

ORIGINALDecision No. 62089

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHN FRANCIS DONOVAN, III,
Complainant,

vs.

Case No. 7108

GENERAL TELEPHONE CO.,
a corporation,

Defendant.

PRELIMINARY ORDER

The essence of the above complaint is in the allegations that on April 14, 1961, complainant received a letter disclosing that defendant had disconnected complainant's telephone for non-payment of bills (Par. 6); that an itemization of charges attached to said letter is inaccurate as complainant "paid bill in full on or about February 3, 1961" (Par. 7); that complainant has not had "an opportunity to correct these errors at defendant's level" (Par. 8); that complainant "has demanded a fair and honest billing and that this has been denied" (Par. 10); and that defendant's equipment serving the telephone "is faulty causing loss of use to complainant" (Par. 5).

Rule 12 of the Commission's procedural rules provides in part that the Commission, "without argument and without hearing, may dismiss a complaint for failure to state a cause of action, or strike irrelevant allegations therefrom."

Finding that the following allegations are irrelevant to the issues sought to be raised by the complaint, IT IS ORDERED that said allegations are hereby stricken from the complaint;

(a) That part of paragraph 2 referring to the telephone involved as "a United States line used to call in criminal

information to the F.B.I. toll free by use of agents' line OR. 7-2159 -- F.B.I. on criminal information effecting the property identified above in U.S. cases".

(b) Paragraph 3, reading "That complainant is a federal officer in a position of trust for the government of the United States and the telephone is necessary for the required use of property to maintain same as the second asset of US 54747 PH, order of Referee of February 8, 1954, now at issue in which defendant is a creditor, that defendant is a defendant in 335-59-BH."

(c) Paragraph 4, reading "That prior to the filing of this complaint, two decisions against the defendant have been made for illegally denying service to this complainant, that an Order to Show Cause was entered against defendant in US-54757 PH, that a judgment was entered in the U.S. District Court in 335-59-PH against defendant."

(d) Paragraph 9, reading "That because of the foregoing allegations herein setforth and the file No. IC 37278-DB-T interpleaded as contributing allegations, the complainant has suffered financial loss."

Paragraph 10 states that Commission "File No. 599-T is herewith interpleaded", and the prayer asks in part that "the entire file as interpleaded in this complaint as fully set forth, be before the Commission for a full hearing de novo." Whatever may be complainant's understanding of the term "interpleaded" the record in Case No. 7108 will consist of the pleadings and such testimony and exhibits as may be received in evidence at the hearing on the complaint.

Complainant's request for an ex parte injunctive order is denied. The Secretary is directed to cause a copy of this order to be served on complainant, and to cause to be served upon defendant a copy of the complaint together with a copy of this order and an order to satisfy or answer the complaint.

Dated at San Francisco, California, this 6th day of June, 1961.

Charles H. Ray
President
George T. Hoover
Frederick B. Holmoff
Commissioners