

ALJ/KIM/rmn

Decision 98-03-026 March 12, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Welk Group, Inc.,

Complainant,

vs.

AT&T Communications of California, Inc. (U 5002 C)
and General Telephone of California, Inc. (U 1002 C),

Defendants.

Filed

MAR 12 1998

Case 93-06-016
(Filed June 4, 1993)

O P I N I O N

Summary

This decision dismisses this complaint filed by The Welk Group Incorporated (Welk) against AT&T Communications of California, Inc. (AT&T) and General Telephone of California, Inc. (GTEC) for lack of prosecution.

Discussion

Welk filed this complaint against AT&T and GTEC on June 4, 1993. Since its filing, the Commission deferred procedural action on disputed matters with the understanding that Welk was pursuing a related complaint before the Federal Communications Commission (FCC). On February 25, 1994, the FCC sent a letter to Welk stating that Welk had 60 days to file a formal complaint before the FCC or face a potential bar to the filing of such a formal complaint. Welk did not file a formal complaint with the FCC before the end of the 60-day period. The assigned administrative law judges (ALJ) to this complaint issued three rulings over the course of three years to inquire about the status of the complaint. The third such ruling, dated December 2, 1997, directed the complainant to file with the Commission information about Welk's intentions with regard to prosecuting this complaint. It advised Welk that

if it did not file such information by December 30, 1997, the assigned ALJ would recommend dismissal of the complaint for lack of prosecution. Welk did not submit any information to the Commission by December 30, 1997.

The Commission has no evidence to suggest that Welk has pursued its remedies either here or before the FCC since early 1994. Accordingly, this complaint is dismissed for lack of prosecution.

Findings of Fact

1. Welk has not adequately prosecuted this complaint or a related complaint before the FCC.
2. Welk did not respond to the ALJ's ruling dated December 2, 1997 soliciting information about the prosecution of this complaint.

Conclusion of Law

The Commission should dismiss this complaint for lack of prosecution.

O R D E R

IT IS ORDERED that:

1. This complaint is dismissed without prejudice for lack of prosecution.
2. Case 93-06-016 is closed.

This order is effective today.

Dated March 12, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners