

01

ALJ/jn

Decision 93773 NOV 19 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Ralph W. Bennett, Frances Betty  
 Bennett, )  
 Complainants, )  
 vs. )  
 William J. Han, Barbara Han,  
 Kenneth L. Hill, Carole L. Hill, )  
 Defendants. )

Case 10827  
(Filed January 28, 1980;  
amended April 24, 1980)

Frances Betty Bennett and Ralph W. Bennett, for  
 themselves, complainants.  
Robert S. Louis, Attorney at Law, for Hian  
 Investment Company and Hope Lane Water Company,  
 defendants.  
Kennan H. Beard, Jr., for Del Este Water Company,  
 interested party.  
Herbert R. McDonald, for the Commission staff.

INTERIM OPINION

The evidence taken in this matter at hearing fully supports the findings, set forth below, that defendants own and control a public utility water system and that they attempted to institute a rate increase with the notice, showing, and finding required by Public Utilities (PU) Code § 454.

We take official notice that the defendants, while not disputing Finding 1, have, despite urging by our staff, failed to file tariffs as a public utility water system or to make any filings which would constitute a showing that a rate increase is necessary.

We further take official notice that complainants have, since the first increase was instituted, made timely deposits with the Commission of the total sum (\$189.50) which allegedly represents the difference between the amount due under rates in effect when the complaint was filed and rates due under the attempted increase. Defendants have not asserted that these deposits are insufficient.

On November 17, 1981 we were informed that defendants had attempted to institute new, higher rates. We again take official notice that no advice letter has been filed with us and that the defendants have no tariffs on file. On November 18 we were informed that defendants had threatened to terminate service to complainants' home within 5 days unless payment of \$441 was received. No credit was allowed for the amount deposited with the Commission.

Findings of Fact

1. Defendants own and operate a water company providing service to a portion of the public for compensation.
2. Defendants have attempted to increase rates to complainants after this complaint was filed.
3. Complainants have deposited with the Commission all of the difference between the rates in effect when this complaint was filed and the amounts billed for through October 30, 1981.
4. Defendants have no tariffs on file.
5. Defendants have not filed an advice letter for a rate increase or an application to increase rates. No bill insert notice complying with § 454(a) has been given to consumers. The Commission has not found that any increase in rates is justified.
6. Defendants have not provided the Commission with the information required by Resolution 4705, the Commission's Regulatory Lag Program for Water Utilities.
7. There will be no irreparable injury to defendants or to any of them if they are restrained from collecting any rates higher than those in effect when the complaint was filed or from discontinuing service to any customer.

Conclusions of Law

1. Defendants own and control a public utility water system and are subject to the provisions of the PU Code as public utilities.
2. Defendants may not lawfully increase rates except after notice to customers, a showing as defined by Resolution 4705, and a finding by the Commission that such increase is justified.
3. Defendants may not lawfully discontinue service to any customer except in accordance with a tariff filed with the Commission.
4. The Commission should order the defendants not to discontinue service to any customer until further hearing and order of the Commission or to attempt to collect any rates in excess of those in effect when the complaint was filed.

Notice of the following order did not appear on the Commission's Public Agenda as required by the Government Code. This matter is an unforeseen emergency in that the Commission was not informed of defendants' threat to discontinue service on 5 days' notice until November 18, 1981.

INTERIM ORDER

IT IS ORDERED that:

1. William J. Han, Barbara Han, Kenneth L. Hill, and Carole L. Hill, individually and as partners, and their employees and agents, and any corporation controlled by them, shall not seek to collect rates higher than those in effect when this complaint was filed or shall not discontinue water service to any customer pending further order of this Commission.

2. A hearing to determine whether this order should be continued in effect or terminated shall be held before Administrative Law Judge Gilman on Tuesday, November 24, 1981, at 10:00 a.m. in the Commission Courtroom, 350 McAllister Street, San Francisco, California.

The Executive Director is directed to cause a certified copy of this order to be personally served forthwith upon each defendant.

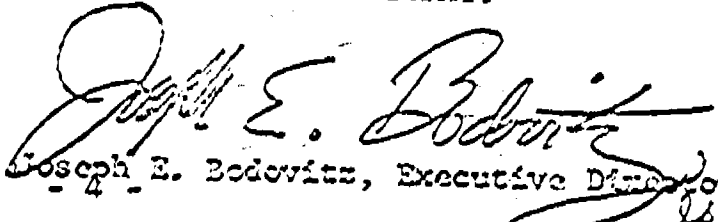
This order is effective today.

Dated NOV 19 1981, at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D. GRAVELLE  
LEONARD M. GRIMES, JR.  
PRISCILLA C. GREW  
Commissioners

Commissioner Victor Calvo, being necessarily absent, did not participate in the disposition of this proceeding.

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

  
Joseph E. Bodovitz, Executive Director