

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of	)	FORMAL COMPLAINT NO. FC-1142
	)	
Roland Schatz	)	
Grand Island, Nebraska	)	
	)	
Complainant	)	
	)	
vs.	)	COMPLAINT DISMISSED
	)	
Charles P. Oden dba	)	
Nebraska Radio Telephone Systems	)	
Grand Island, Nebraska	)	
	)	
Defendant	)	ENTERED: August 18, 1981

BY THE COMMISSION:

OPINION AND FINDINGS

By Formal Complaint filed July 2, 1981, Roland Schatz, hereinafter referred to as Complainant, against Charles P. Oden dba Nebraska Radio Telephone System, hereinafter referred to as Defendant, alleged that the Defendant had failed to honor a written contract with the Complainant.

The Complainant also requested the Commission to investigate and determinate if any of its rules and regulations had been violated by the Defendant. In its answer Defendant admitted that it had been issued Certificate of Public Convenience and Necessity No. 32450 by this Commission on May 15, 1979. Defendant denied all other allegations of the complaint and filed a motion to dismiss Formal Complaint No. 1142. Oral argument was held before the entire Commission on August 18, 1981.

The subject matter of the Complaint is a purported agreement dated October 29, 1973 whereby under certain circumstances and subject to certain conditions Defendant was to transfer an interest in its certificate to the Complainant.

The Nebraska Supreme Court has held that the Public Service Commission does not have authority to determine validity of contracts for the purchase of Certificates of Public Convenience and Necessity nor can this Commission require that a transfer be accomplished. See Schmeer v. Abler, 197 Neb. 245 (1971).

Therefore, it is the opinion of this Commission that the Courts have exclusive jurisdiction to determine the validity and enforceability of purchase agreements. Since this Commission does not have jurisdiction, this complaint should be dismissed for lack of jurisdiction.

O R D E R

IT IS, THEREFORE, ORDERED, by the Nebraska Public Service Commission that Formal Complaint NO. 1142 be, and it is hereby, dismissed for lack of jurisdiction by this Commission.

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MADE AND ENTERED at Lincoln, Nebraska this 18th day of August, 1981.

NEBRASKA PUBLIC SERVICE COMMISSION

*Harold D. Simpson*  
Chairman

ATTEST:

*Terence L. Hubert*  
Executive Secretary

COMMISSIONERS CONCURRING: