

ORIGINAL

Decision No. 68450

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

OXNARD VAN & STORAGE INC.,
a California corporation,

Complainant,

vs.

GENERAL TELEPHONE COMPANY
OF CALIFORNIA, a corporation,

Defendant.

Case No. 7800

(Filed December 12, 1963)

Donald Murchison, for complainant.
A. M. Hart and H. Ralph Snyder, Jr.,
by H. Ralph Snyder, for defendant.
Jackson W. Kendall, for Bekins Van &
Storage Company, interested party.
Robert O. Lamson, for the Commission
staff.

O P I N I O N

After two continuances granted upon request of complainant, this matter was heard on a consolidated record with Case No. 7830, Case No. 7835, and Case No. 7840¹ before Examiner Patterson in Los Angeles on July 13, 14, and 16, 1964.

¹ C. 7830, Oxnard Van Lines, a sole proprietorship, owned by Christopher J. Duarte, vs. The General Telephone Company, a corporation, and General Telephone Directory Company, a corporation; C. 7835, Oxnard Van & Storage, Inc., a California corporation, vs. The General Telephone Company, a corporation, and General Telephone Directory Company, a corporation; C. 7840, A-1 Oxnard Moving & Storage, a sole proprietorship owned by Marjorie Duarte, vs. The General Telephone Company, a corporation, and General Telephone Directory Company, a corporation.

The matters were submitted on the latter date and are now ready for decision. A separate decision will be issued on the other three complaints.

Complainant's case in substance is that in approximately November, 1961, application was made to defendant for Van Nuys foreign exchange service at 330 Calle Jazmin, Thousand Oaks. Said service was to be installed coincident with delivery of the 1962 Northwestern Section of the Los Angeles extended area telephone directory as complainant intended to have display advertising in the yellow pages of said directory, advertising the moving and storage business conducted from the Thousand Oaks address. The telephone service was installed on March 20, 1962, which was approximately the date on which the Northwestern Section of the Los Angeles extended area telephone directory published by The Pacific Telephone and Telegraph Company was distributed.

The record shows that complainant's Thousand Oaks telephone number appeared in the alphabetical listings in both the white and yellow sections of the directory, but complainant's display advertising was not contained in the yellow pages. The record does not disclose the reason for this omission, but it is clear that said display advertising was a matter to have been arranged between complainant and The Pacific Telephone and Telegraph Company and that defendant had no responsibility in connection therewith.

Complainant's operations manager testified that when he discovered the display advertising was not in the directory,

he immediately requested defendant to discontinue telephone service to the Thousand Oaks address as the service would be of no value without the display advertising. He testified further that when the service was not discontinued, he again requested on two separate occasions that disconnection be made. Complainant's sales manager testified that on at least four or five occasions he requested disconnection of the service. Complainant's president also testified that on two or three occasions she requested that the service be disconnected. According to the testimony of complainant's witnesses, in each of these instances they were assured by defendant's representatives that the service would be disconnected and were told not to worry about it.

Complainant's operations manager testified that to his knowledge a bill for service in 1962 was never rendered until about May, 1963. From that date until service was disconnected on August 8, 1963, for nonpayment of the bill, he had numerous discussions and negotiations with defendant's representatives concerning the bill for service rendered prior to the issuance of the 1963 Northwestern Section of the Los Angeles extended area directory in March, 1963. Complainant's display advertising was published in that directory.

Defendant's representative testified that defendant's records indicate that service was established on March 20, 1962, and was provided continuously through August 8, 1963; that message unit and toll calls were placed each month from the date of installation until the date service was discontinued; that a request for joint users' service, under this same telephone number, in the name of Woodland Hills Van & Storage

was applied for and signed by defendant's operations manager in December of 1962; that the first bill for service at the Thousand Oaks address was rendered in June, 1962; that a payment on the account was received on March 19, 1963, in the amount of \$300 and a subsequent payment on July 22, 1963, in the amount of \$271.84; that said amount of \$271.84 was debited on August 1, 1963, when the check by which payment was made was returned from the bank marked insufficient funds; that the offer made by defendant's representative for adjustment of the billing was based upon canceling one-half of the total exchange service charges for the year 1962, resulting in a credit adjustment of \$592.96, which included a correction for certain charges; and that the amount of billing now due is \$248.70.

Complainant requests that an order be made directing:

1. Defendant to restore telephone service at 330 Calle Jazmin, Thousand Oaks.
2. Defendant to accept and publish display advertising of complainant's Thousand Oaks telephone number in the Los Angeles Northwestern Section telephone directory classified yellow pages.
3. Defendant to cancel the charges for telephone service to 330 Calle Jazmin, Thousand Oaks, from March 1, 1962, to February 28, 1963.

The basic issue which is presented is whether or not, in fact, complainant did request that telephone service be disconnected at the Thousand Oaks address. The testimony of complainant's witnesses that such requests were made is not credible

in view of the unrefuted evidence concerning application for joint user service made in December, 1962. Complainant's contention that the telephone service was of no use without the display advertising is belied by the extensive use which was made of the service as evidenced by the billing. Complainant made no claim that the service was not, in fact, used.

Based upon the entire record, we find that no further adjustment of complainant's account is warranted and that the amount of \$248.70 is due defendant for service rendered.

It is clear from the record, and we so find, that defendant has no responsibility with respect to accepting advertising in the Los Angeles Northwestern Section telephone directory.

Based upon the above findings, we conclude that the complaint should be dismissed.

O R D E R

IT IS ORDERED that the relief sought by complainant is denied and the complaint is dismissed.

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

Dated at San Francisco, California, this 12th day of January, 1965.

Frederick P. Holdhoff
President

[Signature]

George E. Hoover

[Signature]
Commissioners