

Decision No. 84007

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBERT E. CUTLER,

Complainant,

vs.

Case No. 9816

THE PACIFIC TELEPHONE & TELEGRAPH  
COMPANY, a corporation, JOHN DOES,  
JANE DOES, ET AL.,

Defendants.

ORDER OF DISMISSAL

Complainant alleges that on July 10, 1973 defendant telephone company did accept an order for residence telephone service to be installed in complainant's summer residence in Tuolumne County, California. At that time complainant was advised by defendant that some delay might be incurred in obtaining a right-of-way from the United States Forest Service, (U.S. Forest Service) on whose land complainant's summer residence is situated. Complainant asserts that sufficient time has transpired for the necessary permits to be obtained and requests that defendant be ordered to provide service originally requested over 16 months ago.

In its assertion of defects of the complaint, defendant indicates that the U.S. Forest Service has advised defendant that defendant has no permit from the U.S. Forest Service to use the land for the purpose of providing communication service or for defendant to occupy the land for that purpose; that special arrangements would have to be made for such purpose; that such special permit use would

be revocable and would provide for relocation of facilities at the expense of the permittee, and would require annual payment of fees.

Defendant's schedule Cal.P.U.C. No. 36-T, Rule No. 16.I. C.2. (b) provides that an easement for utility service must be provided by the customer "without charge or condemnation." Complainant has not provided such easement to defendant.

Complainant was advised of the staff opinion that his complaint failed to state a cause of action by letter dated November 26, 1974. He was also advised that failure to amend his complaint would lead to a dismissal thereof. No amendment to the complaint has been received.

IT IS ORDERED that the complaint herein is dismissed for failure to state a cause of action.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 21<sup>st</sup> day of JANUARY, 1975.

Vernon L. Stinson  
President  
William Symons  
Stinson

Commissioners