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Decision No. 90307 MAY 22 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CAMPAIGN AGAINST UTILITY SERVICE)
EXPLOITATION, INC. (CAUSE),)

Complainant,)

vs)

SOUTHERN CALIFORNIA GAS COMPANY,)

Defendant.)

Case No. 10711
(Filed January 18, 1979)

ORDER OF DISMISSAL

The complainant is Campaign Against Utility Service Exploitation, Inc. (CAUSE), a California corporation.

CAUSE alleges that on January 3, 1979, Mrs. Eula Love of 11929 Orchard Avenue, Los Angeles, was shot and killed by two Los Angeles police officers who had been summoned to her home by employees of Southern California Gas Company (SoCal) to assist in settling a billing dispute.

CAUSE further alleges that in calling in the police to help settle an unpaid bill dispute, SoCal acted contrary to Section 451 of the Public Utilities Code.^{1/}

CAUSE asks the Commission "to issue a ruling or General Order to put an immediate stop to the practice of any utility summoning the police in any matter involving an unpaid or

^{1/} Section 451 states in part:

"Every public utility shall furnish and maintain such adequate, efficient, just, and reasonable service... as are necessary to promote the safety, health, comfort, and convenience of its patrons, ..."

delinquent gas or electric bill". CAUSE also requests that the Commission conduct an investigation and a public hearing into the feasibility of a rule which would prohibit a utility from disconnecting a residential customer's gas or electric service during the winter months without a hearing. CAUSE suggests that the issue of the use of police services in bill disputes could be covered in the same investigation.

On February 26, 1979, SoCal filed its answer to the complaint and a separate motion to dismiss the complaint. In its answer and accompanying motion, both of which are verified, SoCal gives an account of the facts leading up to the death of Mrs. Love, as follows:

"Between November, 1977, and December, 1978, our representatives made five separate field calls on Mrs. Love to inquire about past-due bills. Each time Mrs. Love was able to pay, or promised to pay, at least a portion of the bill, and her service was left on. The last such call was made on December 21, 1978. At that time, her total bill was \$67.06, with \$22.09 past due. Mrs. Love told our field representative she did not know when she would be able to pay the bill; however, an extension of time was granted and her service was left on. Mrs. Love was advised to pay the bill or contact our office by December 28.

"She failed to contact us and a field representative was sent to her home on January 3, with instructions to collect at least part of the bill or close the meter. When Mrs. Love answered the door, she very angrily claimed she did not owe the Gas Company \$80. We have no idea how she arrived at the \$80 figure, as the total amount owed was \$67.06. She also said that she was not using any gas--that it had already been turned off. She then slammed the door. Our representative went to the side of the house to see if her meter had in fact been turned off and

whether there might be any safety problems. While he was bent over the meter valve, and before he could determine whether the meter was closed, Mrs. Love approached and swung at him with a shovel. She missed the first time, and swung a second time, hitting our representative on the arm, which he had raised to protect his head. He ran to his truck and returned to the field office, where he reported the incident to his supervisor. The representative was driven to the emergency hospital with a severely gashed and bruised arm. . . .

"Later in the day, the supervisor and a second representative returned to the Love residence to close the meter. Because of the earlier shovel attack, the supervisor, after consulting with our security specialists, had requested the presence of the police to protect our employees from any further attacks. Following police instruction, the supervisor and the field representative parked their vehicles several doors away from the Love residence to await the arrival of the police. . . .

"While our representatives were waiting for the police to arrive, Mrs. Love approached the field representative's truck. [The supervisor was in his car parked across the street and had no contact with Mrs. Love.] Using very obscene language, she informed [the field representative] she was not going to pay any \$80 gas bill. [Again, we do not know how she arrived at the \$80 figure - her total bill was \$67.06.] Her language was so obscene and her manner so threatening that our representative had no opportunity to discuss payment of the bill or any extension of service. At no time did she offer to pay any portion of the bill. She then left the truck and returned to her home. That was the last contact our representatives had with her. . . ."

* * *

"By the time the police arrived, Mrs. Love had returned to her house and had reappeared carrying

a long kitchen knife. The police approached her, and our supervisor and field representative remained at their vehicles. . . . Our personnel had no opportunity to leave their vehicles and attempt to mediate or conciliate the situation in any way. . . ."

Discussion

The complainant first asks that the Commission issue a ruling or General Order to put an immediate stop to the practice of any utility summoning the police in any matter involving an unpaid or delinquent gas or electric bill.

CAUSE has not alleged that SoCal has, or that gas and electric corporations generally have, a practice of summoning the police to help settle unpaid bill disputes. SoCal, to the contrary, has alleged that:

"In 1978 alone, Southern California Gas Company field representatives made some 392,000 'collect or close' calls. In the vast majority of these cases, a satisfactory arrangement was made for payment of at least part of the bill and/or for extension of service. In only forty-five (45) 'collect or close' calls during 1978 was there actual assault or some threat of violence expressed toward the field representative. In only 9 of those cases, was it necessary to call law enforcement officers, and those calls were scattered throughout our entire Southern California service area. Only two of those calls involved the Los Angeles Police Department. In each case where the police were actually called, there was some overt act of violence either threatened or carried out against one of our employees.

"In such a case, the police are not called to help collect the gas bill. They are called only in case it proves necessary to protect our employees from physical violence or threats of physical violence if they must go on to a

customer's property to close a meter. In other words, the police are not called as long as the situation remains a civil matter, or a matter merely of collecting a bill or terminating service. The police are called only after the situation involves a complaint of alleged criminal conduct—that is, a complaint of an assault or threatened assault constituting either an alleged misdemeanor or an alleged felony on the part of the customer. In the case of Mrs. Love, she had assaulted one of our employees with a shovel and sent him to the doctor with a severely gashed and bruised arm. The police were only called in that case to protect our employees from any further assaults when they returned to her property to complete their assignment." (Brief in Support of Southern California Gas Company's Motion to Dismiss the Complaint, pp. 6 and 7.)

The Commission concludes that the allegations of the complaint are insufficient to support the issuance of such a ruling or General Order. Only a single unfortunate incident involving a single utility company has been described by CAUSE in its complaint. CAUSE apparently assumes that this lone episode is a sufficient factual basis for the issuance of a statewide regulation applicable to all gas and electric corporations under our jurisdiction. Even assuming that the facts of the Eula Love incident were as CAUSE has alleged them to be, they would not support the issuance of such a sweeping regulation.

Moreover, the Commission further concludes that it lacks jurisdiction to prohibit public utilities or their employees from calling the police in situations where utility employees encounter physical violence or threats of physical violence in attempting to perform their duties. For the Commission to deny to some citizens (utility employees) the protections afforded to all may constitute a denial of equal protection of the law, as SoCal argues in its brief.

Finally CAUSE asks the Commission to institute an investigation and hold a hearing on the feasibility of a rule prohibiting gas or electric corporations from disconnecting customers during winter without a hearing.

It should first be noted that requests for the issuance of General Orders or rules or regulations of general applicability, or for investigations or hearings preliminary to the issuance thereof, are addressed to the Commission's discretion. There is no requirement that such hearings or investigations be held or that a particular order, rule, or regulation of a legislative nature be issued. However, on November 9, 1978, President Carter signed the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617, 16 USC 2601 et seq., 92 stat. 3117). Sections 303 and 304^{2/} of that Act (hereinafter PURPA) require the Commission to hold hearings on procedures for termination of gas service.

2/ The relevant portions of Sections 303 and 304 of PURPA are as follows:

"SEC. 303. ADOPTION OF CERTAIN STANDARDS.

"(a) Adoption of Standards.—Not later than 2 years after the date of the enactment of this Act, each State regulatory authority (with respect to each gas utility for which it has ratemaking authority)...shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and on the basis of such hearing shall—

(1) adopt the standard established by subsection (b)(1) if, and to the extent, such authority or nonregulated utility determines that such adoption is appropriate and is consistent with otherwise applicable State law, and"

* * *

(Continued)

In accordance with the period established by Section 303(a) the Commission has today issued an order instituting investigation making all gas corporations respondents therein. (OII No. 49.) Interested persons and entities may participate in this investigation.

2/ (Continued)

"(b) Establishment.--The following Federal standards are hereby established:

(1) Procedures for Termination of Natural Gas Service--No gas utility may terminate natural gas service to any gas consumer except pursuant to procedures described in Section 304(a)."

* * *

"(c) Procedural Requirements.--Each State regulatory authority (with respect to each gas utility for which it has ratemaking authority)... within the 2-year period specified in subsection (a), shall adopt, pursuant to subsection (a), each of the standards established by subsection (b) or, with respect to any such standard which is not adopted, such authority...shall state in writing that it has determined not to adopt such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

"SEC. 304. SPECIAL RULES FOR STANDARDS.

"(a) Procedures for Termination of Gas Service.-- The procedures for termination of service referred to in section 303(b)(1) are procedures prescribed by the State regulatory authority (with respect to gas utilities for which it has ratemaking authority)... which provide that--

(1) no gas service to a gas consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(Continued)

The language of Sections 303 and 304 of PURPA is broad enough to encompass the issues raised by CAUSE in the instant case. It would be a needless duplication of effort for the Commission to investigate those issues in the instant case when they can be explored in a future PURPA related investigatory proceeding. Moreover, a complaint proceeding involving a single gas corporation is inappropriate as an investigative or rulemaking proceeding involving all gas corporations.

The Commission has fully considered the allegations of the complaint and the arguments contained in the brief of CAUSE filed March 7, 1979, in opposition to SoCal's motion to dismiss and is of the opinion that the complaint fails to state a cause of action.

2/ (Continued)

(2) during any period when termination of service to a gas consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to each gas utility for which it has ratemaking authority) or nonregulated gas utility and such consumer establishes that—

(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) he is able to pay for such service but only in installments, such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers."

Conclusions

1. No facts have been alleged showing a violation of Section 451 of the Public Utilities Code.
2. The Commission lacks jurisdiction to prohibit public utilities or their employees from calling the police in situations involving physical violence or threats of violence.
3. The facts alleged in the complaint are insufficient to show the existence of a practice, either of SoCal or of gas and electric corporations generally, of involving the police in the collection of unpaid or delinquent gas bills.
4. The Commission is required by federal law to investigate procedures for the termination of gas service.
5. The proceeding mandated by federal law is the appropriate place to explore the issues raised by the complaint.
6. A complaint proceeding involving a single gas corporation is an inappropriate vehicle for the investigation of matters of concern to all gas corporations.
7. The complaint should be dismissed for failure to state a cause of action.

IT IS ORDERED that Case No. 10711 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 MAY, 1979.

John E. Sawyer
President
Richard D. Kuehl
Walter J. ...
James ...
Commissioners