

Decision No. 43317

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAM C. HANNA, as an individual
D.B.A. Lumbermans Warehouse Co.,

Plaintiff,

vs.

PACIFIC GAS AND ELECTRIC COMPANY,
a Public Utility California Cor-
poration,

Defendant.

Case No. 5007

ORDER OF DISMISSAL

The above complaint, filed March 15, 1949, contains seventy-nine numbered paragraphs and three exhibits. Rule 9(c) of the Commission's Rules of Procedure requires that a complaint shall state fully and clearly "the specific act complained of," and "shall set forth definitely the exact relief which is desired." The complaint herein
(1)
does not comply with that rule.

(1) The last two paragraphs and the prayer of the complaint read as follows:

"78.

"That plaintiff desires a full and complete hearing of the issues involved so that plaintiff may properly prepare and file with the Reconstruction Finance Corporation his application for a capital operating loan and have a true and equitable appraisal made of the assets of plaintiff for loan purposes.

"79.

"That plaintiff desires at the earliest possible moment a full determination of the issues involved in this controversy.

"WHEREFORE: Plaintiff prays that the formal hearing be set and held at the earliest possible moment and that there be established

The body of the complaint alleges in part that in 1945 complainant paid to defendant \$525.69 to cover "up and down" charges under a line extension agreement to supply service of questionable permanency at Ukiah, California, which amount has not been returned to complainant. Aside from this, the complaint is ambiguous and indefinite as to the issues sought to be raised, and refers to many matters which cannot be decided by the Commission.

In addition to the defendant utility, the body of the complaint refers to a number of "parties named in this complaint." It is not clear whether or not the complaint seeks relief against such parties. The Reconstruction Finance Corporation is named, as well as an electrical manufacturing company from which complainant apparently purchased a number of motors and a contractor who installed such motors for complainant. The complaint asserts that these motors burned out, and that no just appraisal of complainant's plant and facilities can be made without satisfactory explanation of the cause of such failures. It also alleges that complainant would not authorize defendant to reestablish service "without a full and complete investigation and determination of the cause of the financial loss and property damage previously sustained by the failure of thirteen" motors.

The complaint also refers to a 1947 conditional sales agreement, involving personal property located on the real property served by defendant, between complainant and Nourse Bros. It is asserted that this agreement was terminated in 1948, and that Nourse Bros. failed

Footnote (1) cont'd.

the true facts relative to the manner in which electric service will be established at this time.

"That all other matters that are just and proper and under the jurisdiction of the Commission be heard and determined so that plaintiff may establish and maintain his property and establish their true financial worth."

to exercise a later option for purchase of such personal property. However, it is asserted that defendant furnished electrical service to Nourse Bros., and that complainant received nothing from Nourse Bros. for his equity in the 1945 "Questionable Permanency Agreement," and received nothing from defendant for his \$525.69 payment thereunder.

The complaint also alleges that in 1948 defendant furnished service to J.F. Pinnell over the facilities covered by the 1945 agreement, and that therefore, for the second time, complainant was entitled to the return of the cash deposit of \$525.69.

After the filing of the complaint, discussions were had between complainant and defendant, and on August 5, 1949, complainant filed a Motion for Order to Show Cause. This motion contained allegations concerning litigation between complainant and defendant, during the period 1915-1920, and involving rights of way in Contra Costa County. It alleged that defendant had caused property loss and damage to the owners of the Ukiah property leased by complainant. It asserted that all pending negotiations were terminated; that formal notice was given that complainant intended "to place padlocks on his electric switches and stop all current"; and that notice of termination of a sub-lease had been served by complainant. The motion requested that defendant be ordered to answer the complaint.

Order to satisfy or answer the complaint issued on August 8, 1949, and on August 13, 1949, defendant filed a Satisfaction of Complaint. Defendant there took the position that it was impossible to ascertain from the complaint the exact relief desired, but that, if the complaint be stripped of all assertions concerning matters beyond the authority of the Commission to hear or determine, together with immaterial allegations, there would be left only allegations concerning the deposit of \$525.69. Assuming, but not conceding, that the

complaint was properly structured, the Satisfaction stated that an issue for determination by the Commission could be evolved, namely: Whether complainant was entitled to have the amount of such deposit returned to him. The Satisfaction then showed that on August 12, 1949, defendant had forwarded to complainant's counsel its check for \$525.69, payable to complainant. The Satisfaction submitted that the only possible determinable issue had therefore been withdrawn from contention and finally settled, and that the complaint should be dismissed as having been satisfied. (2)

On August 22, 1949 complainant filed a "Protest to Dismissal," asserting that defendant had rendered no closing account; that defendant had not furnished detailed authorization for actions taken by it, and that complainant had had no time "to secure regular and orderly legal advice as to the extent that plaintiff has suffered property loss and damage by the adverse activities of the defendant"; and requesting an accounting of Customer's Deposit Receipt No. 40172, issued September 14, 1945, for the sum of \$100.

On September 3, 1949 the Commission received a copy of a document "Before the State Bar of California a Public Corporation," bearing the title "Misconduct," in which Sam C. Hanna is named as plaintiff. In part, this document asserts that such plaintiff is requesting the Commission to direct the defendant in Case No. 5007 to employ a resident attorney in each county in which said defendant operates, the income from fees of such resident attorneys not to exceed

(2) The Satisfaction also showed that complainant's present sublessee had applied for electric service and had made a deposit to guarantee payment of bills; that defendant was convinced that, with continued operation by the sublessee, the business gave satisfactory promise of permanency, warranting refund of the advance to complainant; and that the sublessee's application for service would be accepted and service commenced upon termination of an agreement of March 3, 1949 with complainant for reestablishment of service, pursuant to a Notice of Termination of Contract attached to the Satisfaction.

25 per cent from defendant. The document bears the following notation: "Copy filed with Public Utilities Commission of the State of California Re: Case No. 5007 Hanna vs Pacific Gas and Electric." This document has no relevancy to Case No. 5007, has not been filed therein, and is being returned to complainant without filing.

On September 3, 1949 complainant filed a "Petition for Order to Restore Service." This petition alleges that on August 7, 1949 complainant placed padlocks on his power switches, that such padlocks were removed by parties unknown, and that electricity has continued to be furnished "over the facilities of plaintiff" to parties not fully known to complainant. Reference is again made to a \$100 deposit to guarantee payment of bills, and it is asserted that defendant has never been authorized to apply said amount to any current bills. Reference is made to a sub-lease of property from complainant to Harold J. Gilmour, and it is asserted that payments thereunder are now delinquent. Reference is also made to a proceeding in Mendocino County wherein Deep Valley Lumber & Milling Co. is plaintiff and the City of Ukiah is defendant, and it is asserted that by such litigation the Pacific Gas and Electric Company has started litigation which has caused property loss and damage to complainant and complainant's creditors. The document received September 3, 1949 is not verified, nor does it show that service was made upon defendant.

On September 6, 1949 complainant filed another document, entitled "Protest to Accounting," wherein complainant states that he "rejects the accounting as rendered by the defendant." This document asserts that in July of 1948 complainant was in the field warehousing business and was refused service by defendant. Reference is made to the receipt by complainant, in conducting warehousing operations, of \$20,000 of alleged fictitious checks. It is also asserted that defendant twice refused to redeem the deposit receipt for \$100 hereto-

fore mentioned. The document of September 6, 1949 is not verified, nor does it show that service has been made upon defendant.

On September 7, 1949 the Commission received a letter from complainant, apparently referring to prior litigation in Santa Clara County, and asserting a falsification of public records in that county. Attached to such letter was a document "Before the State Bar of California a public corporation," and entitled "Ten (10) day notice of intention to file disbarment proceedings in the Superior Court of the State of California." This document contains the following statement: "Copy: Filed With the Public Utilities Commission of the State of California - Re: Hanna vs. Pacific Gas and Electric Company Case No. 5007." The document bears no relevancy to Case No. 5007, has not been filed therein, and is being returned to complainant without filing.

On September 10, 1949 defendant filed a "Reply to Protest to Dismissal," from which it appears that a closing bill was rendered to complainant, together with a detailed accounting of the \$100 deposit to guarantee payment of bills. Defendant requested that it be found that the complaint herein, in so far as it involves matters determinable by the Commission, has been fully satisfied by defendant, and that the complaint be dismissed.

On September 12, 1949 complainant filed a "Second Protest to Accounting," which states that complainant for a second time rejects the accounting "for the reason that it does not reflect a deposit made to the account of plaintiff with defendant on August 10, 1949 of \$135.00." The document then contains numerous assertions concerning past and pending court litigation which has no relevancy to Case No. 5007. This document, too, is not verified and does not show that service has been made upon defendant.

The complaint and the various other papers submitted by com-

plainant do not comply with the Commission's procedural rules. The complaint fails to reveal any clear statement of a cause of action within the Commission's jurisdiction.

IT IS ORDERED that Case No. 5007 is hereby dismissed.

Dated, Los Angeles, California, this 20th day of September, 1949.

R. F. Zimmerman
Justice J. C. Cullen
Just. H. L. G. O.
Harold H. Huls
Kenneth W. Potter
Commissioners