

Decision 08-11-040 November 21, 2008

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

Jibsail, Incorporated,

Complainant,

vs.

San Diego Gas & Electric Company,

Defendant.

Case 08-06-028  
(Filed June 24, 2008)

**DECISION DISMISSING COMPLAINT**

**Summary**

This decision dismisses the complaint of Jibsail, Incorporated for failure to state a cause of action that this Commission may adjudicate.

**Discussion**

Jibsail, Incorporated (Jibsail) filed this complaint seeking to have San Diego Gas & Electric Company (SDG&E) remove two power poles and power lines off of its property. SDG&E filed a timely answer to the complaint and, concurrently, a motion to dismiss the complaint on the basis that it fails to state a cause of action for relief over which the Commission has subject matter jurisdiction and because it does not advise the Commission or SDG&E of the requisite facts constituting the injury, as mandated by Rule 4.2 of the Commission's Rules of Practice and Procedure.

As SDG&E notes, the complaint makes vague, ambiguous and conclusory assertions, and provides, without explanation, a disordered compilation of unidentified letters, maps and various documents. Nevertheless, we are able to discern the following asserted facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired: Jibsail claims that the presence of SDG&E's power poles and lines on its property violates local ordinances and subdivision maps which were filed pursuant to state law. Jibsail also claims that SDG&E made representations (although it is not clear by what device or to whom) that it would relocate the power poles and lines and that it has been paid (although it is not clear by whom) to relocate them. Jibsail also makes reference to certain quitclaim deeds in support of its claim. Jibsail complains of the presence of the power poles and lines on Jibsail's property, and desires their removal from Jibsail's property.

Regardless of whether Jibsail has sufficiently stated its complaint pursuant to Rule 4.2, the Commission does not have jurisdiction to determine the merits of Jibsail's claims. The object of this complaint is to secure from the Commission an interpretation of a local ordinance, the enforcement of a contract, and/or the adjudication of a property right. The Commission lacks jurisdiction to interpret local ordinances, to enforce contracts, or to adjudicate property rights, except where incidental to or in connection with some established power or duty of the Commission. (*See e.g., A. & E. Ry. V. Northern Elec. Ry.* (1914) 4 CRRC 1155.)

The complaint must be dismissed.

### **Categorization and Need for Hearing**

In the Instructions to Answer filed July 10, 2008, the Chief Administrative Law Judge preliminarily categorized this case as adjudicatory, and preliminarily determined that hearings were needed. We confirm the categorization of the

case as adjudicatory. Because we dismiss the complaint for lack of jurisdiction, no hearings are needed.

### **Comments on Proposed Decision**

The proposed decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.

Jibsail filed comments on October 14, 2008, clarifying that the basis of its claim is that, by failing to remove its facilities from Jibsail's property as indicated on recorded subdivision maps, SDG&E is in violation of local ordinances and state law. Jibsail's further explanation of the nature of its claim does not identify or reveal any error in our conclusion that the CPUC lacks jurisdiction over its claim. To the extent that Jibsail has a valid claim, it must seek its remedy in a forum other than the CPUC.

### **Assignment of Proceeding**

President Michael R. Peevey is the assigned Commissioner and Hallie Yacknin is the assigned ALJ in this proceeding.

### **Finding of Fact**

Jibsail claims that the presence of SDG&E's power poles and lines on its property violates local ordinances and subdivision maps, representations made by SDG&E, and/or quitclaim deeds.

### **Conclusions of Law**

1. We lack jurisdiction to determine the rights and obligations of the parties under the local ordinance and subdivision maps, under any contractual or quasi-contractual theory, or under a deed or property rights.
2. The complaint should be dismissed for lack of jurisdiction.

3. The proceeding should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. The complaint is dismissed.
2. Case 08-06-028 is closed.

This order is effective today.

Dated November 21, 2008, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners