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Decision 97-02-032 February 19, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RICHARD L. STEINER,

Complainant,

vs.

PALM SPRINGS MOBILEHOME PROPERTIES, a
California general partnership, dba SAHARA
MOBILEHOME PARK, AND SOUTHERN
CALIFORNIA GAS COMPANY,

Defendants.

ORIGINAL

Case 96-08-028
(Filed August 13, 1996)

OPINION

Summary

Richard L. Steiner (complainant) requests, among other things, that the Commission issue an order requiring Palm Springs Mobilehome Properties (Mobilehome Properties) to cease and desist in the collection of rent pass-throughs intended to reimburse it for replacement of its submetered gas system in Sahara Park. Mobilehome Properties was granted a hardship rent increase for Sahara Park by the Rent Review Commission of the City of Palm Springs (Rent Commission). The rent increase covers various items including the submetered gas system.

Mobilehome Properties and Southern California Gas Company (SoCalGas) argue that the complaint should be dismissed since complainant has not exhausted required judicial remedies pursuant to the Rent Commission decision.

We agree that the complaint should be dismissed.

Background

Complainant resides in Sahara Park and receives submetered gas service. Sahara Park is served by SoCalGas pursuant to Schedule GS, which provides Sahara Park with a discount.¹

On June 11, 1996, the Rent Commission issued its decision granting Mobilehome Properties a hardship rent increase. The decision addresses various items related to the operation of Sahara Park, including replacement of the submetered gas system.

On August 13, 1996, complainant filed the instant complaint with the Commission requesting, among other things, that we order Mobilehome Properties to cease and desist from collecting rent pass-throughs intended to reimburse itself for replacement of its submetered gas system. Alternatively, complainant requests that we order SoCalGas to withhold all future submetering credits it collects and to refund these to all affected residents.

¹ With regard to the Schedule GS discount, the Commission has stated: "There is no dispute that the mobile home park discount includes a factor for investment-related expenses for all initial and ongoing capital upgrade costs. Also included in the discount are depreciation of the average installed cost of the equivalent distribution system which the utility has installed in its directly metered parks, return on investment, income taxes on the return, and property (ad valorem) taxes.

"The question then is whether having elected to submeter and having received the utility's submetering discount, an individual park owner, whose reasonably incurred costs exceed the utility's average, may pass through to park tenants all or part of such system replacement costs in the form of rent increases and surcharges? We conclude that park owners are barred from recovering such costs from tenants as utility costs because PU [Public Utilities] Code § 739.5 (Stats. 1976, Ch. 923), by its plain language, expressly limits park owners to the amount derived from the submetering discount." (Emphasis in original, Decision (D.) 95-02-090, p. 19), rehearing denied in D.95-08-056, California Supreme Court denied petitions for writ of review.)

In their answer to the complaint, Mobilehome Park and SoCalGas (defendants) argue that the complaint before this Commission should be dismissed. Defendants point out that the Rent Commission informed complainant on page 26, in Item 7 of its decision, that:

"Pursuant to Code of Civil Procedure § 1094.6(f), notice is given that judicial review of this decision must be sought within the time period(s) specified in Code of Civil Procedure § 1094.6 following the date this decision becomes final in accordance with Code of Civil Procedure § 1094.6(b)." (Emphasis in original.)

Defendants contend that complainant has not pleaded facts which show that he has pursued, let alone exhausted, his required judicial and administrative remedies.

Discussion

We agree that the complaint should be dismissed as a matter of administrative efficiency and economy. As defendants point out, the decision of the Rent Commission has yet to be fully adjudicated pursuant to existing legal process. Furthermore, the issue regarding replacement of Sahara Park's submetered gas system is only one of many items considered by the Rent Commission in its hardship rent increase decision. Also, the Public Utilities Commission does not have exclusive jurisdiction over any and all matters having any reference to the regulation and supervision of public utilities (see Vila v. Tahoe Southside Water Utility (1965) 233 CA2d 469, 43 Cal.Rptr. 654.) Therefore, we believe that the Rent Commission should continue to exercise jurisdiction in this matter.²

Findings of Fact

1. On June 11, 1996, the Rent Commission issued a decision granting Mobilehome Properties a hardship rent increase for Sahara Park on account of various items, including replacement of the submetered gas system.

² With regard to jurisdiction over mobilehome parks, the Commission in D.95-02-090, stated: "There is no dispute that the Commission has complete jurisdiction over utility rates, including the mobile home park discount. Further, we believe PU Code § 739.5(a) confers upon the Commission responsibility for adjudicating complaints that allege violation of the requirement that the 'master-meter customer should charge each user of the service at the same rate which would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporation.' However, we fully accept and embrace the fact that the Commission has no 'rent control' jurisdiction over mobile home parks and park owners." (P. 21.)

2. The Rent Commission decision specifically sets forth the procedure to be followed with regard to appeal of its decision.

Conclusions of Law

1. The Public Utilities Commission does not have exclusive jurisdiction over any and all matters having any reference to the regulation and supervision of public utilities.

2. Since the Rent Commission has clearly exercised jurisdiction over the matter of replacement of the Sahara Park submetered gas system, and since complainant has not exhausted his remedies with regard to the decision of the Rent Commission, the complaint before this Commission should be dismissed.

O R D E R

IT IS ORDERED that the complaint is dismissed.

This order is effective today.

Dated February 19, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners