

Decision 98-10-034

October 8, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Donna Matthews,

Complainant,

vs.

Meadows Management Company, a
partnership, James M. Krueger and
Rondell B. Hanson, its partners, all
doing business as Plantation-On-The-
Lake Mobilehome Park,

Defendants.

ORIGINAL

Case 93-07-024
(Filed July 13, 1993)

ORDER DENYING REHEARING OF DECISION NO. 98-08-007

This application for rehearing stems from a complaint filed by Donna Matthews (Matthews), applicant, against her water company, Meadows Management Company doing business as Plantation-On-The-Lake Mobilehome Park (Meadows). Matthews alleged unreasonable water rates and sought a refund for water meter installation charges. Matthews claimed that these charges were subject to provisions of the Mobilehome Parks Act (MPA). (Health & Safety Code §§ 18200 *et. seq.*) On August 1, 1997, we issued Decision (D.) 97-08-052, in which we agreed that the water installation charge should not be assessed against customers individually and accordingly ordered a refund of all installation fees. However, we disagreed that the MPA governed the Commission's methodology for calculating the reasonableness of a mobilehome park's water rates. By analyzing Meadows' water rates as if it were a Class D regulated utility, we found Meadows' rates to be reasonable and denied that portion of Matthews'

complaint. Matthews filed an application for rehearing of D.97-08-052 alleging that the Commission erred in not applying the MPA to the facts of this proceeding. Her application was denied in D.97-10-068. Matthews then filed a petition for writ of review of D.97-10-068 and D.97-08-052 with the California Supreme Court, which was denied on March 18, 1998 (Case No. S067063).

On November 17, 1997, Meadows filed a Petition to Modify (Petition) D.97-10-068. In its Petition, Meadows requested clarification of the decision, stating that while assessing costs to install water meters against each customer individually is not appropriate, the aggregate cost of installing water meters is an allowable water utility expense for ratemaking purposes. Matthews objected and reasserted her arguments that the MPA applied to the treatment of those assets. In D.98-08-007, we granted the Petition, and declined to revisit Matthews' arguments.

Matthews has now filed the instant application for rehearing of D.98-08-007 in which she essentially raises the same arguments as in her response to Meadows' Petition. Matthews continues to assert that Meadows is not a water corporation or a public agency, and that its water rates are subject to the MPA. We find that the principle of res judicata prevents Matthews from once again raising these allegations. Matthews has had ample opportunity to litigate the issue of the applicability of the MPA in this case before the Commission, and her arguments were heard and rejected by the Commission in D.97-08-052 and D.97-10-068. The subsequent filing of a Petition to Modify by another party does not give Matthews an additional opportunity to raise these issues.

Even if the principle of res judicata did not apply, Matthews arguments fail to raise any legal or factual issues that would merit rehearing. Section 1732 of the Public Utilities Code provides, in part, that an application for rehearing "shall set forth specifically the ground or grounds on which the applicant considers the

decision or order to be unlawful." Consistent with this requirement, Rule 86.1 of the Commission's Rules of Practice and Procedure provides:

Applications for rehearing shall set forth specifically the grounds on which applicant considers the order or decision of the Commission to be unlawful or erroneous. Applicants are cautioned that vague assertions as to the record or the law, without citation, may be accorded little attention. The purpose of an application for rehearing is to alert the Commission to an error, so that error may be corrected expeditiously by the Commission.

The decision Matthews appeals, D.98-08-007, merely clarifies that a public utility water corporation may include the aggregate costs to install meters in its expenses for ratemaking purposes.¹ Matthews' argument that the MPA governs the determination of reasonableness of rates and adequacy of service for mobilehome parks supplying water to their tenants does not relate to the Commission's action in D.98-08-007. The only portion of the decision Matthews specifically points out is the Conclusion of Law which states: "The proposed revision to D.97-10-068 will avoid misinterpretation of the principles governing public utility water corporations and should be adopted." However, Matthews does not specifically explain how the decision is legally or factually in error. As the application for rehearing does not contain specific allegations of improprieties that would allow us to properly review the applicant's claims, it does not meet the requirements of §1732 or Rule 86.1.

¹ Although Meadows is not a water corporation, for purposes of determining the reasonableness of water rates in response to a complaint filed pursuant to Public Utilities Code section 2705.6, the Commission analyzed Meadows' rates as if it were a Class D regulated water corporation.

As applicant's allegations are barred by the doctrine of res judicata, and no factual or legal errors having been alleged, the application for rehearing should be denied.

IT IS ORDERED that:

1. The application for rehearing of D.98-08-007 is denied.
2. Case 93-07-024 is closed.

This order is effective today.

Dated October 8, 1998, at Laguna Hills, California.

RICHARD A. BILAS

President

P. GREGORY CONLON

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

Commissioners