

Decision 00-06-053 June 22, 2000

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

Jerry H. Maxwell,

Complainant,

vs.

GTE California, Inc. and Southern California  
Edison Company,

Defendants.

Case 99-11-004  
(Filed November 2, 1999)

**O P I N I O N**

**I. Summary**

Complainant alleges that his phone service was interrupted in late January of 1999, and that as a result, some of his equipment was damaged. Complainant seeks information to be used in a lawsuit and in pursuing legislation. Defendants state that, among other things, the complaint should be dismissed for failure to state a cause of action.

Complainant does not allege that defendants violated any tariff, rule or order of the Commission. The relief sought by complainant is to use the Commission as a forum to conduct discovery for civil litigation. Defendants have already produced such information as they have regarding the service interruption. Therefore, we dismiss the complaint for failure to state a cause of action.

## **II. Procedural History**

This case was filed on November 2, 1999. Notice of the filing appeared on the Commission's Daily Calendar on November 5, 1999. On November 9, 1999, defendants were instructed to answer. Defendants filed their answers on December 9, 1999. On December 29, 1999, the assigned Administrative Law Judge (ALJ) issued a ruling requiring defendants to supply more detailed information on their investigations into complainant's allegations. Southern California Edison Company (SCE) and GTE California Incorporated (GTEC) filed their responses on January 11 and 17, 2000, respectively.

The instructions to answer categorized this complaint as adjudicatory. This categorization has not been contested. Therefore, we see no need to disturb that designation. Because we have decided to dismiss this complaint for failure to state a cause of action, no scoping memo is necessary, and a hearing is not required.

## **III. Complaint**

On November 2, 1999, complainant filed this complaint alleging that his telephone service was disrupted for the better part of a week in late January of 1999. Complainant states that he suffered damage to his phone, computer and security system.

Complainant alleges that on January 22, 1999, a GTEC serviceman working near his home told him that a SCE power line struck a GTEC line nearby causing 110 volts or more of electricity to enter his home via the telephone line. Complainant believes that this is the cause of the damage.

Complainant states that he contacted both defendants and was told that there was no record of such an incident. They rejected his claims for damages.

As relief, complainant asks for information on why the alleged event happened, why it was not reported to the Commission, and why defendants told

him the event never happened. Complainant seeks this information so that he can pursue his claim in Superior Court and in legislation.

#### **IV. Defendants' Responses**

SCE represents that it made a thorough search of its records for the month of January. It found no record of any electrical facility problem or customer complaints of similar problems occurring in the vicinity of complainant's home. SCE therefore denies that it is responsible for any damage complainant may have suffered.

GTEC represents that complainant's service is not presently disconnected. GTEC does admit that on January 23, 1999, complainant reported a service interruption at 10:10 a.m. GTEC responded and service was restored at 5:30 p.m. that same day. GTEC admits that it informed complainant that, based on his description of the events, it would be viewed as an "act of God" for which GTEC was not responsible. GTEC also states that it denied complainant's claim. GTEC states that there is no evidence of any defective or sub-standard condition of any of its facilities used to provide complainant service. GTEC states that, with respect to facilities used to provide service to complainant, it complied with all relevant tariffs, orders, regulations and laws.

#### **V. ALJ Ruling**

On December 29, 1999, the assigned ALJ issued a ruling requiring defendants to do a thorough search of their records regarding this complaint, and required them to provide a copy of all relevant documents that were found. On January 11, 2000, SCE filed its response. On January 17, 2000, GTEC filed its response. Defendants' responses to the ruling are consistent with their answers to the complaint.

## **VI. Discussion**

Section 1702 of the Public Utilities Code requires that the complainant state a cause of action. That is, complainant must allege a violation of a law, a rule, or an order of the Commission. Complainant makes no such allegation. In addition, the events as described by complainant do not indicate a violation of any law, rule or order. Therefore, complainant has not stated a cause of action.

Complainant's requested relief is information to be used in a lawsuit or for pursuing legislation. In essence complainant is using the complaint process for discovery. That is not a proper use of the Commission's process. In any event, at the ALJ's direction, defendants have searched their records and represent that they have produced all information in their records regarding the service interruption.

We will dismiss the complaint for failure to state a cause of action.

## **VII. Comments on Draft Decision**

The draft decision in this matter was mailed to the parties in accordance with Section 311(g) of the Public Utilities Code, and Rule 77.7 of the Commission's Rules of Practice and Procedure.

Complainant filed comments on May 26, 2000. The comments restated information included in the complaint. GTEC filed comments on May 31, 2000 and reply comments on June 5, 2000, in support of the draft decision. No change was made to the decision except for minor corrections.

## **Findings of Fact**

1. The complaint does not allege that defendants violated any law, rule or order of the Commission.
2. Complainant's requested relief is discovery of information to be used in a lawsuit, and in pursuing legislation.
3. A hearing is not required.

**Conclusions of Law**

1. Complainant failed to state a cause of action.
2. The complaint should be dismissed.

**O R D E R**

**IT IS ORDERED** that:

1. This complaint is dismissed.
2. This proceeding is closed.

This order is effective today.

Dated June 22, 2000, at San Francisco, California.

HENRY M. DUQUE  
JOSIAH L. NEEPER  
RICHARD A. BILAS  
CARL W. WOOD  
Commissioners

President Loretta M. Lynch, being necessarily  
absent, did not participate.