

ORIGINAL

Decision No. 86740

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

L. J. T. INDUSTRIES, INC. and R. H. MITMAN, )

COMPLAINANTS, )

VS

PACIFIC TELEPHONE COMPANY,

DEFENDANT. )

Case No. 10115  
(Filed June 7, 1976)

L. J. T. INDUSTRIES, INC. and R. H. MITMAN, )

COMPLAINANTS, )

VS

PACIFIC TELEPHONE COMPANY,

DEFENDANT. )

Case No. 10158  
(Filed August 11, 1976)

O P I N I O N

Cases Nos. 10115 and 10158, both entitled L. J. T. Industries, Inc. and R. H. Mitman (complainants) vs The Pacific Telephone Company (defendant), are consolidated for all purposes.

In Case No. 10115 the complainants allege:

- (1) October 11, 1975 the complainants received estimates from the defendant of the cost to install a telephone system and ordered installation of the system, but the installation and the monthly charge were greatly in excess of the estimate.
- (2) Complainants were assigned a certain telephone number, spent \$640 for stationery with that number printed thereon, and thereafter determined that the defendant could not assign them that number as it was a working number of another subscriber.

- (3) An intercommunication system was ordered and not put into service by the defendant until one month after the order.
- (4) September 4, 1975 the complainants ordered installation of a second telephone system and the cost was different than the estimate and in addition the installation and monthly cost for less equipment exceeded that of the system previously installed.
- (5) The complainants were improperly charged for telephone service provided F.J.S. and Interstate Tractor companies notwithstanding that separate billings had been requested and five requests were necessary before the correction was made.
- (6) The defendant has suspended service to the Los Angeles Southern California Arab American Chamber of Commerce because of political reasons.
- (7) The defendant has failed to comply with the responsibility and efficiency required by tariffs applicable to it.

The complainants request an order to require the defendant:

- (1) To provide copies of every radio and television advertisement regarding the use of yellow pages and the defendant's solicitation for advertising, and a certification of the number of telephone directories that were distributed at the time of the installation of the equipment for the complainants.
- (2) To transfer its operations to a responsible, efficient, public utility which has proper regard for public service.
- (3) To provide complainants with weekly telephone lists of new and corrected or changed telephone numbers so that the complainants will not be subjected to the inconvenience of the 16-second delay for requests directed to information service.

- (4) To provide detailed billings so that the general public may know the cost of service and installation of each item.

In Case No. 10158 the complainants allege that they were told by the defendant that there would be no charge for the installation of two existing telephone instruments to the existing system as the telephones were in place, but thereafter there was a charge for installation of the instruments and the complainants request the Commission to conduct a complete audit of all of the defendant's billings and order the defendant to completely and accurately describe each item for any charge made under the heading of "other charges".

In both cases the defendant has made a motion to dismiss the complaint on the grounds that it does not state facts sufficient to constitute a cause of action as required by Section 1702 of the Public Utilities Code and Rules 9 and 10 of the Commission's Rules of Practice and Procedure.

A letter from the Commission to the complainants, dated September 22, 1976 advised them of the requirements of Section 1702 of the Public Utilities Code and Sections 9 and 10 of the Commission's Rules of Practice and Procedure. The letter requested the complainants to advise the Commission of any legal reason why the complaints should not be dismissed and if no reply was received before October 22, 1976, it would be presumed that there was no disagreement to the cases being disposed of without a hearing.

On October 29, 1976, a Mr. R.C. McCurkle of Municipal Research Institute telephoned the examiner and stated that he did not represent the complainant, but was interested in the case.

As of November 3, 1976 there was no reply to the letter of September 22, 1976.

Section 1702 of the Public Utilities Code provides in part:

"Complaint may be made by...any...person ..., by written petition or complaint, setting forth any act or thing done or omitted to be done by any public utility, including any rule or charge heretofore established or fixed by or for any public utility, in violation or claimed to be in violation, of any provision of law or of any order or rule of the Commission...."

Rule 9 of the Commission's Rules of Practice and Procedure provides in part:

"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, or claimed to be in violation, of any provision of law or of any order or rule of the Commission."

Rule 10 of the Commission's Rules of Practice and Procedure provides in part:

"... The specific act complained of shall be set forth in ordinary and concise language. The complaint shall be so drawn as to completely advise the defendant and the Commission of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired."

A complaint which does not allege a violation by a utility of a provision of law or order of the Commission will be dismissed. (Blincoe v Pacific Tel & Tel Co. (1963) 60 CPUC 432.)

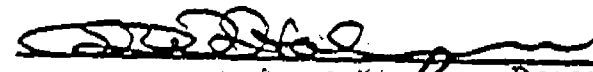
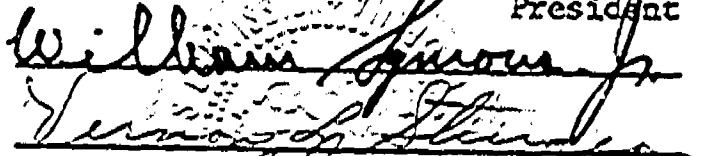
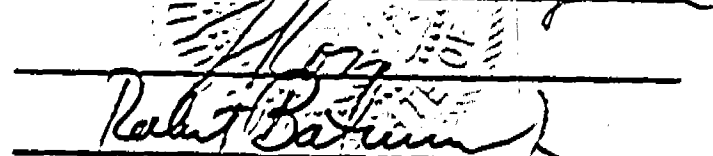
The Commission finds that the complaints do not allege that the defendant has violated any provision of law, order of the Commission, or tariff provision, or breached any legal duty it has to the complainants; that the complaints do not state facts sufficient to constitute a cause of action; and concludes that the complaints should be dismissed.

O R D E R

IT IS ORDERED that Cases Nos. 10115 and 10158 are dismissed.

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

Dated at San Francisco California, this 14th  
day of DECEMBER, 1976.

  
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President  
  
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Commissioners