

ORIGINAL

Decision No.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Samuel J. Miller,

Complainant,

Vs.

Case No. 873.

The Pacific Telephone & Telegraph Company,

Defendant.

Samuel J. Miller, in propria persona.

James T. Shaw, for the Defendant.

GORDON, Commissioner.

OPINION

This is a complaint which has been filed with the Railroad Commission by Samuel J. Miller, residing at 440 Collingwood Street in the City of San Francisco, versus The Pacific Telephone and Telegraph Company, in which it is alleged that an application having been made on August 2, 1915 to the defendant company for the installation of telephone service at the complainant's premises service was denied by the defendant for the reason that an outstanding bill for service previously rendered the complainant at this address remains unpaid and that the complainant refused payment on the grounds that the service has been unsatisfactory. The complaint also shows that, upon the refusal of the defendant to install service, complainant has rendered a bill against defendant for an amount claimed to be due for the use of certain of his property by the defendant for the purpose of attaching its wires used in providing telephone service to the complainant and other patrons of the defendant. The Commission is, therefore, asked to issue an order that service such as may be relied upon

Decision No. 2924

at all times be installed, that an adjustment of the defendant's bill against complainant according to the quality of service be made, and that the defendant be required to pay the complainant's claim for the use of the property referred to.

As to the settlement of the complainant's bill against defendant, this is clearly a matter for the courts and one over which this Commission does not have jurisdiction.

As to the restoration of service and the settlement of the defendant's bill against the complainant for service previously rendered, the complainant should not be denied service if service can be reasonably provided and if the defendant's ~~reasonable~~ charges are paid and its ~~reasonable~~ rules and regulations complied with on the part of complainant. Complainant, however, has refused to pay for service heretofore rendered, on account of which refusal service was discontinued, and has failed absolutely to produce any evidence to show either that the defendant has not provided reasonably satisfactory service or that its charges for the service rendered are unreasonable or unjust. On the contrary, it appears from the evidence that the defendant in its efforts to satisfy the complainant in the past has unquestionably gone to far greater length in this respect than it could reasonably be required to go in general practice. I am accordingly of the opinion that the complaint should be dismissed and submit the following form of order.

O R D E R

Complaint having been filed with this Commission by Samuel J. Miller, complainant, versus The Pacific Telephone and Telegraph Company, defendant, asking that an order be issued requiring the defendant to install telephone service at his premises at 440 Collingwood Street, city of San Francisco, and that

a settlement of certain accounts between the respective parties hereto, as more specifically referred to in the foregoing opinion, be made, and a hearing having been had and it appearing to this Commission that the defendant cannot, under the conditions referred to in the preceding opinion, be required to provide service in this case except upon the payment by the complainant of the said defendant's charges and upon compliance with its reasonable rules and regulations,

IT IS HEREBY ORDERED that the complaint herein be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22nd day of November, 1915.

Max Heeler
J. D. Ireland
Alex. Gordon
Ernest R. Dehn

Commissioners.