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Decision No. 83145

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Paul J. Santoro,

Complainant,

vs.

Pacific Telephone and Telegraph Company, a corporation,

Defendant.

Case No. 9741

ORDER OF DISMISSAL

The complainant herein alleges and prays as follows:

"1. The defendant is Pacific Telephone and Telegraph Company, San Diego, California.

"2. The Pacific Telephone and Telegraph Company, without prior notification, did cease listing the complainant's business listing in the 1973 San Diego Telephone Directory, probably causing loss of revenue. The defendant has not ceased printing and listing their own complete office locations which indicates an abuse of power and bias.

"WHEREFORE, the complainant requests an order directing the defendant to relist Chula Vista businesses in the San Diego Telephone Directory, similar to the defendant listings, without additional costs."

Informal service of the complaint was made on defendant pursuant to Rule 12 of the Commission's Rules of Practice and Procedure. In response, defendant does not deny that businesses in complainant's Chula Vista exchange are no longer listed in both the San Diego and the San Diego Suburban telephone directories. Defendant asserts that this change was made pursuant to Commission authorization in Resolution No. T-7945, adopted on December 19, 1972. This Resolution was in

response to an Advice Letter filing by defendant (Advice Letter No. 10964). Advice Letter No. 10964 and Resolution No. T-7945 were appended to defendant's letter as Attachments "A" and "B", respectively.

By letter of June 7, 1974 from the Secretary of the Commission, complainant was advised of his opportunity to amend or stand on his complaint. This letter included the following paragraph:

> "In view of the contention of defendant that it was proceeding pursuant to authorization by the Commission, a response from you on this point is strongly suggested."

Complainant's response was a letter of June 24, 1974, stating his desire to stand on his complaint.

The Commission takes official notice of its records and confirms the existence and authenticity of Advice Letter No. 10964 and Resolution No. T-7945, as attached to defendant's letter of June 3, 1974. This Advice Letter indicates defendant's request to accomplish that which complainant now contests.

The Commission finds that defendant's action separating the listings in the San Diego and San Diego Suburban telephone directories was taken after proper compliance with this Commission's procedures and after authorization by the Commission. Complainant has not alleged any act by defendant contrary to this finding. The complaint must be dismissed for failure to state a cause of action. fn./

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fn./ At the Commission's request, Pacific made an appraisal of the telephone directory situation in the San Diego area independent of this proceeding. As a result of this study, Pacific has agreed to include El Cajon and Chula Vista listings in both the San Diego and San Diego Suburban directories starting October, 1974.

IT IS ORDERED that the complaint herein is dismissed.

The effective date of this order is the date hereof.

Dated at ~~San Francisco~~, California, this 16th day of JULY, 1974.

President

Commissioners