

**ORIGINAL**

Decision No. 89250 AUG 22 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Hemophilia Foundation of  
Northern California and others  
(see attached list),

Complainants,

vs.

Pacific Telephone and Telegraph,

Defendant.

Case No. 10548  
(Filed April 24, 1978)

ORDER OF DISMISSAL

The complainant, Hemophilia Foundation of Northern California,<sup>1/</sup> is a nonprofit organization serving hemophiliacs in 36 northern California counties. Complainant alleges that it is a small organization with a small operating budget. It provides services such as blood credits, a summer camp, a small scholarship, and a modest contribution to a national research effort. It charges no fees.

In order to make its existence known to hemophiliacs in northern California complainant would like to be listed in the white pages of every telephone directory in its service area. However, complainant alleges that there are approximately 40 directories published in northern California and that the rate for such listings is \$.75 per listing per month or \$360 per year for

---

<sup>1/</sup> The complaint is also signed by 26 individuals.

listings in all 40 directories. Complainant further alleges that such charges are prohibitive for it, a nonprofit organization, that such charges are the same whether the subscriber is a nonprofit organization or a profit making business, and that the rate of \$.75 per listing per month is well above the actual cost to The Pacific Telephone and Telegraph Company (Pacific) of providing the listing service. The complainant requests that the Commission order Pacific to waive the directory listing charges for the approximately 40 directories in which complainant wishes its listing published.

In its answer, filed May 26, 1978, Pacific admits that the charge for an additional directory listing for business is presently \$.75 per listing per month and that Pacific would apply this tariff charge to complainant as it would to any other business organization. It alleges, by way of affirmative defense, that the charge is published in its tariffs in Schedule Cal. P.U.C. No. 17-T, Fifteenth Revised Sheet 3, paragraph A. It further alleges that the complaint does not contain the requisite 25 signatures (Public Utilities Code Section 1702)<sup>2/</sup> and that the relief sought, if granted, would violate Public Utilities Code Section 453(a)<sup>3/</sup> in

---

2/ "... No complaint shall be entertained by the commission... as to the reasonableness of any rates or charges of any... telephone corporation, unless it is signed... by not less than 25 actual or prospective consumers or purchasers of such... telephone service." (Section 1702.)

3/ "No public utility shall, as to rates [or] charges... make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage." (Section 453(a).)

that the waiver of charges as to complainant would confer a preference or advantage upon complainant.

In its final affirmative defense Pacific alleges that the complaint fails to state a cause of action because it does not set forth any act or thing done or omitted to be done which is claimed to be in violation of any provision of law or any order or rule of the Commission.<sup>4/</sup>

Pacific requests that the complaint be dismissed.

#### Discussion

It is apparent upon the face of the complaint that complainant does not believe that Pacific has done anything contrary to any statute, rule, or order of the Commission. Rather, complainant disagrees with the policy embodied in Pacific's tariff, which assesses the same listing charge of \$.75 per additional listing per month to all business customers, regardless of whether the business customer is a nonprofit organization or is a profit-seeking entity. Complainant feels that a small, poorly financed, nonprofit agency, serving a large territory should not be required to pay a listing charge to place its name and telephone number in each directory published in complainant's service area, but should receive this service free of charge.

Doubtless complainant's goals and the services it provides are worthy of support. However, the Commission should not require Pacific's other ratepayers to support complainant's program through

---

<sup>4/</sup> "Complaint may be made...by any...person...by written...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. . . ." (Section 1702 of the Public Utilities Code.)

involuntary contributions made through Pacific's rate structure. This result would obtain if the Commission were to exempt complainant from the payment of the lawful tariff charges.<sup>5/</sup>

It is, nevertheless, not necessary to reach the merits of the complaint in order to dispose of it since the complaint is procedurally defective on at least two different grounds.

First, it fails to state a cause of action against Pacific in that it does not allege that Pacific has done or omitted to do anything required by law. This complaint does not comply with Section 1702 of the Public Utilities Code.

Second, it seeks relief which the Commission may not lawfully provide, in that it seeks exemption from a lawful tariff charge for a single entity. Were the Commission to grant the relief sought, it could only do so by violating Section 453(a) of the Public Utilities Code.

In the circumstances, the Commission makes the following findings and conclusion.

#### Findings

1. The complaint does not allege that Pacific has done or omitted to do any act or thing required by statute, rule, or order of the Commission.

2. The complaint seeks relief which it would be unlawful for the Commission to provide.

3. The complaint fails to state a cause of action as it does not meet the statutory requirements of Section 1702 of the Public Utilities Code.

#### Conclusion

The complaint should be dismissed.

---

<sup>5/</sup> The appropriate forum to address such policy issues is in a general rate proceeding where the issues of cost allocation, revenue apportionment between classes of customers, and rate design are considered at great length and where the interests of many classes of customers are represented.

IT IS ORDERED that the complaint is dismissed.

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

Dated at San Francisco, California, this 22nd day of AUGUST, 1978.

Robert Bateman  
President  
William Symons Jr  
Veronica L. Sturgeon

\_\_\_\_\_  
Commissioners.

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

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.