

ORIGINAL

Decision No. 69492

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

H. LILIAN HOLT,

Complainant,

vs

CALIFORNIA INTERSTATE
TELEPHONE COMPANY,

Defendant.

Case No. 8072
(Filed December 4, 1964)

H. Lilian Holt, in propria persona.
Best, Best & Krieger, by Glen E. Stephens and
William L. DeWolfe, for defendant.
Tibor I. Toczauer, for the Commission staff.

O P I N I O N

Public hearing on this matter was held before Examiner Patterson on February 24 and 25, 1965, in Barstow. The matter was submitted upon receipt of two late-filed exhibits.

Complainant operates a telephone answering service at 313 E. Buena Vista Street, Barstow, California, under the name of Answerfone. Complainant alleges, in substance, that defendant has made incomplete and careless installation of PBX switchboards and associated equipment; has neglected the maintenance, repair and servicing of said equipment; and has neglected repair of equipment of subscribers to her service. The complaint contains a recital of numerous incidents of service problems experienced by complainant and by complainant's subscribers. Many of these

service problems were substantiated by testimony of complainant and by testimony of three of her subscribers.

Among other things, complainant requests an order requiring defendant to reimburse her in the total amount of \$2,756 or approximately \$92.00 per month for 2½ years predicated upon her having only partial use of equipment due to defendant's neglect of repairs to the PBX installation.

Defendant denied it had neglected repairs to the PBX and associated equipment and averred that in all cases it had responded promptly to each service complaint received from complainant.

According to the record complainant initiated telephone answering service at 313 E. Buena Vista Street, Sarstow, upon the installation by defendant of a Stromberg-Carlson 80-line PBX switchboard on April 26, 1961. Complainant contended that the switchboard was not installed correctly and that cross-talk resulted wherein at times conversations between two parties on one circuit could be overheard by a party on another circuit. As another result of faulty installation, she contended that many times off-premises extensions failed to ring on the switchboard. Other complaints registered concerned lack of visibility of switchboard lamps, inaudibility of the ringing bell, change of ringing volume, frequent reversion of the switchboard to battery power, and intermittent noise and static in the system. Complaint was also made as to an incident which occurred on November 6, 1963, when the switchboard was left partially nonoperative from 5:00 pm to 7:05 pm as the repairmen who had been working on the board allegedly was not authorized to work overtime.

Defendant's commercial manager admitted that complainant had quite a few legitimate service complaints in connection with the Stromberg-Carlson switchboard. He testified that defendant made every effort to remedy the difficulties and to ensure that the board was in proper operating order. He testified further that complainant's practice of reporting service difficulties or requests for changes in equipment to many different people in defendant's organization rather than through regular channels resulted in confusion and unnecessary delays in responding to her calls, so that she was advised to contact only two named management representatives. The record shows that this arrangement did not prove to be satisfactory and defendant presently desires that complainant report all trouble calls to the regular repair service number - 114.

Complainant's service was disconnected on May 8, 1962, for nonpayment of her account in the amount of approximately \$1,400 and was reconnected on October 30, 1962, after payment had been made.

With respect to the service complaints in connection with the Stromberg-Carlson switchboard, some were found to result from faulty equipment and repairs were made, such as in the case of cross-talk which was found to be caused by loose tension in the keys and which was corrected by installation of new keys. Some of the service difficulties, however, were not resolved and as a result of complainant's continued dissatisfaction, the board was replaced on April 10, 1964, with a Western Electric 557-A 100-line PEX switchboard, a type specifically requested by defendant.

It seems clear from the record that the new board is a modern type on which defendant's personnel at the time of installation had little, if any, experience. Complainant was not furnished with a manual or any written instructions as to how the board should be operated. The only instructions she received were from the installers.

Complainant has experienced a number of service difficulties with the new board. These have included lack of dial tone; failure of off-premises extensions to ring on the board; failure to open a talking path when there is an incoming call; lack of supervision lights on the administrative extension strip; unwanted disconnection of toll calls; uninterrupted ringing of off-premises extensions when there is no incoming call; and a continuation of intermittent static and noise somewhere on the telephone system. A complete record of the service difficulties complainant experienced on the Western Electric board along with certain other information is contained in a log kept by complainant which was received as Exhibit 6.

In response to the testimony of complainant as to the difficulties experienced, defendant presented testimony by several of its employees including the Commercial Manager, the Barstow District Manager and the Central Office Superintendent. The testimony of these individuals indicates that defendant expended considerable effort in locating and correcting the difficulties experienced with the new switchboard. It would appear that some of these difficulties were due to omission of certain options in the board or were a result of defendant's and complainant's

unfamiliarity with the new type of equipment which was installed. For example, the uninterrupted ringing of off-premises extensions when there was no incoming call was found to result from a voltage feedback to the board caused when subscribers were attempting to place DDD calls. This improper operation was corrected by installation of an optional feature available for the board. Also, the unwanted disconnection of toll calls was found to be resulting from complainant's using the wrong lead in a pair in answering incoming calls. This was a direct result of her having been given the wrong information by the installers. This condition existed for about one month when she was informed as to the correct procedure. According to defendant's testimony the lack of supervision lamps on the administrative extension strip was the result of complainant's not requesting them on the original order. These lamps were subsequently ordered and installed and charges for them were not made until they had been installed.

It appears that most of the other difficulties which have been experienced on the Western Electric board were equipment failures which were corrected when located. The only exception to this is the intermittent static and noise which defendant's witnesses testified was still a matter which they were attempting to locate and correct. Except for this one difficulty it was the uncontroverted testimony of defendant's Central Office Superintendent that he knew of no troubles existing on complainant's equipment at the time of the hearing.

There are certain features of the new board which complainant does not find satisfactory, as for example the secrecy

feature which prevents the switchboard operator from hearing the conversation on a call answered through the board. Complainant claims this does not permit her to check the condition of the various lines connected to her board and requests, therefore, that the secrecy feature be removed.

Complainant also complains that the switchboard lamps are too dim to be seen readily. Defendant claims that they are operating normally and that they are designed to be seen only from the operator's position.

Complainant also complains that certain lines were left connected to her switchboard after they had been ordered disconnected. As an example of this she has cited the case of the IBM Company, which ordered service on her board disconnected as of October 1, 1964. According to her testimony one of IBM's lines was left connected on the board until December 19, 1964. During this period complainant claimed that she made many long distance calls over this line and that no charges have been rendered for such calls. Late-filed Exhibit 11 discloses that the total charges for these calls would be \$120.94.

Complainant's prayer requests an adjustment in billing on the ground that, because of defendant's neglect of repairs, she has had only partial use of the PBX and trunk line circuits. She asks that the Commission consider a reimbursement of \$92.00 per month for a period of 2 years and 6 months, a total of \$2,756.^{1/} The record does not disclose the specific basis for the requested adjustment of \$92.00 per month, but Exhibit 10 shows that the basic monthly rate

^{1/} \$92.00 per month for 30 months is actually \$2,760.

for the Stromberg-Carlson 80-line PBX was \$92.00. Exhibit 10 also shows that the monthly rate for the Western Electric 557-A 100-line PBX, which replaced the Stromberg-Carlson unit on April 10, 1964, is \$35.00 under the revised Telephone Answering Service Schedule A-20 which became effective June 20, 1964.

We take official notice of the advice letters and tariff sheets for Schedule A-20 which were filed for the Stromberg-Carlson unit on April 13, 1961 (Advice Letter 264) and of the superseding advice letter and tariff sheets for the Western Electric 557-A unit filed on May 20, 1964, effective June 20, 1964 (Advice Letter 319). Advice Letter 264 stated, in part:

"The purpose of this filing is to:

Add a new Schedule No. A-20, Telephone Answering Service, to provide installation charges and monthly rates for telephone answering service equipment. We have requests for this equipment."

Advice Letter 319 stated, in part:

"The purposes of this filing are to revise Schedule No. A-20, Telephone Answering Service, to:

1. Withdraw an 80 line switchboard and auxiliary equipment presently filed therein. There are no subscribers to the equipment, and the equipment is obsolete.
2. File rates, charges and special conditions applicable to a 100 line switchboard and auxiliary equipment for telephone answering service use."

The tariff sheets and advice letters referred to above bear out the testimony in this proceeding that defendant has had relatively little experience in providing telephone answering service equipment and that the Stromberg-Carlson switchboard was an older type of board not suitable for providing modern efficient telephone answering service. The tariff sheets also substantiate the evidence in Exhibit 10 and elsewhere in the record that the

tariff charges rendered to complainant for the Stromberg-Carlson equipment were unreasonable for the type and quality of service rendered.

The \$92.00 charge for the Stromberg-Carlson unit cannot be compared directly with the \$35.00 charge for the Western Electric unit for there are certain other tariff items listed separately under Schedule A-20 which must also be considered. A comparison of billing for switchboards equipped to handle 40 lines reveals that the total monthly charge for the Stromberg-Carlson unit under the original tariff would be \$114.00, and for the Western Electric 557-A board under the revised tariff, \$72.10, a difference of \$41.90 per month.

Based upon careful consideration of the entire record, we find that during the approximate 32-month period when billing was rendered on the basis of the \$92.00 charge complainant did not receive service commensurate with the rate level of the filed tariff and that the rate for the service rendered was unreasonable and excessive. We further find that it is reasonable to adjust complainant's billing by refunding to her, as reparation, \$42.00 for each of said 32 months, a total amount of \$1,344.00, and that no discrimination will result. However, complainant may not recover such reparation for any period earlier than two years prior to the filing of this complaint on December 4, 1964. (Pub. Util. Code §735.) Accordingly, her recovery with respect to charges based on the Stromberg-Carlson switchboard must be reduced to \$779.94, which includes \$37.94 for 28 days in December of 1962, \$714.00 for the 17-month period from January 1, 1963 through May 31, 1964, and \$28.00 for the period June 1 through June 20, 1964, the effective date of the revised tariff.

With respect to difficulties complainant originally experienced in operating the Western Electric board which were due either to defendant's failure to give complainant adequate or proper instructions or to defendant's failure to ensure that proper options were installed on the board, all of which difficulties have been corrected, we find that the impairment to her service resulting from these deficiencies reasonably approximates the charges of \$120.94 for long distance calls complainant made over the IBM line and that the two items are offsetting. (See Code Civ. Proc. §440.)

Complainant's prayer also requests that she be reimbursed by defendant in the amount of approximately \$300.00, said amount being 12-months' billing which one of complainant's clients has refused to pay complainant for telephone answering service on the basis apparently that said service was of no value because of an alleged error in defendant's telephone directory. Complainant did not present any evidence on this matter and we find, therefore, that complainant failed to establish the validity of her claim for the requested reimbursement. It is unnecessary to determine whether a matter of this nature, involving the relationship between complainant and her client, is one over which the Commission would have jurisdiction.

The record shows that complainant, with the help of her teen-aged son, operates the telephone answering switchboard on a 24-hour basis with only occasional additional help. It may well be that some complaints of unanswered calls could be traced to deficiencies in complainant's own operation, but there is no evidence of this. There is evidence, however, that in many instances deficiencies in defendant's service have resulted in

complainant's being unable to provide satisfactory service to her clients. This situation, which is difficult to explain to her clients, is a source of great irritation to complainant. We know of no way in which the situation may be alleviated except by constant surveillance and continued effort on the part of defendant to render service which is as trouble free as may reasonably be expected. The record discloses that complainant has experienced what would appear to be a higher than normal incidence of difficulties in the service rendered by defendant even with the new switchboard installed. At the present time, with a competent PBX repairman and a competent installer-repairmen available to maintain the facilities (and this was admitted by complainant), there is no reason why high quality service cannot be rendered in the future. Efficient correction of any future service problems, however, will require the cooperation of complainant in reporting such problems in a manner which will facilitate prompt response to her calls.

To ensure adequate performance in the future and to inform the Commission as to the quality of service being rendered, we find it will be in the public interest to require defendant to submit periodic reports of service problems reported by complainant, together with the corrective action taken by defendant.

Complainant's prayer also requests a review of a petition of protest attached to the complaint. Some of the signatories to the petition are admittedly not clients of Answerfone, and testimony was taken from only two of the signatories, who appeared as witnesses for complainant and whose testimony related directly to complainant's operations. The petition cannot be considered part of the instant complaint; the

signatories will have to seek their own remedies through independent action in accordance with the Rules of Procedure.

With respect to relief sought by complainant on several other minor phases of the operation, we find that complainant has not sustained the burden of proof.

We conclude that the relief sought by complainant should be granted in part and denied in part as provided in the following order.

O R D E R

IT IS ORDERED that:

1. Defendant, California Interstate Telephone Company, shall refund to complainant as reparation the sum of \$779.94 for the period charges based on the Stromberg-Carlson switchboard were applied.
2. Defendant shall submit to the Commission monthly reports (with a copy of each report to complainant) of all service problems reported by complainant involving service rendered by defendant for her telephone answering service, or for any other line terminating on the premises where her telephone answering switchboard is located, along with the disposition made of said service problems.
3. The monthly reports required under ordering paragraph 2 shall be submitted within ten days following the close of each month, shall commence with the first full calendar month following the effective date of this order and shall terminate with the submission of the report for the twelfth month unless this reporting requirement is extended by further order of the Commission.

4. Except to the extent granted by ordering paragraphs 1, 2 and 3, the relief sought by complainant is denied.

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

Dated at San Francisco, California, this 3rd day of August, 1965.

Frederick B. Holshoff
President
Arthur W. Mitchell
Agent
William L. Bennett

Commissioners

Commissioner George G. Grover, being necessarily absent, did not participate in the disposition of this proceeding.