

Decision 98-05-042 May 21, 1998

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation into the operations and practices of Boston-Finney, registered Non-utility Electric Services Provider No. 1105, and those of the managing directors or trustees, Christopher S. Mee and Richard MacFarlane, and whether these respondents have violated provisions of the Public Utilities Code, including Section 394.25, or Commission orders.

Investigation 98-02-004  
(Filed February 4, 1998)

**ORIGINAL****O P I N I O N****Summary**

On March 16, 1998, the Commission issued Decision 98-03-035 which revoked Boston Finney's registration as an Energy Service Provider (ESP). This decision brought to a close the portion of this docket regarding Public Utilities Code § 394.25. The investigation portion of the docket, however, remained open.

On March 9, 1998, the assigned Commissioner and Administrative Law Judge (ALJ) held a prehearing conference to establish a procedural schedule for the investigation. At the prehearing conference, Boston Finney tendered a substitution of counsel.<sup>1</sup> New counsel was unfamiliar with the history of this proceeding and was unable to clearly state his representation. For this reason,

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<sup>1</sup> Richard MacFarlane distributed five documents entitled Objection to Order Instituting Investigation and Order to Show Cause. These documents were also presented to the Commission's Docket Office but have not been formally accepted because they do not conform to the Commission's filing rules. For this reason, the documents should be included in the informal correspondence portion of the file.

the Commissioner and ALJ directed Boston Finney to file a document clarifying representation no later than March 19, 1998, and all motions challenging jurisdiction no later than March 30, 1998. Boston Finney filed no such documents but on March 19, 1998, Boston Finney's new counsel filed a notice of withdrawal of counsel.

On March 30, 1998, the Consumer Service Division (CSD) filed a motion to discontinue this investigation stating that continuing this investigation would compromise the California Attorney General's ongoing civil action against Boston Finney.

Boston Finney has not filed a response to CSD's motion, nor any other pleading since the March 9, 1998, prehearing conference.

#### **Discussion**

We have suspended Boston Finney's ESP registration such that it is not providing service nor soliciting any California consumers. Should it or any of its affiliates or officers offer any such service in California, we will take swift action to enforce our earlier decision. In this way, California consumers are protected from any further abuse by Boston Finney.

As for alleged past wrongdoing, the California Attorney General is aggressively pursuing Boston Finney and its executives. We have no desire to compromise or duplicate the Attorney General's investigation.

Accordingly, we will grant CSD's request to terminate this investigation and close this docket. Should CSD determine that further actions by this Commission are required to protect California consumers, CSD may request that this docket be re-opened and then may file the appropriate motions.

#### **Findings of Fact**

1. Boston Finney's registration as an ESP has been revoked.

2. CSD has stated that continuing this investigation will compromise the Attorney General's investigation of Boston Finney.

**Conclusion of Law**

The public interest requires that this investigation be terminated and this docket closed.

**O R D E R**

Therefore, **IT IS ORDERED** that this investigation is terminated and Investigation 98-02-004 is closed.

This order is effective today.

Dated May 21, 1998 at San Francisco, California.

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