

ORIGINAL

Decision No. 62594

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHN FRANCIS DONOVAN, III,

Complainant,

vs.

Case No. 7108

GENERAL TELEPHONE CO.,  
a corporation,

Defendant.

John Francis Donovan, III, in propria persona.  
Albert M. Hart and H. Ralph Snyder, Jr., by  
H. Ralph Snyder, Jr., for defendant.  
J. G. Shields, for the Commission staff.

O P I N I O N

By the complaint herein, filed on April 24, 1961, complainant asks for an order restoring telephone service previously furnished by defendant and, allegedly, improperly disconnected for nonpayment of charges. On May 22, 1961, the defendant filed its Motion to Strike and Answer. On June 6, 1961, by Decision No. 62089 in Case No. 7108, this Commission made its preliminary order by which it struck much of the material set forth in the complaint.

A public hearing on the pertinent portions of the complaint was held in Los Angeles on August 7, 1961, before Examiner Kent C. Rogers, evidence was presented and the matter was submitted.

The hearing on the matter was prolonged and its difficulty increased by the fact that complainant had no definite dates or figures. He testified that he was a subscriber to four-party line telephone service furnished by defendant at his home, Apartment 1, 2907 3rd Street, Santa Monica, California, under number EXbrook 6-7698; that this service was disconnected; that on or about February 2 or 3, 1961, he went to the defendant's office to pay the bill in full; that then and there a Mrs. Hays told him the amount of the bill; that he paid the telephone company the amount requested that day and the service was reconnected; that four or five days later he received a statement from the defendant that he was in arrears in his telephone bill payments; that he contacted a Mr. Doan in the defendant's customer service office and advised him that Mrs. Hays had said that the amount he paid was what he owed; that on or about April 1, 1961, the telephone was again disconnected; that he talked to Mr. Doan several times about the bill and finally deposited the amount of the bill with the Commission; that he is not willing to pay any portion of the bill; and that the telephone was out of order continuously. The complainant further testified that on July 6, 1961, his premises were destroyed by fire and condemned.

During the hearing complainant maintained that he was denied the right to produce as witnesses an ex-employee and a present employee of the defendant, and asked that the matter be continued to permit him to secure their attendance. Complainant has appeared before this Commission on prior occasions and is aware of the powers of this Commission to issue subpoenas and require the

attendance of witnesses. He did not see fit to request subpoenas prior to the hearing. No ground for continuance was established.

An employee of the telephone company testified concerning the status of complainant's telephone and the billing therefor, and produced a statement showing the charges and credits for service from the January 5, 1961 billing to the July 5, 1961 closing bill, and stated that there is at present owing from complainant to the defendant the sum of \$76.57 (Exhibit No. 6). The record shows that during this period of time complainant was at no time current with his payments; that the service was temporarily disconnected on March 21, 1961, for failure to pay the bill dated ~~February 5, 1961~~ February 5, 1961; that the service was reconnected on March 23, 1961, after complainant paid defendant \$21.00 and deposited \$20.78 with the Commission.

Complainant stated that he paid all bills to February 3, 1961, and admits that he paid nothing on the subsequent bills. He said that after that time there was so much gossip on the line that he could not use the telephone; that the line was dead on numerous occasions; and that on twelve occasions in five months the telephone was dead and he complained to the defendant and tried to have his service changed to another party line.

Complainant's case was built on memory only and contains no specific dates when claimed outages occurred, so the loss of use, if any, could not be deducted from his bill. The defendant's records, on the other hand, were specific and showed the correct amount of the charges incurred and all credits.

Upon consideration of the record herein, it is apparent that complainant has failed to sustain the allegations of the complaint and therefore the Commission concludes that the complaint should be dismissed. It will be so ordered.

O R D E R

Upon the record herein, IT IS ORDERED that the complaint herein be, and it hereby is, dismissed.

The Secretary of the Commission is directed to cause service of this order to be made on the respective parties. This order shall become effective twenty days after such service on said parties.

Dated at San Francisco, California, this 25th  
day of SEPTEMBER, 1961.

Everett A. DeLoach  
President

E. L. Tamm

George G. Brown

Frederick B. Hallock

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Commissioners

Commissioner Peter E. Mitchell being  
necessarily absent, did not participate  
in the disposition of this proceeding.