

ds

ORIGINAL

Decision No. 81510

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Sylvia M. Siegel, for herself and
Toward Utility Rate Normalization,
Consumer Federation of California,
San Francisco Consumer Action, Diablo
Valley Consumer Action, Alameda Consumer
Action, Consumers United, Inc. and
twenty-five ratepayers.

Case No. 9540
(Filed April 11, 1973)

vs.

Pacific Telephone and Telegraph Company.

ORDER DISMISSING COMPLAINT

Sylvia M. Siegel (Complainant), for herself and others, filed her complaint against The Pacific Telephone and Telegraph Company (PT&T) and alleged that good service is a prerequisite to the granting of a rate increase. Complainant requests that PT&T and the Commission staff be ordered to produce evidence of adequate service in PT&T's pending rate increase proceeding;^{1/} that, in the alternative, complainant be granted discovery rights, which will allow her to establish quality of service levels in said proceeding; and that her complaint be consolidated with PT&T's Application No. 53587.

It appears that the complaint raises issues which are inseparably connected with PT&T's pending rate increase proceeding. Complainant is a party to that proceeding.

In addition, the complaint fails to set forth any act or thing done or omitted to be done by PT&T in violation or claimed to

1/ Consolidated Application No. 53587, Application No. 51774,
Case No. 9503 and Case No. 9504.

be in violation of any provision of law or of any order or rule of the Commission. (Public Utilities Code, Section 1702.) Accordingly, the complaint fails to state a cause of action.

Rule 12 of the Commission's Rules of Practice and Procedure provides, in part:


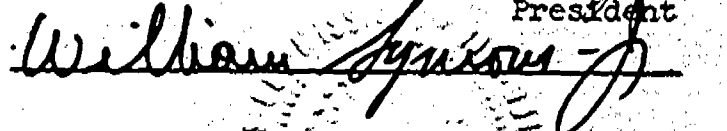
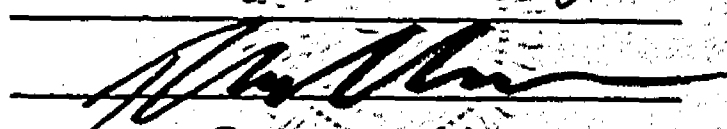

"The Commission, without argument and without hearing, may dismiss a complaint for failure to state a cause of action...."

The Commission concludes that the complaint should be dismissed. However, because the contents of the complaint relate to a pending proceeding before the Commission, the Secretary of the Commission will be directed to refile the complaint as a motion in the consolidated matters constituting PT&T's rate increase proceeding. The presiding officer thereof may rule upon complainant's motion pursuant to the authority conferred by Rule 63 of the Commission's Rules of Practice and Procedure.

IT IS ORDERED, therefore, that:

1. The complaint is dismissed for failure to state a cause of action.
2. The Secretary of the Commission is directed to refile the complaint as a motion in Application No. 53587, Application No. 51774, Case No. 9503, and Case No. 9504.
3. The effective date of this order is the date hereof.

Dated at San Francisco, California, this 19th day of JUNE, 1973.


President



Commissioners