

ORIGINAL

Decision No. 73293

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

John E. Kalin,	}
Complainant,	
vs.	
General Telephone Company, a corporation,	
Defendant.)

Case No. 8579
(Filed January 6, 1967)

John E. Kalin, in propria persona,
complainant.
A. M. Hart, H. R. Snyder, Jr., and
Robert A. Joyce, by Robert A.
Joyce, for defendant.

O P I N I O N

Complainant, John E. Kalin, alleges that defendant, General Telephone Company of California, hereinafter sometimes referred to as General, disconnected his telephone service irresponsibly on October 17, 1966, billed him for the two days service was disconnected, and denied his request to have a billing credit for those days. Kalin, through his complaint, is seeking an order prohibiting General from billing subscribers for services not rendered and requiring General to credit his account as requested.

General, in its motion to dismiss, asserts that the complaint failed to state a cause for complaint, and, in its answer, alleges that the service was temporarily disconnected and the pertinent billing was rendered pursuant to its tariff schedules on file with the Commission.

The matter was heard and submitted before Examiner Main in Los Angeles on June 6, 1967.

At the hearing General renewed its motion to dismiss. We find that complainant, in contending that his service was irresponsibly disconnected and that a billing by General includes charges for service during the period of the alleged irresponsible disconnection, has stated a cause of action; the motion is therefore denied.

In this matter the controlling issue is whether or not General, in temporarily disconnecting Kalin's service, acted in accordance with applicable provisions of its tariff schedules on file with the Commission. Tariff Rule No. 11, Discontinuance of Service, provides that service may be temporarily disconnected or permanently disconnected for nonpayment of bills. Rule No. 12, Disputed Bills, states in part as follows:

"When a subscriber and the Company fail to agree on a bill for telephone service and the disputed bill is not paid within 15 days after presentation, the Company will notify the customer in writing.

1. That in lieu of paying the disputed bill he may deposit with the Public Utilities Commission . . . the amount claimed by the Company to be due.

3. That upon receipt of the deposit the Commission will notify the Company, will review the basis of the billed amount, and will advise both parties of its findings and disburse the deposit in accordance therewith.

4. That service will not be discontinued for nonpayment of the disputed bill when deposit has been made with the Commission pending the outcome of the Commission's review.

5. That failure of the subscriber to make such deposit within 15 days after the date upon which notice was given will warrant discontinuance of his service without further notice."

By its letter dated September 30, 1966 to Kalin, General gave notice that unless payment were made in accordance with its Rule No. 12, a copy of which was attached to the letter, his business and residence services would be disconnected on October 17, 1966 and stated that the amount due and payable on his business service, telephone number 473-6333, was \$242.67, and the amount due and payable on his residence service, telephone number 377-2685, was \$87.06. The complaint herein concerns only Kalin's residence service.

With a letter dated October 6, 1966, the Commission staff returned to Kalin his check for \$329.73 "so that payment may be made directly to the utility ..." ^{1/} According to the contents of this letter the staff had completed its review of the bills in dispute for Kalin's business service and found them to be correct. Respecting his residence service the staff had not completed its review and stated that if such review "indicates you are entitled to an adjustment in accordance with the utility's filed Rule No. 26,² you may be assured that the adjustment will be credited to your account ..." General received a copy of this letter.

1 Informal complaints, including disputed bills, are handled at staff level.

2 Rule No. 26, Credit Allowance for Interruption to Service, applies to service outages which are not due to the fault of the subscriber.

It appears that the October 6 letter made it clear that the staff contemplated that Kalin would pay the bills for residence service and would rely upon the staff review for any adjustment pursuant to Rule No. 26. On the other hand, it appears that the staff did not contemplate that General would disconnect Kalin's residence service while his informal complaint concerning such service was under staff review. Kalin testified that a member of the Commission staff told him on October 11, 1966, in response to his specific inquiry, that General would not disconnect his residential service while an informal complaint thereon was pending. Such testimony is corroborated by the staff's requesting General to restore his service on October 19, 1966.

In the circumstances set forth above it appears that General temporarily disconnected Kalin's service in accordance with its filed tariffs. It further appears that the disconnection would not have been made, had timely and adequate communication taken place between the staff and General or had Kalin paid his bills for residence service as contemplated by the staff. These bills covered charges incurred from the time his service was established in June, 1966, and the amount in dispute was only 34 cents.

Rule 10(E) of defendant's tariffs states, "Service temporarily disconnected will be charged for in accordance with the regular rates for a period not to exceed fifteen (15) days subsequent to the date of temporary disconnection." General, after temporarily disconnecting Kalin's telephone service on October 17, 1966, billed Kalin in accordance with this rule.

In response to the portion of the complaint wherein complainant seeks that General be prohibited from billing subscribers for services not rendered, General's witness compared temporary service disconnections and permanent service disconnections. If General permanently disconnects a service, the subscriber is required to pay a service connection charge to reestablish service, which may be under a new telephone number and which requires as much time to complete as to establish a new service. If General temporarily disconnects a service, the subscriber is required to pay the minimum exchange rate while his service is disconnected. This reserves the facilities used for his service which, upon his eventual payment, can almost immediately be restored to his use under the same number.

Rule No. 10(E) was first filed and found reasonable by the Commission in 1930, some 37 years ago. It has stood the test of time during that period and is currently in general use for telephone utilities operating in California under similar, if not identical, wording.

Findings of Fact

The Commission finds that:

1. Kalin's service was temporarily disconnected in accordance with Rule No. 11, Discontinuance of Service, of General's tariff schedules on file with the Commission; upon the Commission's returning Kalin's check for \$329.73 so that he might make payment directly to General rather than accepting it as a deposit to be disbursed in accordance with Section 3 of Rule No. 12, Disputed Bills, of such tariffs, the nondiscontinuance of service provisions in said Rule No. 12 was not made operative.

2. Kalin was billed for service during the temporary dis-connection in accordance with Rule No. 10(E) of General's tariff schedules on file with the Commission.

3. Kalin has failed to show any violation or improper application by General of its tariff schedules on file with the Commission.

The Commission concludes that the complaint should be dismissed.

O R D E R

IT IS ORDERED that the complaint in Case No. 8579 is dismissed.

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

Dated at San Francisco, California, this 7th day of NOVEMBER, 1967.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners