

Decision No. 85030

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILLIAM M. EDWARDS,

COMPLAINANT,

VS.

THE ATCHISON, TOPEKA AND
SANTA FE RAILROAD COMPANY,
A CORPORATION,

DEFENDANT.

ORIGINAL

Case No. 9680

(Filed March 12, 1974)

William M. Edwards, for himself,
complainant.

F. G. Pfrommer, Attorney at Law,
for The Atchison, Topeka and
Santa Fe Railroad Company,
defendant.

Donald M. Gardner, for Southern
California Rapid Transit
District, interested party.

Thomas Hunt, for the Commission
staff.

O P I N I O N

The above complaint was filed by William M. Edwards, an individual, who alleges he commutes daily (Monday through Friday) from Anaheim to Los Angeles. The complaint names The Atchison, Topeka and Santa Fe Railroad Company (Santa Fe) as defendant.

Hearing was held on the complaint on April 3, 1975 at Los Angeles, California, before Examiner Charles E. Mattson. The matter was submitted on written briefs. Complainant's reply brief was filed May 19, 1975.

The complaint requests that the Commission order Santa Fe to establish commuter passenger service between Fullerton and other Orange County points and Los Angeles. Complainant alleges a lack of high speed rail service. Complainant alleges that Santa Fe is a common carrier obligated to furnish such commuter service.

The complaint is filed pursuant to Rule 9 of the Commission's Rules of Practice and Procedure. Rule 9 requires that a complaint may be filed by any person "setting forth any act or thing done or omitted to be done by any public utility...in violation, of any provision of law or of any order or rule of the Commission." (Emphasis added.) The quoted language is taken from Section 1702 of the California Public Utilities Code.

A review of the allegations of the complaint, the evidence presented, and the briefs establishes that Santa Fe does not provide rail passenger commuter service to the public at the present time. No order or rule of this Commission directs Santa Fe to provide the requested service. The complaint is apparently grounded on the claim that Santa Fe is obligated to provide short-haul rail passenger commuter service as a common carrier as a matter of law. This assumption is incorrect.

Decision No. 69511 dated August 3, 1965 in Application No. 46609 and Case No. 7905 authorized Santa Fe to reduce its passenger train service between Los Angeles and San Diego. The trains retained were those scheduled to connect with rail service in or out of Los Angeles. The trains discontinued included the early morning trains used by commuters.

On May 1, 1971 Santa Fe entered into a contract with the National Railroad Passenger Corporation (AMTRAK) pursuant to the provisions of the Rail Passenger Service Act of 1970 (45 U.S. Code Section 501, et seq.). AMTRAK relieved Santa Fe of its entire responsibility for the provision of intercity rail passenger service, including the San Diego-Los Angeles passenger service. Santa Fe ceased to operate passenger rail service.

Complainant argues that the Commission has jurisdiction to order Santa Fe to provide the requested service. Santa Fe argues the Commission lacks the power to require Santa Fe to provide such requested service. We do not find it necessary to resolve this dispute regarding the Commission's jurisdiction and power in this complaint proceeding.


Any decision which purported to grant the requested relief would require findings of fact on all issues material to the Commission's order (Public Utilities Code Section 1705). As counsel for Santa Fe pointed out there is no evidence of a public need, costs of necessary equipment and facilities, anticipated operating expenses and capital expenditures, or rates required to support the requested service. There is a total absence of evidence on material issues.

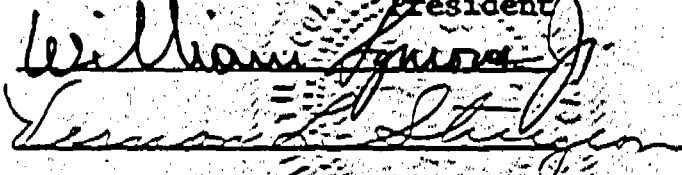
Our procedural Rule 10 requires that a complaint set forth fully and clearly the specific act complained of in ordinary and concise language so as to advise completely of the facts constituting the grounds of complaint. The general allegations of the complaint echo the evidentiary record--there is a total absence of factual allegations on obvious material issues. Under the circumstances, the complaint must be dismissed for failure to state a cause of action.


O R D E R

IT IS ORDERED that Case No. 9680 is hereby dismissed.
The effective date of this order shall be twenty days
after the date hereof.

Dated at San Francisco, California,
this 21st day of OCTOBER, 1975.



President


Commissioners


Commissioner Leonard Ross, being
necessarily absent, did not participate
in the disposition of this proceeding.