

ORIGINAL

Decision No. 76372

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JAMES H. VANDERMEER,  
 Complainant,  
 vs.  
 PACIFIC TELEPHONE AND TELEGRAPH  
 CO., a corporation,  
 Defendant.

Case No. 8947  
(Filed August 1, 1969)

James H. Vandermeer, in propria persona.  
Robert E. Michalski, for defendant.

O P I N I O N

This is a complaint by James H. Vandermeer (hereinafter referred to as Vandermeer) against The Pacific Telephone and Telegraph Company (hereinafter referred to as PT&T).

A duly noticed public hearing was held in this matter before Examiner Jarvis in San Francisco on September 26, 1969, and the matter was submitted on that date.

Initially, PT&T moved to dismiss the complaint for lack of jurisdiction in that the complaint was not brought by twenty-five or more prospective customers. The presiding examiner correctly denied the motion and ruled that Vandermeer would have the opportunity to show, if he could, that PT&T's tariff rule here in question was illegal or unconstitutional or that if it were legal it was applied in an illegal manner. (Public Utilities Code § 1702; Decision No. 76065 in Cases Nos. 8735 and 8770.)

Vandermeer testified that a friend had moved into an apartment in San Francisco; that the friend desired telephone service; that there was a telephone on the premises; that PT&T offered the friend telephone service with a new number if the subscriber paid the requisite service connection charge; that PT&T also offered to permit the friend to continue service on the existing number with no service connection charge if the friend signed a supersedure document agreeing to be liable for charges on the number; that the friend signed the supersedure agreement; that the friend was billed for telephone service not paid for by the previous subscriber; that the friend was required to pay these charges and that the friend, after the expenditure of a great deal of effort, was able to collect the amount so paid from the former subscriber. Vandermeer opined that these facts indicated the unfairness and illegality of PT&T's tariff provisions dealing with supersedure agreements.

At the conclusion of Vandermeer's evidence, PT&T moved to dismiss the complaint on the ground that the facts presented were not sufficient to permit the granting of any relief to Vandermeer. The presiding examiner was of the opinion that the motion was meritorious and ordered the matter submitted. We agree. PT&T's service connection charges are authorized by decisions of this Commission. Vandermeer does not contend that PT&T failed to follow its tariff in connection with the facts here presented. There is nothing in these facts which would afford the basis for finding that these tariff provisions are illegal or unconstitutional. ✓

The Commission makes the following findings and conclusion.

Findings of Fact

1. Vandermeer has failed to establish that PT&T's tariff provisions dealing with service connection charges and supersedure agreements are illegal or unconstitutional.

2. Vandermeer has failed to establish that PT&T has applied its tariff provisions dealing with service connection charges and supersedure agreements in an illegal or unconstitutional manner.

Conclusion of Law

Vandermeer is entitled to no relief in this proceeding.

O R D E R

IT IS ORDERED that the complaint herein is dismissed and Case No. 8947 is discontinued.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 11<sup>th</sup> day of NOVEMBER, 1969.

William J. Sproull  
President

August

J. P. ...

T. ...

Vernon L. Sturgeon  
Commissioners