

ALJ/PAB/mrj ✕

Mailed 4/22/99

Decision 99-04-054 April 22, 1999

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Dirk Hughes-Hartogs, Thomas McWilliams,

Complainants,

vs.

GTE California Incorporated,

Defendant.

**ORIGINAL**

Case 97-12-037  
(Filed December 17, 1997)

**O P I N I O N**

**Summary**

The complaint in this proceeding was filed on December 17, 1997 alleging unreasonable integrated system digital network (ISDN) charges. Pub. Util. Code § 1702 specifies that a complaint challenging the reasonableness of rates be signed by: "the mayor or the president, or chairman of the board of trustees, or a majority of the council, commission, or other legislative body of the city or city and county within which the alleged violation occurred, or by not less than 25 actual or prospective consumers, or purchasers of such gas, electricity, water, or telephone service." (See also, Rule 9 of the Commission's Rules of Practice and Procedure.) Complainants attached a list of 25 persons described as actual or prospective users of residential ISDN service who joined in the complaint.

On June 17, 1998, defendant, GTE California Incorporated (GTEC), moved to dismiss the complaint because four signatories had contacted them requesting to be removed as complainants because they had no knowledge of the contents of

the complaint. Upon investigation of more signatories, GTE discovered that several others were ignorant of the content of the complaint as well.

On July 1, 1998, complainants responded arguing that only 5 of the 25 signatories were in question and that GTE's allegations are based upon hearsay. Complainants argued that the format of their petition was distinguishable from those rejected in a prior case (Decision 84-11-008). Complainants argued that they should be allowed to amend the complaint to replace these parties.

We believe complainants' entire process of collecting signatures for the complaint is in question, based upon the report of GTE. GTE's allegations are submitted by declaration of its counsel who is considered an officer of the court and trustworthy. Complainants have not met the statutory requirements and should perfect the manner in which they collect signatures in order to achieve compliance.

#### **Comments on Draft Decision**

The draft decision of Administrative Law Judge Bennett in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.1 of the Rules of Practice and Procedure.

Complainant filed timely comments opposing the conclusion reached and alleging legal and factual error.

We revise the Draft Decision to add relevant findings of fact and conclusions of law, but we find all other arguments without merit.

#### **Findings of Fact**

1. Complainants challenge the reasonableness of rates and charges of defendant GTE.
2. Complainants included in the complaint 25 signatures of alleged actual or prospective ISDN users. However, four of these persons requested to withdraw their names from this complaint.

3. Pub. Util. Code § 1702 and Rule 9 of the Commission's Rules of Practice and Procedure require that complaints challenging the reasonableness of rates include the signatures of "the mayor or the president, or chairman of the board of trustees, or a majority of the council, commission, or other legislative body of the city or city and county within which the alleged violation occurred, or by not less than 25 actual or prospective consumers, or purchasers of such gas, electricity, water, or telephone service."

4. The complaint in this proceeding does not meet the requirements of § 1702 and Rule 9.

#### **Conclusion of Law**

This complaint should be dismissed.

### **O R D E R**

**IT IS ORDERED that:**

1. This complaint is dismissed without prejudice.
2. This proceeding is closed.

This order is effective today.

Dated April 22, 1999, at San Francisco, California.

**RICHARD A. BILAS**  
President  
**HENRY M. DUQUE**  
**JOSIAH L. NEEPER**  
Commissioners