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ORIGINAL

Decision No. 67693

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

John E. Droeger, and Joanna N.)
Droeger, doing business under)
the fictitious name THE)
BRIGHTON EXPRESS,)

Complainants,)

v.)

The Pacific Telephone)
and Telegraph Company,)
a California Corporation,)

Defendant.)

Case No. 7893
(Filed May 11, 1964)

John E. Droeger, in propria persona.
James F. Kirkham, for defendant.

O P I N I O N

Complainants seek restoration of telephone service at 580 Pacific Avenue, San Francisco, California. This is a semipublic coin telephone, number Sutter 1-9947, at their restaurant known as The Brighton Express. It is alleged that on May 8, 1964, defendant, without lawful excuse or just cause, caused said service to be terminated.

In its answer defendant justified its action as being pursuant to the rules and regulations on file with the Commission because of nonpayment of the bill for said service for more than 15 days after presentation thereof.

The matter was heard and submitted before Examiner Rowe at San Francisco on July 7, 1964.

Because of the allegation that service had been terminated without lawful excuse, telephone service to complainants was temporarily restored pursuant to Decision No. 67253, dated May 26, 1964.

From a careful review of the evidence the Commission finds: That complainants were in default in their payments for service on March 22, 1964, in the sum of \$11.40; and on April 22, 1964, in the sum of \$15.91; that on April 29, 1964, complainant John E. Droeger when notified by defendant that this telephone was to be discontinued for nonpayment of bills for service, acquiesced thereto and told the telephone representative "to shut the bloody thing off"; that according to its rules and regulations (Schedule Cal. P.U.C. No. 36-T 2nd Revised Sheet 49), defendant was required to and did on May 4, 1964, discontinue said service; that at that time complainants were in default in their payments for service for all bills from and after November, 1963; that the payment on May 5, 1964 of the March 22, 1964 bill, did not have the effect of removing complainants from the status of being in default of the April 22, 1964 bill; that complainants had made no deposit to guarantee payment of such bills; and that their allegation that the termination of service was without lawful excuse or just cause is not supported by the evidence.

Based upon the above findings, the Commission concludes that the Order in Decision No. 67253, temporarily restoring service to complainants, should be vacated and set aside and that all relief should be denied. It is further concluded that should complainants apply for service in the future, their application should be granted only after they have paid all sums which are now in default and only upon complainants' depositing the sum of

\$50 to guarantee payment of future bills until complainants' credit is reestablished pursuant to defendant's applicable rules.

O R D E R

IT IS ORDERED that the Order in Decision No. 67253, temporarily restoring service to complainants, is vacated and set aside, and the prayer of the complaint is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 11th day of AUGUST, 1964.

Fredrick B. Halaloff
President

John E. [unclear]

Charles W. [unclear]

George A. [unclear]

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.