

Decision No. 80463

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FRANK R. SARGENT,

Complainant,

vs.

PACIFIC TELEPHONE COMPANY,

Defendant.

Case No. 9307

(Filed December 18, 1971)

Frank R. Sargent, in propria persona, complainant.
Richard A. Siegfried, Attorney at Law, for
Pacific Telephone and Telegraph Company,
defendant.

O P I N I O N

A public hearing in the above matter was held before Examiner Daly at San Francisco on July 20, 1972, at which time and place the matter was taken under submission.

By his complaint filed December 28, 1971, complainant alleges that:

1. Upon acquisition of the Casa Blanca Gardens Motel in Redding, he requested defendant to install an up-to-date direct dialing facility at the motel.
2. Defendant installed a system without safeguards thereby making it possible to direct dial from any phone within the motel without the knowledge and control of complainant or his employees.
3. Defendant has failed to call back on many calls made by guests of the motel and as a consequence complainant was unable to collect the necessary charges from the guests.
4. Defendant has charged complainant for advertising that complainant does not want nor has ever agreed to.
5. Defendant led complainant to believe that there was no charge for colored phones and then billed approximately \$500 for such phones.

6. Because of the deficiencies in the system and the uncompromising demands of defendant, complainant requested defendant to remove the equipment from the premises.

Complainant requests that the charges made by defendant for such service be set aside except for those charges that would normally be made.

Defendant alleges that all equipment at the Casa Blanca Gardens Motel was provided at the request of complainant, with his full knowledge and in accordance with the provisions of defendant's applicable tariffs on file with this Commission. Defendant claims that complainant presently owes a bill in the amount of \$4,980.98.

Except for confirming the allegations of his complaint, complainant made no other affirmative showing.

Defendant introduced an employee who handled contracts with customers regarding telephone service arrangements and billings in Redding. She testified that on September 1, 1971, three gentlemen came to the business office in Redding and explained that the Casa Blanca Gardens Motel had been sold to complainant and that complainant had authorized a Mr. Patel to sign a supersedure form. The witness further testified that she called complainant in Maryland, who confirmed Mr. Patel's authority to sign for him as the incoming subscriber on 243-9100, the service in question. She further testified that on all calls placed through defendant's operations it is company practice to have the operator note on its toll ticket that she provided the motel with the details of the calls and that this is done by writing down the initials of the party to whom she gave the details. Exhibit 4 indicates that on all calls placed with defendant's operator and originating from complainant's motel for the period October 16, 1971 through January 16, 1972, all of such calls, with the exception of two, the details of each call were related to either complainant or one of his employees. Defendant is willing to make an adjustment in the amount of \$26.51 on the two calls concerning which it failed to follow this procedure.

Defendant also introduced the testimony of a former employee who spent the period from January 1971 to February 1, 1972 as a communications consultant in defendant's Redding general business market office. He testified that in response to a request from defendant's business office he contacted complainant on September 13, 1971, regarding a change in the telephone service for the Casa Blanca Gardens Motel; that at that time, complainant had a manual PBX switchboard unit with approximately 67 extension telephones; that with the manual PBX all calls placed by the motel guests had to be placed through the motel's switchboard operator; that complainant told him that he had just purchased the motel and wanted to upgrade the service and felt he needed a dial, rather than a manual, telephone system, but he said he wanted the cheapest system he could possibly get; that on September 15, 1971, he suggested to complainant a dial PBX system having room-to-room dialing as well as the ability for the guests to directly dial their own local and long distance calls at a quoted monthly increase of \$120 a month and an approximate installation charge of \$1,200; that he told complainant that since complainant had requested the cheapest possible dial system, this suggested service did not include "toll diverting", which meant that guests, if they knew how, could directly dial a long distance call without going through the switchboard operator or defendant's long distance operator; that he told complainant that the toll diverting equipment could be provided at an additional monthly cost of \$143, with an installation cost of approximately \$1,000; that complainant informed him that he was not interested in the toll diverting equipment because whatever he would be losing, it would be less than \$143 a month; that he recommended to complainant a 740-dial PBX with a 6-A attendant console which had a capacity to serve all of the 67 existing extensions; that because there was no suitable place to locate the equipment because of its height and because complainant was reluctant to build an additional space for the equipment, the witness recommended a 756-dial PBX utilizing a 4-A cordless attendant's

console; that he told complainant that because of its smaller size and capacity it could serve a maximum of 60 total telephone extensions and complainant said that 60 would be adequate; that he then quoted to complainant a monthly increase of \$135 with an approximate installation charge of \$800 and a basic termination charge of \$1,635 for such service and complainant replied, "Fine. Go ahead with the installation"; that he returned to the Casa Blanca Gardens Motel on September 17, 1971, and presented complainant with a brochure on the 4-A console and briefly described its operations and asked him what color he would like to have for the console and he stated beige, which was subsequently installed; that on the same date, complainant asked about charges to change all the black room phones to beige and the witness replied that he didn't know whether a charge would be applied in a case like this, but he agreed to check and report back; that after checking he told complainant that there would be a \$7 installation charge for each phone resulting in a total charge of \$420 and complainant replied, "Forget it"; that on December 10, 1971, the witness went to see complainant about payment of his telephone bill and was informed by complainant that he didn't have to pay the bill because the super-seure of service was invalid, the PBX system had been misrepresented to him in that there were not enough extensions to handle all of his rooms and his guests could directly dial their own long distance calls; that he reminded complainant that all of these short comings had been previously discussed and complainant had decided upon a system with a limited capacity because he wanted one at the lowest cost; that complainant said that he would probably take out the telephone system and would not pay the basic termination charge; and that on January 3, 1972, he received a copy of complainant's letter to the business office manager requesting that the PBX be removed and stating that he would install his own PBX system.

The record also indicates that complainant has refused to permit defendant to remove its equipment until defendant pays a storage bill for leaving the equipment in the motel.

After consideration the Commission finds that:

1. Complainant operates the Casa Blanca Gardens Motel in Redding and is the subscriber on 243-9100 pursuant to a supersedure request as evidence by Exhibit 2.

2. Pursuant to a request by complainant, defendant installed a 756-dial PBX dial system after fully informing complainant of its limitations and cost.

3. Following installation, complainant became dissatisfied with the system because of the limitations of the system and requested defendant to remove the system. The system has not been removed because complainant refuses to permit defendant access to the premises until a storage bill claimed by complainant for storage of said system has been paid.

4. The record fails to demonstrate that the system as requested by complainant and as installed by defendant had been misrepresented to complainant.

5. The record fails to demonstrate that defendant failed to inform complainant or one of his employees about the details of calls placed through defendant's operator with the exception of two instances where the cost involved amounted to \$26.51.

6. The record fails to demonstrate that complainant was improperly charged \$500 for colored phones.

7. The record fails to demonstrate that defendant assessed charges other than those as appropriately set forth in its tariffs presently on file with this Commission.

The Commission concludes that the complaint should be dismissed with prejudice.

O R D E R

IT IS ORDERED that the complaint in Case No. 9307 is dismissed with prejudice.

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

Dated at San Francisco, California, this 31st
day of AUGUST, 1972.

Vernon L. Sturgeon
President
William J. Sisk
[Signature]
[Signature]
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.