

Decision No. 83580

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

M. A. HOFFMAN,

Complainant,

v.

Case No. 9805

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, a  
corporation,

Defendant.

ORDER DENYING INTERIM RELIEF

Complainant requests an interim order of this Commission restoring his telephone service and prohibiting defendant from disconnecting, monitoring, or interfering with this service. He also seeks a permanent order to this effect after hearing.

Complainant alleges that defendant asserts a right under its tariff to enter a subscriber's premises "...for any purpose reasonably pertinent to the furnishing of telephone service ...." Based on a letter of defendant attached as Exhibit A to the complaint the Commission assumes that the dispute between complainant and defendant concerns whether complainant has made a direct connection to the defendant's telephone plant without a protective connecting arrangement.

Complainant contends that the tariff in question is contrary to public policy and recent court decisions concerning unreasonable search and seizure, in that no search warrant is required for an inspection of the subscriber's premises, thus making telephone service subject to a waiver of the "...Fourth Amendment constitutional right to privacy."

Complainant further alleges that defendant has been monitoring his telephone service. He also alleges, on information and belief, that "...defendant's actions in this matter are motivated by an attempt to retaliate against plaintiff.", complainant having successfully represented Mobile UHF., Inc. against defendant in Case No. 8798.

We note that there is no denial by complainant that he has made, or caused to be made, a direct connection of some device to defendant's telephone plant without an appropriate protective connecting arrangement. Furthermore, there is no challenge to the requirement that such protective connecting arrangement be in place and operating. The sole justification for the request for interim relief is complainant's contention that defendant's tariff does not comport with public policy and current court determinations relating to unreasonable search and seizure.

We do not find it necessary to resolve whether public policy and the decisions relating to unreasonable search and seizure apply to administrative matters, as distinguished from criminal matters. For purposes of this interim decision it is sufficient to find that we are not persuaded by the factual or legal allegations in the complaint that there is good cause to grant interim relief, based solely on the complaint now before us.

Since complainant will be without telephone service on the day this order issues (Exhibit A indicates defendant's intention to disconnect service by October 4, 1974) it is appropriate that prompt hearings be held on this matter.

The Commission concludes that complainant's request for interim relief must be denied.

IT IS ORDERED that complainant's request for interim relief is denied.

The Secretary is directed to cause this matter to be set for public hearing as promptly as possible following completion of pleadings.

Neither the denial of interim relief nor the direction for early hearings are intended to restrict any procedural rights of complainant or defendant.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 8<sup>th</sup> day of OCTOBER, 1974.

Vernon L. Stinson  
President  
William J. Simon, Jr.  
J. M. [unclear]  
[unclear]  
[unclear]  
Commissioners