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Decision No. 84710

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Jay Edwards,

Complainant,

vs.

General Telephone Company,

Defendant.

Case No. 9912
(Filed May 5, 1975)

ORDER OF DISMISSAL

Complainant alleges that he had an agreement with the defendant that the defendant would telephone him prior to disconnecting his telephone and discontinuing his service "...after I received my five day notice...", and that his telephone would not be disconnected until the defendant telephoned him or for at least three weeks after he received a five day notice; and that his telephone was disconnected prior to any such telephone call and prior to the expiration of three weeks after he received notice to pay within five days or his telephone would be disconnected and service discontinued.

From the complaint it appears that a private individual is attempting to assert a private right against defendant, an issue not to be determined by the Commission. There is no allegation "...setting forth any act or thing done or omitted to be done by any public utility,... in violation or claimed to be in violation, of any provision of law of any order or rule of the Commission...." (Section 1702, Public Utilities Code.) The Commission does not have jurisdiction to award damages in a matter of this nature, therefore, such a complaint seeking to recover damages is not properly before the Commission. Williams v Pacific Tel and Tel Company (1965) 64 CPUC 736. The complaint fails to state a cause of action within the jurisdiction of the Commission and should be dismissed. (PUC Rules of Practice and Procedure, Rule 12.)

June 17, 1975 complainant was advised by letter that this case would probably be dismissed but that action would not be taken until July 1, 1975. As of July 1, 1975, complainant had not replied or filed any further documents.

The complaint herein is dismissed for failure to state a cause of action within the Commission's jurisdiction.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 29th day of JULY, 1975.

President

Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.