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Decision No. 83535

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Michael M. Levine

Complainant

Case No. 9774

vs

The Pacific Telephone and  
Telegraph Company, A Corporation

Defendant

ORDER OF DISMISSAL

Complainant alleges that defendant is indebted to him, has refused to pay such debt, and refused to offset current service bills against this debt. Complainant seeks the following relief:

"WHEREFORE the defendant [sic] requests an order requiring defendant to pay all debts incurred by them and to respect customer's right to offset any bills or monies due by defendant to complainant or file suit to collect any charges for service prior to disconnection of service."

As a separate cause of action complainant alleges that defendant engages in various activities in support of various charitable organizations, but reports the cost of these activities to the Commission as regular business expenses. For this cause of action complainant seeks the following relief:

"WHEREFORE defendant requests an order prohibiting defendant from showing these expenses as regular business expenses in the future, and requests the Commission to require defendant to provide the Commission with the actual expenses alleged to for a period of ten years, and that the defendant be required to take out full page newspaper advertisements and adequate radio and television time to inform the public of its errors."

Defendant filed a letter asserting defects in this complaint, pursuant to Rule 12 of the Commission's Rules of Practice and Procedure. Complainant was given an opportunity to correct these asserted defects and specifically cautioned that dismissal might

result if he did not avail himself of this opportunity. By letter dated September 3, 1974 complainant declined to amend his complaint.

We must agree with defendant that the first cause of action does not state a proper cause of action within this Commission's jurisdiction. This Commission has been granted extensive power over public utilities, but only with regard to their utility activities. Cal. Const., Art. XII, Sec. 23. The Commission cannot adjudicate every contract matter merely because one party happens to be a public utility. Penaloza v. PT&T, 64 CPUC 496 (1965).

Complainant asserts the existence of a debt owed to him by defendant. He did not describe the nature of the debt in his complaint, and he declined to do so by amendment. Neither the defendant nor this Commission has a duty to perfect a deficient complaint by supplying jurisdictional facts which the complainant does not choose to provide. Since complainant has not advised the Commission and the defendant of the facts constituting the grounds of his first cause of action, as required by Rule 10 of the Commission's Rules of Practice and Procedure, we cannot determine whether it is a matter within our jurisdiction and defendant cannot prepare a defense.


Complainant's second cause of action is more properly a matter for a rate proceeding, wherein defendant's methods of operation and accounting are open to full scrutiny by the parties. We note that there is no allegation that the rates and charges of defendant have been affected by the practices attributed to defendant. Even if the Commission proceeded with this cause of action now and found in favor of complainant there would be no effect on defendant's rates. Changes in defendant's accounting procedures can be ordered by this Commission at any time.

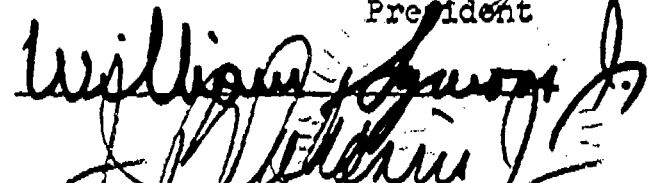

There is no point in discussing complainant's request that defendant make a public act of contrition since we conclude that the complaint must be dismissed.



IT IS ORDERED that the complaint herein is dismissed.

The effective date of this order is the date hereof.

Dated San Francisco, California this 1st day  
of OCTOBER 1974.

  
President

  
  
Commissioners