

**IN RE CITIZENS OF BELEN & VALENCIA COUNTY, 1933-NMSC-010, 37 N.M. 165,
20 P.2d 272 (S. Ct. 1933)**

**In re CITIZENS OF BELEN AND VALENCIA COUNTY. In re NEW
MEXICO POWER CO.**

No. 3840

SUPREME COURT OF NEW MEXICO

1933-NMSC-010, 37 N.M. 165, 20 P.2d 272

February 13, 1933

Petition by the Citizens of Belen and Valencia County filed before the State Corporation Commission, for reduction of rates charged by the New Mexico Power Company for electricity. The Commission dismissed the petition, and the petitioners obtained an order of removal to the Supreme Court. The New Mexico Power Company moves to dismiss the removal proceeding.

COUNSEL

Robert Hoath La Follette and Kenneth I. Speir, both of Albuquerque, for petitioners.

R. R. Ryan, of Albuquerque, and Francis C. Wilson, of Santa Fe, for respondent.

JUDGES

Hudspeth, Justice. Watson, C. J., and Sadler and Bickley, JJ., concur. Zinn, J., did not participate.

AUTHOR: HUDSPETH

OPINION

{*165} {1} Petitioners, one hundred and twenty-six users of electricity in the village of Belen and in the county of Valencia adjacent to Belen, filed a petition before the State Corporation Commission, alleging that the rates charged for electricity in Valencia county by the respondent, the New Mexico Power Company, were exorbitant and oppressive, and praying that such rates be reduced. After a hearing on the merits, the commission entered an order dismissing the petition for lack of evidence that the rates charged were unreasonable. Petitioners then obtained an order of removal to this court. Respondent moves to dismiss the removal proceeding on the ground that this court is without jurisdiction to review the order of the State Corporation Commission denying the relief prayed for in the petition.

{2} The precise question presented by respondent's motion to dismiss was passed upon by this court in *Seaberg v. Raton Public Service Company*, 36 N.M. 59, 8 P.2d 100, 101. In that case, which must be regarded as determinative of the case at bar, we said: "As regards the reasonableness of the rates, the {**166*} commission, the only tribunal to which the public can resort to obtain reasonable rates, has spoken. It has said that the public has no just cause of complaint. This court can no more review that decision than if it had been made by the Legislature."

{3} The motion to dismiss must be granted. The removal proceeding will therefore be dismissed and the record remanded to the Corporation Commission; and it is so ordered.