

ORIGINAL

Decision No. 74652

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THEODORE E. P. SALLUME,
Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH CO.,

Defendant.

Case No. 8774

(Filed March 4, 1968)

Theodore E. P. Sallume, in propria
persona, complainant.
Robert E. Michalski, for defendant.

O P I N I O N

Theodore E. P. Sallume, an individual and a subscriber of defendant^{1/} at his residence in defendant's "Terminal" exchange, seeks an order that defendant supply him with modern phones available from its principal suppliers. As an example, he asked for the Trimline shown in an advertisement by AT&T and Associated Companies (with the Bell System symbol) appearing in Family Circle Magazine (a national magazine sold in markets), the March 1968 issue, attached to the complaint. He also seeks an order that defendant connect any other ultramodern phone which meets defendant's standard for a phone.

In its answer, defendant denied that complainant was entitled to the relief sought or to any other relief, and prayed for dismissal of the complaint without hearing.

^{1/} The Pacific Telephone and Telegraph Company (Pacific), or Pacific Telephone Company.

A prehearing conference was held on May 23, 1968, before Examiner Warner at Los Angeles, where it was learned that on April 15, 1968 defendant filed its Advice Letter No. 9754, attaching proposed changes in tariff schedules establishing charges, rates, and conditions for the offering of a new special-type telephone set called the Trimline. The record shows that these tariffs became effective on May 16, 1968, and two colored Trimline phones were installed in complainant's residence on May 21, 1968. At said prehearing conference, it was agreed that the issues of the complaint be limited to those set forth in paragraphs 2,3,4 and 5 of complainant's letter to defendant dated May 5, 1968. Said letter is of record in the proceeding, together with all other correspondence between the parties.

A motion to dismiss the complaint was filed by defendant on May 24, 1968, on the grounds that the complaint did not state facts sufficient to constitute a cause of action and, further, that the matter complained of in the complaint had been satisfied.

Public hearing was held before Examiner Warner on June 19, 1968, at Los Angeles, where defendant renewed its motion to dismiss the complaint.

Complainant asked that the Commission consider in its decision three questions (as follows) which he believed to be the issues in this case:

1. Will the Bell System in California offer the same services it is offering elsewhere, i.e., (a) one-time charges for specific equipment; (b) Trimline phones; (c) Touchtone and Centrex?
2. Can subscribers have the kind of outside cases for their telephone instruments that they want and are willing to pay for?

3. Can subscribers secure new equipment specifications and performance standards so that telephones can be only an incidental part of much larger pieces of equipment?

Exhibit No. 1 is copies of two pages of advertisements appearing in Newsweek Magazine's issue of January 22, 1968, showing Touchtone sets and samples of "a few possibilities we can see for the telephone service of tomorrow". which were advertised by AT&T and Associated Companies of the Bell System.

Exhibit 2 is a copy of Advice Letter No. 9754, together with related tariff sheets (supra).

Exhibit No. 3 is a copy of defendant's tariff schedule, Cal. P.U.C. #32-T, 4th Revised Sheet 37-A, Special Type Telephone Sets - Rates and Special Conditions. Also a part of said exhibit is defendant's tariff schedule, Cal. P.U.C #83-T, First Revised Sheet 51-I, Special Assemblies of Equipment - Charges and Rates.

Exhibit No. 4 is a copy of Exhibit No. 49 in Pacific's Application No. 49142 for a general rate increase. Said exhibit covers a response to a Commission staff data request regarding new types of equipment and service, their cost, and their availability in California.

Exhibit No. 5 is a table of contents of several volumes of transcript in Application No. 49142 (supra) relating to the introduction of innovations by Pacific of telephone equipment and service in California. Said transcript references were furnished to complainant for his perusal.

A colloquy between counsel for the City of Los Angeles, Mattson, and defendant's witness Frey, at page 4459 of the transcript of the hearings on Application No. 49142 (supra) was

incorporated herein by reference paraphrased as follows:

Q. Isn't Pacific Telephone punishing rate payers of California by not offering the services mentioned in Exhibit No. 45?

A. I don't think necessarily so.

The testimony of defendant's executive vice president, where he stated, at page 5521 of said transcript, that "the service will still be just, reasonable, safe, proper, adequate, and sufficient", was also incorporated herein by reference.

The complainant's testimony brought out the following:

1. As a subscriber of defendant in its "Terminal" exchange, he requested modern equipment, such as Trimline, prior to the filing of the complaint and was advised that such equipment was not being offered because defendant could not afford it.

2. An advertisement by AT&T and Associated Companies (with the Bell System symbol) appeared in the March 1968 issue of Family Circle (a national magazine sold in markets) offering Trimline telephones with no qualification as to its availability.

3. Subsequent to the filing of his complaint, defendant, by Advice Letter No. 9754 dated April 15, 1968, filed tariff schedules for Trimline; said schedules became effective May 15, 1968, and defendant installed two Trimline sets in his residence on May 21, 1968.

4. He believed defendant should not have permitted the advertisement, without some qualification, of a product not available to its California subscribers.

5. A Special Services department to handle defendant's subscribers' requests for special equipment should be established, and defendant should be directed to develop procedures to respond satisfactorily to such requests. Defendant's present procedure, which is that a telephone operator simply states "sorry, no money" or "no tariff" is unsatisfactory.

In reviewing this record, we suggest it might be helpful if defendant would take up with AT&T the matter of national and institutional advertising which involves subscriber-used equipment. We believe an appropriate notification should be considered when such equipment is not universally available. Defendant should likewise consider this caveat with respect to advertising which it sponsors. We will instruct our staff to consult with Pacific in both regards. We will further request our staff to consult with Pacific and report on the matter of procedures responsive to customer requests for equipment.

The Commission finds as follows:

1. That portion of the complaint which is pertinent, i.e., that the complainant be supplied with a modern phone available from defendant's principal supplier, was satisfied.

2. On May 21, 1968, defendant installed two colored "Trimline" phones in complainant's residence.

3. Defendant has not violated any of its tariffs.

The Commission concludes that the complaint should be dismissed.

O R D E R

IT IS ORDERED that said complaint is dismissed.

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

Dated at San Francisco, California, this 11th day of SEPTEMBER, 1968.

William S. Lyons, Jr.
President

Ed. G. Gatchell

William C. Bennett
Attorney

K. P. Morrisey
Commissioners