

ORIGINAL

Decision No. 80507

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PAUL M. DAVIS, Indv. & DBA
COUNTY PATROL - SAN FRANCISCO
Complainant,

vs.

PACIFIC TELEPHONE & TELEGRAPH,
a California Corporation
Defendant.

Case No. 9391
(Filed June 15, 1972)

O P I N I O N

On June 15, 1972, Paul Davis filed a complaint with this Commission, the body of which reads as follows:

" COMPLAINT

The complaint of Paul M. Davis, 2740 Lake Street, City of San Francisco, State of California and telephone numbers 221-7000, respectfully shows:

1. That the defendant is Pacific Telephone & Telegraph at 140 New Montgomery Street, City of San Francisco, State of California.
2. That the complainant believes that the charges for an off-premis extension based on computed mileage should be computed from the Telephone Company central office rather than from door to door.

WHEREFORE, complainant requests an order from the Commission to recompute the mileage charges for an off-premis extension from the central office to the location of the off-premis extension.

Dated at San Francisco, California, this 13th day of June, 1972.

(s) Paul Davis
complainant

(sic)

Service of the complaint was made on July 3, 1972, and on July 13, 1972 defendant, The Pacific Telephone and Telegraph Company (Pacific), filed its answer, stating the four separate and affirmative defenses set out below:

1. The complaint is legally insufficient. Section 1702 of the California Public Utilities Code (see also Rule 9 of the Commission's Revised Rules of Practice and Procedure) provides in pertinent part that a complaint must set forth:

"* * * any act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission."

The complainant has not alleged in his complaint that Pacific has violated any provision of law or any order or rule of the Commission. On the contrary, the complaint requests that the Commission issue an order which would violate Pacific's lawfully published and filed tariffs.

2. The complaint does not comply with Rule 10 of the Commission's Revised Rules of Practice and Procedure which provides in pertinent part as follows:

"The specific act complained of shall be set forth in ordinary and concise language and the complaint shall be so drawn as to advise the parties and the Commission completely of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired."

The complainant has failed to set forth the specific act complained of or any facts constituting the grounds of the complaint. The complaint does not allege that the complainant has applied for or is a customer of the telephone service of which the computation of mileage rates is questioned.

3. The method used to compute the mileage rates for off-premise extensions is in accordance with the applicable tariffs. (Schedule Cal. P.U.C. No. 26-T, 3rd Revised Sheet 4, (3)(a) and (3)(c) and Revised Sheet 7, item #2.) These lawfully established tariffs do not permit Pacific to compute the mileage rates as requested by the complainant.

4. The method used to compute the charges for off-premise extensions is an integral part of the rates and charges which have been established according to the applicable tariffs. Consequently, in challenging the method used to compute the rates, the complaint is also challenging the reasonableness of the established rates. Therefore, the complaint does not comply with Section 1702 of the California Public Utilities Code (see also Rule 9 of the Commission's Revised Rules of Practice and Procedure) which provides in pertinent part:

"No complaint shall be entertained by the Commission, except upon its own motion, as to the reasonableness of any rates or charges of * * * [a] telephone corporation, unless it be signed * * * by not less than 25 actual or prospective consumers or purchasers of such * * * telephone service."

Pacific denies that the complainant is entitled to the relief sought and prays that the complaint be dismissed.

The first three of Pacific's defenses are not necessarily sufficient in themselves to warrant dismissal. It is obvious that complainant is not satisfied with the method of computing mileage charges provided in Pacific's tariffs. If the Commission should concur that charges according to the tariffs are not reasonable, the charges could be changed by order of the Commission. It can be assumed that the complainant was sufficiently affected by the method of computing mileage charges to induce him to file this complaint. In any event, according to Section 1703 of the Public Utilities Code, the Commission is not required to dismiss the complaint because of the failure to allege direct damage to the complainant.

The failure to comply with the requirement for 25 signatures of actual or prospective customers of the service as specified by Section 1702 of the Public Utilities Code is another matter. This statutory requirement is, of course, mandatory. It has survived, substantially unchanged, since the original Public Utility Act became effective in 1912. Its purpose is obvious. Not every rate or tariff provision can please all segments of the public. This section

of the Code tends to limit complaints as to reasonableness of rates and charges to those problems where there is some minimum level of public dissatisfaction. Some such limitation is required to keep the work load of the Commission within reasonable bounds.

The Commission finds that:

1. The subject complaint involves the reasonableness of rates and charges of a telephone corporation.

2. The complaint has not been signed by the mayor, nor by the president or chairman of the board of trustees, nor by a majority of the council, commission nor other legislative body of the city or city and county within which the alleged violation occurred, nor by not less than 25 actual or prospective consumers or purchasers of such telephone service.

The Commission concludes that the complaint should be dismissed as not meeting the statutory requirements of Section 1702 of the Public Utilities Code.

O R D E R

IT IS ORDERED that the complaint be, and it hereby is, dismissed.

Dated at San Francisco, California, this 19th day of SEPTEMBER, 1972.

Vernon L. Sturgeon President
William J. Quinn
W. J. Quinn
Commissioners