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Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Jere Green, dba)
 Jere's Interiors,)
)
 Complainant,)
)
 v.)
)
 Cherry Communications, Inc.,)
)
 Defendant.)
 _____)

ORIGINAL

Case 96-02-025
(Filed February 7, 1996)

ORDER DISMISSING COMPLAINT

In Decision (D.) 96-07-049, the Commission dismissed all but one component of the complaint at issue in this docket. Also in that decision, the Commission authorized the Executive Director to dismiss the final component of the complaint, and close this proceeding, upon submission by Cherry Communications, Inc. (Cherry), of proof of payment of \$240.88 plus interest to Jere Green.

On July 25 1996, Cherry tendered a check in the amount of \$316.69 to Ms. Green. A copy of the cover letter and check was also provided to the Executive Director. Ms. Green does not dispute that the payment has been tendered.

On July 30, 1996, Ms. Green's representative sent a letter to the Executive Director in which she objected to certain statements in the cover letter accompanying the check because, in her opinion, the statement added conditions to the payment. On August 6, 1996, Cherry sent a letter responding to the allegations

and on August 8, 1996, Ms. Green submitted another letter addressing Cherry's response.

The statement contained in Cherry's letter to which Ms. Green objects, which simply recites that Cherry admits no wrongdoing in making the payment, is fully consistent with D.96-07-049. That decision explicitly finds that no hearings had been held and that no factual findings regarding Ms. Green's allegations had been made. The decision merely observes that if Cherry made a payment to Ms. Green of the maximum reparations that the Commission could order, then the remaining issue in the proceeding would be resolved and the proceeding properly closed. The decision does not require that Cherry make such a payment nor does it suggest that in making such a payment Cherry would be admitting any wrongdoing. In its letter, Cherry only states that in tendering the payment it is not making any admissions but rather resolving this matter as efficiently as possible for all parties, including the Commission. Because Cherry's letter is consistent with the Commission's decision, and Cherry has tendered payment in full, there is no reason to delay closing this proceeding.

As authorized by Decision 96-07-049, **IT IS ORDERED** that:

1. The portion of the complaint remaining after Decision 96-07-049 has become moot and is therefore dismissed.

2. This proceeding is closed.

This order is effective today.

Dated SEP 16 1997, at San Francisco, California.



WESLEY M. FRANKLIN
Executive Director