification applies only to mobile home park developments constructed in accordance with the regulations contained in Title 25 of the California Administrative Code which incorporates the requirements of the National Electrical Code, the Uniform Plumbing Code of 1973, and the Natural Gas Pipeline Safety Act of 1968.

3. Unicorn has no objection to this Commission imposing conditions that continued service by a public utility to private systems be conditioned upon the owner of the private system making periodic filings.

4. Sections 761 and 768 of the Public Utilities Code does not bestow jurisdiction over mobile home park facilities to this Commission.

Unicorn alleges that the evidence adduced in the three days of hearing on the pending issues clearly shows that: (1) conservation is equally served by either submetering or individual metering; (2) gas systems installed by private owners are as

safe or safer than those installed by utilities ; (3) several companies are suffering severe financial damage from the operation of Ordering Paragraph 4; (4) public utilities at the hearing did not oppose submetering of natural gas by private owners in new mobile home parks; (5) all necessary parties to the proceeding had not been adequately noticed; (6) electric and fuel gas systems in mobile home parks are subject to the jurisdiction of the Commission of Housing and Community Development and not to this Commission's jurisdiction; and (7) the question of whether the submetering of natural gas and electricity should be prohibited does not come within the ambit of C.9988 and its underlying investigative order.

With respect to Unicorn's allegation that this Commission has never provided proper notice to it or other similarly situated companies that there was a possibility that the Commission would prohibit the submetering of electricity or gas in mobile home parks, it is noted that mimeo page 2 of D.88651 lists the submetering of new residential construction as one of the issues kept open for further review in D.86087 dated July 13, 1976, our interim opinion and order in C.9988. This information, however, was not set forth in the notices of hearing mailed out in connection with Phase II of C.9988. As a result, corporations similar to Unicorn could easily be unaware that the prohibition of submetering of future residential construction was a possible result of the hearings. To insure due notice to those parties that might be affected by the decision on these two matters, we will require the respondent utilities to post and publish fully descriptive notices of hearing.

Findings

1. Ordering paragraphs of Decision No. 88651, dated April 4, 1978, prohibited the submetering of gas and electric service by mobile home park and apartment house owners.

2. Prior to the issuance of Decision No. 88651 no public notice was given that the Commission was contemplating prohibiting submetering by mobile home park and apartment house owners.

3. Decision No. 89196, dated August 8, 1978, reopened Case No. 9988 to receive further evidence on issues surrounding whether submetering of electric service in mobile home parks can be provided by the park owners. Also, the prohibition in Decision No. 88651, as it affected submetering of electric service, was stayed.

4. Unicorn submits in its petition for rehearing, reconsideration, or modification of Decision No. 89525, filed November 14, 1978, that the Commission's staying the prohibition against only electric submetering is of little value to Unicorn because a mobile home park owner will not (as a practical matter) elect to submeter electric service and not gas service; the effect is to prohibit submetering of electric service since gas service cannot be submetered.

5. If submetering of gas service is allowed pending completion of these proceedings, mobile home park and apartment house operators will be restored to the status quo prior to Decision No. 88651.

6. Continuance of the prohibition against submetered gas service may cause harm to businesses providing equipment to those desiring to submeter gas and electric service.

7. To date notice of the Commission's intent to consider a prohibition of the submetering of gas and electric service by master meter customers has not been provided.

8. As long as the Commission requires metering of the end user, be it by a utility directly or by a master meter customer submetering, the goal of providing end-user energy use awareness is satisfied.

We have carefully considered the record to date in Phase II of this matter and each allegation in the above-described petitions and motions and conclude that good cause exists for modifying Ordering Paragraphs 3 and 4 of D.88651. These modifications will provide mandatory individual metering by the utility or by the mobile home park or apartment house operator to effect conservation without precluding the mobile home park or apartment house operator from installing his own subsystem. Such modifications may be subject to reconsideration on the basis of evidence received at the hearing scheduled for April 3, 1979.

To enable expeditious compliance with the notice required by the following order the order should be effective the date of signature.

IT IS HEREBY ORDERED that Ordering Paragraphs 3 and 4 of D.88651 be modified to read as follows and be placed into effect:

3. Each respondent electric utility shall, within ten days of the effective date of this order, file necessary revisions to its rules and regulations to provide for separate metering by the utility or for individual unit submetering by the developer, owner, or operator for electric service to each unit in new multi-unit residential facilities, including new mobile home parks.

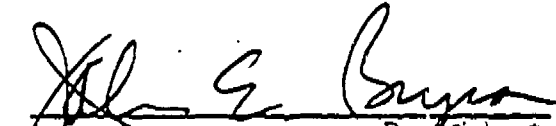
4. Each respondent gas utility shall file tariffs to provide for separate metering by the utility or for individual unit submetering by the developer, owner, or operator for gas service to:


- a. New residential mobile home parks where such mobile home tenants use gas directly in gas appliances in each occupancy.
- b. New multi-unit residential structures where such multi-unit tenants use gas directly in gas appliances in each occupancy and which require venting.


IT IS FURTHER ORDERED that each respondent utility publish notice of hearing as set forth in Appendix A attached hereto at least ten days prior to the date of hearing in a newspaper or newspapers of general circulation in its service area and also post such a notice in its offices and collection agencies at least ten days prior to the date of hearing.


The effective date of this order is the date hereof.

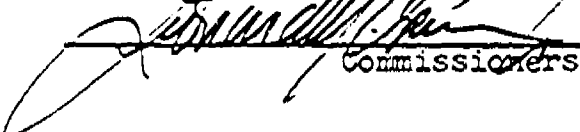
Dated at San Francisco, California,
this 13th day of MARCH, 1979.



President








Commissioners

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the determination of a lifeline volume of gas and a lifeline quantity of electricity and into gas and electric utility rate structures and the changes, if any, that should be made in presently constituted rate structures to provide a lifeline quantity of energy to the average residential user for specified end uses. (Re Phase II)

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Complainant,

vs.

Case No. 10599

SOUTHERN CALIFORNIA EDISON COMPANY, a corporation,

Defendant.

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Public Utilities Commission of the State of California has set the hearing in the above entitled matters before Administrative Law Judge Johnson for Tuesday, April 3, 1979, at 10:00 a.m. in the Commission Courtroom, State Office Building, 107 South Broadway, Los Angeles, California, for the purpose of adducing evidence on the following:

1. Whether submetering of electrical and gas use should be provided by master meter apartment and mobile home park customers, or should the electric and/or gas utilities be required to directly serve each individual mobile home?

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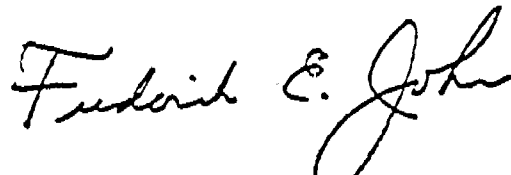
2. Are electric and gas fuel distribution systems installed in mobile home developments by the developer as safe as comparable systems installed by the gas and electric utilities?

3. Are mobile home customers served directly by the utility more conservation-oriented than those customers served by the mobile home operators?

At the time and place of hearing all interested parties may appear and be heard.

BY ORDER OF THE PUBLIC UTILITIES COMMISSION.

Dated at San Francisco, this 13th day of MARCH, 1979.



FREDERICK E. JOHN
Executive Director
Public Utilities Commission
of the State of California