

Decision No. 71058**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

UTILITY USER'S LEAGUE OF CALIFORNIA  
 a non-profit utility users association  
 by Edward L. Blincoe, individually  
 and as President of the League, and  
 hereinafter signed telephone utility  
 users or civic groups,

Complainants,

vs.

Case No. 8444

The CALIFORNIA WATER and TELEPHONE  
 COMPANY, The GENERAL TELEPHONE  
 COMPANY OF CALIFORNIA, and The PACIFIC  
 TELEPHONE AND TELEGRAPH COMPANY, all  
 franchised utility companies,

Defendants.

ORDER OF DISMISSAL

The complaint herein, bearing 32 signatures, contains seven "causes of complaint" against three defendant telephone utilities. The first cause alleges failure and refusal to provide name prefix on phone numbers, to protect phones from excessive toll, to protect phones from nuisance calls, to provide equal service for equal rates, to provide special services of value, to re-establish Los Angeles rate base area, and "to discontinue \$4,000,000 weekly overcharge".

The next five causes allege that defendants, in violation of their "trustee obligations" to ratepayers, have failed to provide adequate service at the lowest reasonable cost, but have demanded hidden charges and excessive payments which they have converted to the benefit of their investors or used to subsidize service in areas other than the Los Angeles Metropolitan Area (second cause); have wilfully and deliberately made false or misleading representations to the Commission, resulting in unreasonable burdens on ratepayers (third cause); have failed to adjust their rates and

charges, creating an unjust cost on ratepayers of \$200,000,000 annually (fourth cause); have taken money of ratepayers and given it to investors in excessive rates, or have allowed accumulation of large surplus and depreciation reserves which they claim is held for the benefit of investors (fifth cause); and have used excess depreciation reserve and surplus for capital expansion without acknowledging the indebtedness to or ownership of such investment in the ratepayers (sixth cause).

The seventh cause alleges defendants have grossly overinvested in local equipment, and have not charged toll revenues with a just share of total costs, but have placed an unjust burden on local exchange rates to provide greater profits "for its inter-corporate investors."

The complaint seeks an "emergency interim order" requiring and restraining the three defendants from paying their investors "dividends including federal income taxes thereon, which place a burden on the ratepayer for net effective total cost of capital of all kinds which is greater than \$7.50 per \$100.00 per annum throughout California and require that all revenue above this level be impounded pending final determination of this matter." The requested emergency order would also restrain "the utility" from using any funds in any surplus account to pay dividends or federal income taxes thereon.

After hearing, the complaint seeks a permanent order requiring

1. An overall rate base for the Los Angeles Metropolitan Area for all telephone utilities serving therein.
2. "The net cost of effective plant and net effective total cash investment used for" the various kinds of service in such rate base area.
3. Service in the area on the basis of equal rates for equal service regardless of the utility performing the direct service, and that each extended area subscriber be able to call not less than 135 central office codes without time and distance charges.
4. Return of name prefix to all telephones, and an adequate number of numbering plan areas so that at no foreseeable time will it be necessary to justify removal of name prefix or large scale changes.
5. Protection from charges arising from unintended or unknown calls involving time and distance charges, and protection from nuisance calls.

6. Provision of special services, "such as life line and swcts", where there is a reasonable demand.
7. Declaration of all surplus and reserve accounts to be trust funds administered for the benefit of ratepayers.
8. Restriction of ratepayers' burden "for total cost of net effective investment" to \$7.50 per \$100.00 of total capital per year including income taxes.
9. Restraint of service disconnection on disputed bills upon deposit of the undisputed amount pending final Commission formal determination.
10. A refund to ratepayers of accumulated revenues under the requested emergency interim order.
11. Restriction of the number of directors that a controlling intercorporate investor may elect to the operating utility to less than a majority.

Complainant Blincoe has been a party in numerous Commission proceedings, and should not be unfamiliar with the regulatory statutes and the Commission's procedural rules. The order dismissing the complaint in Utility Users v. A.T.&S.F. Rwy. Co. (1964) 62 Cal. P.U.C. 144, 147, stated in part as follows:

"Complainant Blincoe should not be unaware of Commission procedure and the requirements of pleading. He has had many complaints dismissed for failure to state a cause of action, dismissed after hearing, or had portions of complaints stricken. For example, see

Utility Users v. Pacific Telephone, (Nov. 12, 1963) Decision No. 66299, Case No. 7738" [61 Cal. P.U.C. 674.]  
"Robinson v. Cal. W. & T. Co.", 60 Cal. P.U.C. 687  
Blincoe v. Pacific Telephone, 60 Cal. P.U.C. 434  
Blincoe v. Pacific Telephone, 60 Cal. P.U.C. 432  
Utility Users v. Pacific Telephone, 58 Cal. P.U.C. 22  
Utility Users v. Pacific Telephone, (Aug. 22, 1961), Decision No. 62442, Case No. 7076."

Many of the "charges" in the present complaint have been raised and considered in other proceedings. (See Utility Users v. Pacific Telephone, 58 Cal. P.U.C. 22; General Telephone Co., 58 Cal. P.U.C. 601, 607-8; Pacific Telephone, 56 Cal. P.U.C. 277; Blincoe v. Pacific Telephone, et al., 62 Cal. P.U.C. 447; McDaniel v. Pacific Telephone, 64 Cal. P.U.C. 707.) Other "charges" and relief sought are beyond Commission jurisdiction. The pleading is far from being clear and concise, as required by procedural Rule 10. In the language of an earlier dismissal

order "the pleading is an inseverable admixture of allegation, contention, and argument from which it is not possible to extricate clear and unambiguous cause of action. It is our finding and conclusion that the complaint does not comply with Public Utilities Code Section 1702 nor with the Commission's procedural rules,\*\*\*." (Utility Users v. Pacific Telephone, et al., Decision No. 62442, Case No. 7076.)

Case No. 8444 is hereby dismissed.

Dated at San Francisco, California, this 24<sup>th</sup> day of AUGUST, 1966.

*Robert E. Mitchell*  
President

*George T. Grover*

*Frederick B. Hilliff*

*Augustus*

*William W. Bennett*  
Commissioners