

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



January 7, 2004

Agenda ID #3160  
Adjudicatory

TO: PARTIES OF RECORD IN CASE 03-08-013

This is the draft decision of Administrative Law Judge (ALJ) Walker. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN  
Angela K. Minkin, Chief  
Administrative Law Judge

ANG:jva

Attachment

Decision **DRAFT DECISION OF ALJ WALKER (Mailed 1/7/2004)**

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

John J. Bassett,

Complainant,

v.

George W. Woods, Jr.,

Defendant.

Case 03-08-013  
(Filed August 19, 2003)

**OPINION DISMISSING COMPLAINT**

**1. Summary**

This complaint by a mobilehome park resident against the park owner is dismissed for failure to state a cause of action for which relief can be granted by this Commission. The dispute between the parties is currently being litigated in Superior Court.

**2. Statement of Facts**

Complainant until recently was a resident in the Fernbrook Mobilehome Park in Ramona, California. He agreed to leave the park following an eviction action filed against him. His complaint alleges that the park owner is overcharging tenants in the provision of propane, or liquefied petroleum gas, in

violation of Civ. Code § 798.44.<sup>1</sup> The park owner denies the allegation and states that this and other matters are before the San Diego County Superior Court in Case UR002130 (*Woods v. Bassett*).

The Legislature has authorized this Commission to regulate the rates that a sub-metered mobilehome park charges for gas and electric service provided by a public utility. (Pub. Util. Code § 739.5(a).) The propane at issue in this case is trucked to the park by a company that is not a public utility. Moreover, the Public Utilities Code specifically excludes propane from the definitions of a “gas corporation” regulated by the Commission. (*See* Pub. Util. Code §§ 221, 222.) Accordingly, the Commission has no authority to regulate the park’s charges for its propane service. The Civil Code provides that regulation of this service is governed by the Mobilehome Residency Law. (Civ. Code § 798.44(c).)

The complaint also alleges that the park has overcharged its provision of electricity service provided by San Diego Gas & Electric Company (SDG&E). The park asked SDG&E to audit bills submitted by complainant, and SDG&E advised the park that an Electric Energy Charge had for two years been billed by the park erroneously at from 7 to 10 cents per kilowatt-hour instead of 5 cents. The park has proffered refund checks of \$51.90 for the year 2001 and \$42.19 for the year 2002 to complainant. When invited to do so in an Administrative Law

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<sup>1</sup> Civ. Code § 798.44(a) provides:

“The management of a park that does not permit mobilehome owners or park tenants to purchase liquefied petroleum gas for use in the mobilehome park from someone other than the mobilehome park management shall not sell liquefied petroleum gas to mobilehome owners and tenants within the park at a cost which exceeds 110 percent of the actual price paid by the management of the park for liquefied petroleum gas.”

Judge (ALJ) Ruling, Complainant identified no other discrepancy in his electrical charges.

Complainant alleges numerous other violations by the park, including rodent infestation, accumulation of combustible material, and construction of a storage shed without a county permit. These are matters outside the jurisdiction of this Commission, and the allegations are under investigation by the San Diego County Department of Environmental Health Land Use Division.

### **3. Conclusion**

The complaint seeks relief that this Commission is not empowered to provide, and it fails to show or allege that the park violated any law, order or rule within the jurisdiction of this Commission. Accordingly, the complaint must be dismissed. (*See, e.g., Young v. Pacific Bell* (1996) 67 CPUC2d 634, 637.)

### **4. Comments on Draft Decision**

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on \_\_\_\_\_, and reply comments were filed on \_\_\_\_\_.

### **5. Assignment of Proceeding**

Susan P. Kennedy is the Assigned Commissioner and Glen Walker is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. Complainant was a resident of the Fernbrook Mobilehome Park in Ramona, California.
2. Complainant alleges that the park overcharged him for propane and electricity services.

3. Propane services are delivered to the park by a company that is not a public utility.

4. SDG&E advised that an error that had been made in Complainant's electricity bill, and Complainant was offered a refund totaling \$94.09.

**Conclusions of Law**

1. The Commission has no authority to regulate the park's charges for propane services.

2. Complainant has identified no discrepancy in his electrical bill beyond the error noted by SDG&E.

3. The complaint seeks relief that the Commission is not empowered to provide, and it fails to show or allege that the park violated any law, order or rule within the jurisdiction of the Commission.

4. The complaint should be dismissed.

**O R D E R**

**IT IS ORDERED** that:

1. The complaint of John J. Bassett against George W. Woods, Jr., is denied, and the complaint is dismissed.

2. Case 03-08-013 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.