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ORIGINAL

Decision No. 78087

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

James Carter

Complainant

vs.

Pacific Telephone

Defendant.

Case No. 9091
(Filed July 16, 1970)

James Carter, for himself, complainant.
Richard Siegfried, for The Pacific Telephone
and Telegraph Company, defendant.

O P I N I O N

After due notice, hearing in this complaint was held by Examiner Coffey in San Francisco on August 31, 1970. The matter was submitted on September 11, 1970 with the receipt of the transcript.

Complaint

James Carter (complainant) requests that The Pacific Telephone and Telegraph Company (defendant) be required to rectify erroneous billings, to explain and substantiate promptly any and all billings, to restore telephone service to complainant, and to pay damages for the loss of telephone service and embarrassment suffered by complainant.

Defendant denies that the complainant is entitled to the relief sought, or to any other relief, and prays that the complaint be dismissed.

Complainant's Presentation

Complainant testified that he has kept a detailed record of the number called and duration of call of all telephone calls he has placed since mid-1969. Complainant called defendant's Mill Valley office and questioned a number of telephone calls which appeared on his March 19, 1970 bill. After several phone conversations, complainant was unable to obtain an explanation of the errors from defendant. On May 20, 1970, defendant mailed a check for \$24.33, as payment for that part of the March 1970 bill that he believed was correct, along with a letter explaining his action to defendant. Complainant alleges that defendant refused to recognize his complaint and to discuss the matter.

Complainant's telephone service was temporarily disconnected on June 25, 1970.

On July 3, 1970 complainant orally agreed to pay defendant the amount shown on the May 1970 bill, in exchange for reconnecting his phone, and the examination, explanation and correction of erroneous listings on his bills.

On July 5, 1970 complainant mailed a check for \$58.89, together with a letter stating that he was still contesting the billing. Since complainant had sent defendant a check for \$24.33 on May 20, 1970 which had cleared the bank on May 22, 1970, complainant subtracted \$24.33 from the total amount due shown on the May 19, 1970 bill, \$83.22.

The following tabulation shows the calls which defendant disputes as erroneous or not conforming to his records:

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Disputed Calls

<u>Date of Call</u>	<u>Exchange Called</u>	<u>Called Number</u>	<u>Listing</u>	<u>Charge for Calls</u>
Feb 20	Ignacio	838-1110	Hamilton Air Force Base	\$.25
Feb 26	Glendale	247-6210	Furane Plastics - 5121 San Francisco Rd., W.Los Angeles	3.60
Feb 27	Fairfield- Suisun	438-2907	Travis Air Force Base	.40
Mar 5	Millbrae	697-6006	CLBA Products	.24
Mar 8	Concord	685-8192	Helen's Beauty Shop	2.88
Mar 9	Oakland	444-0992	Mullally & McCorkindale	.41
Mar 11	Petaluma	762-8261	Remo Galeazzi	.50
Apr 27	Monterey	394-6777	Lockwood Technical Inc. additional listing for Klemark Corp.	1.05
May 11	Hayward	783-2711	American Aircraft Sales	.65
June 1	Danville	837-5243	San Ramon Valley Methodist Church	.32
June 1	Danville	837-5343	Aeromatics Aerojet General Corp.	.32
June 14	South San Francisco	589-7209	Holiday Inn	<u>.24</u>
Total charges for calls in dispute				\$10.86

Defendant's Presentation

Defendant presented testimony by the business office manager of the Mill Valley Business Office and four exhibits.

Defendant verified the disputed calls by:

1. Determining whether the calls were dialed directly or placed with an operator. All disputed calls were dialed directly by complainant.
2. An individual check was made of each disputed call by determining the listing of each call, by checking to see if defendant had called the number of the disputed call within the past 6 to 9 months, by checking to see if the number of the disputed call had been called by the complainant recently and by calling the number of the disputed call.
3. The subscriber at the number of the disputed call was asked by defendant if he had received a call from complainant.
4. The listings of the disputed calls were checked to see if they were the same types of business that complainant usually calls.
5. The disputed calls were reviewed to determine if they were to points within complainant's usual calling area.
6. Defendant ascertained from its accounting department that there were no computer errors which would have resulted in billing errors and it previously had checked its central office equipment associated with complainant's service.

The results of defendant's investigation are summarized

below:

Summary of Investigation of Disputed Calls

<u>Date of Call</u>	<u>Listing</u>	<u>Results of Defendant's Investigation</u>
Feb 20	Hamilton Air Force Base	Similar to types of businesses called by complainant.
Feb 26	Furane Plastics, Los Angeles	Complainant had on other occasions called Furane Plastics in <u>Los Altos</u> and had not challenged call.
Feb 27	Travis Air Force Base	Similar to types of businesses called by complainant.
Mar 5	ClBA Products	Similar to types of businesses called by complainant.
Mar 8	Helen's Beauty Shop	Nothing to indicate calls were billed in error and calls were within complainant's normal calling area.
Mar 9	Mullally & McCorkindale Attorneys	Nothing to indicate calls were billed in error and calls were within complainant's normal calling area.
Mar 11	Remo Galeazzi	Listing knew complainant, but did not recall specific call.
Apr 27	Lockwood Technical Inc.	Similar to types of businesses called by complainant.
May 11	American Aircraft Sales	Complainant had on other occasions called American Aircraft Sales and had not challenged call.
June 1	San Ramon Valley Methodist Church	Defendant agreed to adjust call since it appeared it might be a misdial.
June 1	Aeromatics Aerojet General Corp.	Similar to types of businesses called by complainant.
June 14	Holiday Inn	Nothing to indicate that the call was billed in error and calls were within complainant's normal calling area.

Discussion

Disputed Payment, \$24.33

Complainant appears to have been led to the erroneous conclusion that his payment of \$24.33 on May 20 (bank clearance on May 22) had not been credited to his bill dated May 19, before the bill was mailed on May 26 since no credit amount of \$24.33 appeared after the beginning balance shown on the May 19 bill. While the restatement of charges and credits sent to complainant on July 10, 1970 (Exhibit No. 4), the Statement of Account (Exhibit No. 3), and the difference between the total due of \$88.94 shown on the April 19, 1970 bill and the beginning balance due of \$64.61 shown on the May 19, 1970 bill clearly established that complainant owes defendant the \$24.33 he deducted, it is not reasonable to expect subscribers to audit bills sent by defendant by comparing balances on consecutive bills. Before this complaint became a formal proceeding defendant should have demonstrated to complainant in writing the charges and credits to complainant's account as depicted either in Exhibit Nos. 3 or 4, or defendant should have included with the May 19, 1970 bill, a "Other Charges and Credit" form^{1/} which indicated the crediting of the \$24.33 to complainant's account between the billing and mailing dates.

Disputed Calls

After defendant's direct presentation of the results of its investigation of the disputed calls, complainant stated he found that the following four calls possibly could have been made by him since they were calls which he had made in the past:

^{1/} The Pacific Telephone and Telegraph Company filed Tariff, Cal. PUC No. 38-T, Sheet 99.

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February 20	Hamilton Air Force Base
March 9	Mullally & McCorkindale
March 11	Remo Galezzi
May 11	American Aircraft Sales

Complainant stated that he calls Hamilton Air Force Base occasionally, that Mr. Mullally is his attorney, and that the other two listings are those of two of his friends. However, complainant continued to rely on his records and to emphatically deny he had made any of the disputed calls.

Complainant stated that if he had seen the listing of calls herein presented, which he stated he requested from defendant by phone in March, this complaint probably could have been settled within ten minutes by telephone.

Defendant's policy regarding disputed calls is not clearly set forth in this record. Business office personnel appear to be allowed a wide range of discretion to forgive disputed bills. For instance, it appears that charges for disputed calls not collected by hotels from their patrons, charges for misdialed calls and charges for calls billed in error are forgiven by defendant.

The Commission by Decision No. 71575, dated November 23, 1966, (Case No. 7409), required defendant to provide non-optional detailed billing of multi-message charges for business and residential service. The detailed billing sets forth the date, time, exchange and number of the call. However, the listing of the call is not shown on the detail bill. This information is frequently helpful in the identification of disputed calls by subscribers. If defendant had promptly supplied complainant with the listing of the disputed calls, it appears this complaint would have been minimized. While defendant may be willing to forgive the charges for a single disputed

bill rather than incur the cost of an extensive investigation which includes the determination of the listings, and while defendant may be unwilling to undertake such costly investigations of multiple disputed calls, unless subscribers are supplied by defendant listing information promptly upon a subscriber's request, the subscriber benefits of detailed billing are largely nullified.

In this proceeding complainant is relying on the accuracy of his records and defendant is relying on the accuracy of its identifying, billing and accounting equipment and procedures. Defendant presented general testimony, but not expert testimony, on the operation, potential errors and operational checks of automatic number identification, billing and other central office equipment. Although reasonable review of the operational and billing accuracy of complainant's service has been made by defendant without finding any equipment or procedural malfunction, it does not appear that all central office equipment which might have caused operational and billing errors has been tested by defendant. Such comprehensive tests may not be feasible or possible. It appears in this proceeding that it is probable that both complainant and defendant's machines are not infallible and may produce records erroneous in some detail.

Findings and Conclusions

1. We find that complainant probably made the telephone calls on February 20 to Hamilton Air Force Base (838-1110), on March 9 to Mullally & McCorkindale (444-0992), on March 11 to Remo Galeazzi (762-8261), and on May 11 to American Aircraft Sales (783-2711).

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2. Complainant probably called Furane Plastics on February 26 in Los Angeles believing that he was calling Furane Plastics in Los Altos.

3. There is no conclusive evidence that complainant made any of the remaining seven disputed calls.

4. The total due amount of \$83.22 shown on complainant's May 19, 1970 bill is the amount due after complainant's payment of \$24.33 on May 20, 1970, had been credited to complainant's account.

5. It is reasonable that complainant pay defendant for those calls set forth in Finding No. 1 in the amount of \$1.80.

6. It is reasonable that defendant be required to credit to complainant's account \$9.06 for the disputed calls other than those set forth in Finding No. 1.

7. It is reasonable that complainant pay defendant \$24.33, the amount complainant deducted from the payment of the bill dated May 19, 1970.

We conclude that this complaint should be in part granted and in part denied as hereinafter ordered.

We note that defendant restored complainant's service after the hearing on this complaint and pending the decision in this matter. However, complainant's service was temporarily disconnected prior to July 5 for a period which cannot be accurately determined from this record. Defendant should review complainant's account and determine the credit to be given complainant for the period of the temporary disconnection.

ORDER

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company shall credit to the account of James Carter, the complainant, the amount of \$9.06 for the disputed calls to 247-6210, 438-2907, 697-6006, 685-8192, 394-6777, 837-5432, 837-5343 and 589-7209.

2. The Pacific Telephone and Telegraph Company should review its policies and procedures regarding advising subscribers of the listing of disputed calls and the notice to subscribers of account credits for payments received between the billing and mailing dates of subscriber bills.

3. Ten days after the effective date of this order, the amount of complainant's closing bill dated July 10, 1970, less a credit of \$9.06, is due and payable if not previously paid.

4. The Pacific Telephone and Telegraph Company shall credit complainant's account for such credit due because of the temporary disconnection of complainant's service.

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

Dated at San Francisco, California, this 15th day of DECEMBER, 1970.

[Signature]
Chairman

[Signature]

[Signature]

[Signature]
Commissioners