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Mail Date  
6/11/99

Decision 99-06-062

June 10, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Edwin F. De la Torre,

Complainant,

vs.

Southern California Edison Company,

Defendant.

Case 98-08-038  
(Filed August 25, 1998)

**ORDER DENYING REHEARING OF D.99-02-060**

Edwin F. De la Torre, complainant, has applied for rehearing of D.99-02-060 which resolved his complaint against Southern California Edison Co. (SCE). D.99-02-060 dismissed Mr. De la Torre's complaint because it failed to state a cause of action within the Commission's jurisdiction.

The complaint alleged that upon Mr. De la Torre discovering an electrical problem in one of his apartment units he called an electrician who determined there was a faulty disconnect switch which required replacement and that SCE would have to be called in to unlock the meter. Complainant instructed the electrician to call SCE. A SCE lineman arrived to accomplish the disconnection of the meter, but left without doing it because he observed the service line touching the roof upstream from the meter. The lineman advised that this was an unsatisfactory and hazardous condition and reported it to the City of Santa Barbara. A Building and Safety Department electrical inspector arrived promptly, inspected the situation, discovered problems and wrote up several pages

of needed corrections of hazardous conditions. He advised the electrician to cease work and obtain a permit.

Per the correction notices the required work was completed in three days at a cost to complainant of \$10,357. Complainant filed a claim with SCE for this amount on the ground that as a result of SCE's employee's actions he was required to accept a contract for the work to correct the findings of the city inspector without an opportunity to acquire other bids due to the possible discontinuance of electric service to his tenants and the imposition of double permit fees. SCE denied the claim. In addition to his request that the Commission order payment of \$10,357, the complainant requested that SCE be directed to establish a customer notification procedure in writing when hazardous conditions are found on a customer's premises, and to prohibit SCE's employees from notifying local building officials of unsafe conditions until the customer had an opportunity to correct the problem.

SCE filed an answer moving for dismissal of the complaint on the ground that it failed to cite any rule, law or SCE policy that had been violated and therefore the complaint failed to plead a cause of action within the Commission's jurisdiction.

On February 18, 1999 we issued D.99-02-060 (the Decision) granting SCE's motion and dismissing the complaint. It stated that complainant had failed to set forth a cause of action "upon which relief can be granted by this Commission". No statute, rule, rate schedule or regulation was violated by SCE's prompt reporting of the electrical situation to the City.

On March 12, 1999 complainant filed the application for rehearing (the Application) now before us for disposition. It alleges that complainant was denied procedural due process in that the Decision states that no comments were filed to the draft decision when in fact he did file comments on February 16, 1999; and this was confirmed on March 1, 1999 in a conference call which included the Docket Office, Mr. De la Torre and the Public Advisors Office. The Application

also incorporates the points raised in the comments to the draft decision respecting alleged violations by SCE of Rule 1 (Code of Ethics) of the Commission's Rules of Practice and Procedure, and of seven sections of G.O. 95 relating to electric overhead line construction.

On March 24, 1999 SCE filed a response to the Application which states that, even if the comments to the proposed decision are deemed timely filed, they fail to provide any basis to revise the Decision and do not provide any legal basis for granting rehearing.

Complainant is correct that the Decision states that no comments were filed. However, since the comments to the draft decision and the allegations in the Application are identical, we will consider both at this time.

After reviewing both the comments and the Application, we conclude that good cause has not been shown to reconsider or revise D.99-02-060. They both fail to specifically set out any facts to support the claim that SCE has violated P.U. Code Sec. 451, or any other rule, regulation or tariff. There is no specific allegation of what actions by SCE were unjust or unreasonable. Apparently complainant believes that SCE's reporting unsafe electric conditions to local building officials was unreasonable. Such a position is untenable since reporting obvious unsafe conditions can only be deemed as reasonable conduct in the general public interest. SCE owes no duty to the complainant to delay any such notification in order that corrections might be made at lower cost, when immediate corrections were essential for the public safety.

As for the alleged violation of Rule 1 of the Commission Rules, the Application fails to set out any specific "false statement of fact" by SCE. Likewise, there is no specific statement or explanation of any acts by SCE that

violate the seven sections of GO 95, governing overhead electric line construction standards and specifications.<sup>1</sup>

Finally, with respect to the request for reparations of the \$10,357 bill of the electrician who completed the repairs, this Commission is not vested with jurisdiction to award damages or other monetary relief in any such dispute. Since the bill is not based on any SCE rate schedule, the Commission is not the correct forum for any such action.

For a complainant to prevail in this type of proceeding it is necessary that the complaint allege a violation of a provision of law, or a Commission regulation, or an order of the Commission, and support the allegation with specific facts, before relief can be provided. See Welch v. Pacific Telephone & Telegraph Co., 74 CPUC 309 (1972), Blincoe et al. v. Pacific Telephone Co., 60 CPUC 432 (1963).

Accordingly, we conclude that the application for rehearing must be denied.

**THEREFORE, IT IS ORDERED that:**

1. The comments to the draft decision filed by complainant are accepted as being filed on time and have been considered in the disposition of this Application for Rehearing.

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<sup>1</sup> The Sections of G.O. 95 cited are: Section 31.1 (Design, Construction and Maintenance of electrical supply and communications systems in safe manner), Section 31.2 (Inspection of Lines to ensure safe condition), Section 12.2 (Maintenance of Lines to maintain safety), Section 16 (Savings Clause reserving Commission's right to change rules), Section 21.10 (Definition of Maintenance), Section 31.4 (Cooperation to Avoid Conflicts with other line classifications during construction), Section 12.3 (Lines Constructed Prior to This Order not subject to this Order). There are no allegations of any acts by SCE that could be interpreted as a violation of any of these sections.

2. Rehearing of D.99-02-060 is denied.
3. This proceeding is closed.

This order is effective today.

Dated June 10, 1999, at San Francisco, California.

RICHARD BILAS  
President  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
LORETTA M. LYNCH  
JOEL Z. HYATT  
Commissioners