

Decision No. 81239

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILSHIRE HEALTH INSTITUTE,
ASHTON SCHOOL OF PHYSIO-HYDRO-MASS;
ASST. TECHNICIANS, AND X-RAY TECHNOLOGIST,
DR. G. ASHTON, DIRECTOR,

Complainants,

vs.

PACIFIC TELEPHONE & TELEGRAPH COMPANY,

Defendant.

Case No. 9371
(Filed May 1, 1972;
amended June 19, 1972
and July 5, 1972)

Dr. Georjeine Ashton, for herself, complainant.
Katherine V. Tooks, Attorney at Law, for
defendant.

O P I N I O N

Complainant, Dr. G. Ashton, the Director of the Wilshire Health Institute, seeks correction in her accounts for directory advertising. She alleges overcharges in the amount of \$713.83.

Public hearing was held before Examiner DeWolf on November 17, 1972.

Complainant testified that she claims a refund of \$550.07 for errors in billing for directory advertising which she did not order, and for court costs in a civil action filed in the small claims court, and for damages and interest.

The two witnesses who testified for defendant identified Exhibits 1 through 8 in evidence. Exhibit 1 is composed of copies of some of the contracts and the advertising of complainant. Exhibit 2 is a summary of some of the credits made to complainant's account in the amount of \$402. Exhibit 3 is a copy of the dismissal in the small claims court. Exhibits 4 and 5 are copies of defendant's accounts with complainant on the two telephones. Exhibits 6, 7, and 8 are other statements of accounts of defendant with complainant.

C. 9371 SW/ei *

Exhibit 2 is as follows:

Summary of Credits

1.	387-0766 - Classified Directory Advertising	
	A. Lump sum credit, \$13.50 per month for period 7-31-68 through 1-15-69.	\$ 74.03
	B. Reduction of charges, \$13.50 per month for period 1-16-69 through 7-31-69.	<u>87.97</u>
		\$162.00
2.	387-8953 - Classified Directory Advertising	
	A. Lump sum credit, \$10.50 per month for period 7-31-68 through 1-15-69.	\$ 57.58
	B. Reduction of charges, \$10.50 per month for period 1-16-69 through 7-31-69.	<u>68.42</u>
		\$126.00
3.	387-8953 - Alphabetical Directory Advertising	
	A. Lump sum credit, \$9.50 per month for period 7-31-68 through 7-31-69.	\$114.00
4.	Total Credits	
	A. Lump Sum	\$245.61
	B. Reduced Charges	<u>156.39</u>
		\$402.00

Defendant asserts that its credits of \$402 reduces the amount in controversy to \$148.07.

In June 1970 a suit was filed by complainant against defendant in small claims court of the Los Angeles Judicial District of the County of Los Angeles for \$300. It was dismissed without prejudice on August 5, 1970.

The last of several meetings of the parties was held on February 16, 1972 between complainant and the supervisor of the telephone company. Complainant maintained that her bill did not show the credit set forth by the defendant on Exhibits 4 and 5 and on the summary, Exhibit 2, covering the period of July 31, 1968 through July 31, 1969.

Findings of Fact

1. Complainant is entitled to credits in the amount of \$550.07 to her account for directory advertising between May 16, 1968 and May 18, 1970.

2. Defendant has accounted for the amount of \$402 of adjustments for directory advertising and has credited that sum to complainant's accounts.

3. The remainder of credits due complainant is \$148.07.

4. The claim for credits in the amount of \$148.07 is not barred by the statute of limitations for the reason that the claim is based on open accounts being negotiated for settlement through February 18, 1972.

5. The Commission has no jurisdiction to award damages or costs of bringing suit.

6. Defendant shall give complainant credit in the amount of \$148.07 with interest at 7 percent from February 18, 1972.

O R D E R

IT IS ORDERED that defendant, The Pacific Telephone and Telegraph Company, shall give a credit to complainant, Dr. G. Ashton, on her telephone advertising account in the amount of \$148.07 with interest at 7 percent from February 18, 1972.

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

Dated at San Francisco, California, this 10th day of APRIL, 1973.

Vernon L. Sturgeon
President

William J. Lyons

Paul J. [illegible]

[illegible]
Commissioners

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