

Decision 82-11-015 November 3, 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mountain Insurance Agency, Inc.
Paul T. Eyc,

Complainants,

vs.

General Telephone Company of
California,

Defendant.

ORIGINAL

Case 82-05-10
(Filed May 28, 1982)

ORDER OF DISMISSAL

The complaint alleges that:

1. Defendant erroneously disconnected complainants' telephone service on April 12, 1982 and on May 5, 1982 after demanding that complainants pay an outstanding balance due defendant from a different business entity, which complainants refused to pay;
2. Defendant disconnected phone number (714) 985-4200, refused to reconnect service on this phone for three weeks, and at that time complainants' phone bill was paid in full and no money was due defendant;
3. Defendant treats complainants in an unfair manner and defendant has provided unsatisfactory service in the Ontario, Upland, and Pomona areas for approximately four years; and
4. Defendant refuses to work with complainants and other subscribers when problems occur and encourages subscribers to file complaints with the Public Utilities Commission.

Complainants seek an order which requires defendant to assist subscribers with service and administrative problems and to

schedule a public hearing in the Ontario, Upland, and Pomona areas so that subscribers can discuss the problems that exist with defendant's service. Complainants also request that the Commission deny any rate increases to defendant until defendant improves service and demonstrates a willingness to work with subscribers to resolve problems.

On July 7, 1982 defendant filed a Motion to Dismiss, a Motion to Strike, and an Answer to the Complaint. In its Motion to Dismiss the complaint, defendant alleges that the complaint and several sections of it fail to allege that defendant has violated any provision of law or any tariff provision or any order or rule of the Commission and that further, it does not contain any allegations that defendant has in any way breached any legal duty it has to complainants or anyone else. Defendant moves that the complaint be dismissed as to Sections 1, 2, 3, 4, 5, 6, and 8 of the complaint. Defendant also moves to strike Sections 1, 2, 3, 4, 5, 6, and 8 of the complaint in their entirety on the grounds that the allegations are ambiguous and unintelligible.

In its answer, defendant admits complainants' service was disconnected on April 9 and May 5, 1982 because complainants' checks on present or former service were returned by the bank. Defendant denies that service was not restored in a timely manner. Defendant admits that it requested complainants to pay a bill on former service and that service was disconnected when the bill was not paid or deposited with this Commission. Defendant also admits that complainants' service could not be reconnected on one occasion for several hours because of an equipment condition and that the situation was explained to complainant (Eye). In all other respects defendant denies each and every allegation of the complaint.

On July 16, 1982 the assigned Administrative Law Judge (ALJ) communicated to complainants Mountain Insurance Agency, Inc. and Paul T. Eye that upon review of the complaint, the motions of defendant, the applicable Public Utilities (PU) Code Sections, and the Commission's Rules of Practice and Procedure, he was of the opinion that the complaint as presently filed should be dismissed for legal insufficiency. Complainants were informed that the complaint did not appear to cite any provisions of law, orders of the Commission, or any of defendant's tariffs which have been violated, and further that the allegations in the complaint were vague and ambiguous. In addition, the relief requested was one that could be accomplished informally by the Commission staff rather than through the formal hearing process. In order that complainants be given every opportunity to present their grievances by way of a formal hearing, the ALJ granted them 15 days from July 16, 1982 to either withdraw or amend the complaint in a manner which complied with PU Code Section 1702 and which was more specific in the allegations against defendant. Complainants were also advised that if an amended complaint was not filed within 15 days from July 16, 1982, it would be assumed that complainants desired to withdraw their complaint and Eye was advised that an order of dismissal would follow. There has been no reply to the ALJ letter of July 16, 1982 by complainant Eye. As of September 23, 1982, no amended complaint has been filed by complainants.

A complaint which does not allege a violation by a utility of any provision of law or order of the Commission will be dismissed (Blincoe v Pacific Telephone and Telegraph Company (1963) 60 CPUC 432).

Findings of Fact

1. The complaint fails to comply with PU Code Section 1702 or Rule 9 of the Commission's Rules of Practice and Procedure in that it does not set forth any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission.

2. The complaint is vague and unintelligible and fails to state a claim upon which relief can be granted.

3. Complainants have failed to file an amended complaint after having been advised to do so by the ALJ in order to prevent the complaint from being dismissed. It is presumed that complainants wish to have the case dismissed.

Conclusion of Law

The Commission concludes that the complaint should be dismissed.

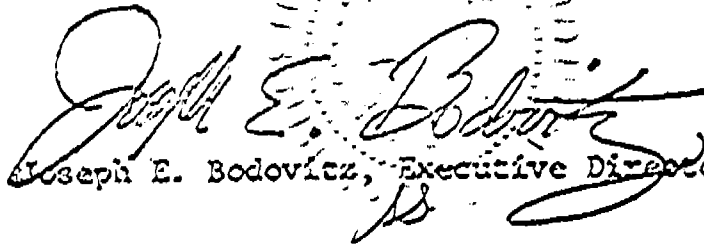
IT IS ORDERED that Case 82-05-10 is dismissed.

This order becomes effective 30 days from today.

Dated NOV 3 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

Decision 82 11 015 NOV 3 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mountain Insurance Agency, Inc.
Paul T. Eye,

Complainants,

vs.

General Telephone Company of
California,

Defendant.

ORIGINAL

Case 82-05-10
(Filed May 28, 1982)

ORDER OF DISMISSAL

The complaint alleges that:

1. Defendant erroneously disconnected complainants' telephone service on April 12, 1982 and on May 5, 1982 after demanding that complainants pay an outstanding balance due defendant from a different business entity, which complainants refused to pay;
2. Defendant disconnected phone number (714) 985-4200, refused to reconnect service on this phone for three weeks, and at that time complainants' phone bill was paid in full and no money was due defendant;
3. Defendant treats complainants in an unfair manner and that defendant has provided unsatisfactory service in the Ontario, Upland, and Pomona areas for approximately four years; and
4. Defendant refuses to work with complainants and other subscribers when problems occur and encourages subscribers to file complaints with the Public Utilities Commission.

Complainants seek an order which requires defendant to assist subscribers with service and administrative problems and to