

Decision No. 85380

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DICK WORKMAN,

Complainant,

vs.

PACIFIC TELEPHONE,

Defendant.

Case No. 9887
(Filed March 20, 1975)

Robert W. Mills, Attorney at Law, for complainant.
William B. Rowland, Attorney at Law, for defendant.

O P I N I O N

This complaint alleges that complainant is the owner of Workman Motors, an auto reconstruction shop in downtown San Francisco; that a business telephone was ordered from the defendant and installed; and that it has been defective and has malfunctioned ever since. It is further alleged that defendant has terminated complainant's telephone service for nonpayment of telephone bills and that complainant has suffered irreparable injury thereby. The complaint then requests that the Commission order the defendant to restore complainant's service pending a public hearing, conditioned upon deposit of the money due with the Commission.

Defendant's answer was filed on April 14, 1975. It alleges that complainant's phone number was changed on December 11, 1970; the new number became 441-1111, 1112, 1113, and 1114 as requested, and five six-button telephone sets were installed. It is alleged that between January 1971 and December 1974 no more than eight complaints were received from complainant during any twelve-month

period, with the possible exception of a 24-day interval when defendant subjected complainant's phone service to extensive tests. It was noted that only two additional complaints regarding the service were received during the period from January 1, 1975 to April 14, 1975. Defendant affirmed that complainant's telephone service was disconnected on March 19, 1975 after complainant's failure to pay overdue charges appearing on his February 17, 1975 bill for telephone services which had accumulated over the preceding seven months and totaled \$2,759.68. The service was restored on March 25, 1975 after complainant deposited a check with the Commission in the amount of \$2,759.68. Service is still being provided since all current bills have been paid.

Complainant requested a public hearing, which was held before Examiner Fraser on July 22, 1975 at San Francisco.

The facts are not disputed. Complainant purchased his auto repair business on May 16, 1969. Phone service was poor and according to complainant was never corrected. Complainant thereupon requested a new phone number and selected 441-1111. The new service was installed on December 11, 1970, after representatives of defendant warned complainant that occasional wrong number calls would be received, since 441 would be dialed by mistake for information, which is 411.

Complainant's two office employees testified that at least an hour a day is required to answer the wrong number calls, information calls, and calls for a local newspaper (the Chronicle) that tie up complainant's business telephone for long periods. They further testified that the telephone frequently provides only a dial tone after ringing, or a series of clicking noises, or a loud wailing-like static. This testimony was supplemented by fifty affidavits from people who were present when the telephone malfunctioned.

Complainant testified that poor telephone service has curtailed the expected expansion of his business. He requested that defendant be ordered to furnish efficient service and that the order be enforced. He further requested that the monthly service charges from January 1, 1971 be eliminated or adjusted until defendant provides adequate service.

Defendant's evidence developed as follows: Defendant has provided complainant with a four-number (441-1111 through 441-1114) service since December 1970. Complainant was dissatisfied with his original phone number (673-8612) and selected the second number, which is still his. Workman filed an informal complaint with the Commission on January 25, 1971. He alleged his phone rings only once, then the line is dead and the incoming call is not connected. He further alleged that callers get a constant busy signal and that operators have advised those who call that his number is disconnected. Defendant modified certain equipment and apparently eliminated the malfunctions. Then defendant received a letter from complainant about May 28, 1974, which alleged that the phone was still malfunctioning. Defendant also received notice from this Commission on May 30, 1974 that Workman had filed an informal complaint. Defendant had complainant's premises and the central office equipment checked; no trouble was found, but complainant's lines and fuses were replaced to lessen the possibility that the equipment was at fault. The investigation and results were reported to Workman and the Commission. Workman filed another informal complaint on June 24, 1974, which prompted defendant to undertake a further series of tests completed on October 15, 1974. Complainant did not cooperate by failing to log all incoming calls during an assigned period, as requested. A third complaint was filed with the Commission on December 6, 1974 and defendant checked complainant's service again and arranged for a log of incoming calls on certain days during the period from December 17,

1974 through January 10, 1975. The log extended over twelve days, and the results were studied by defendant's central office staff who agreed that complainant's problem was due to people misdialing or children playing with the phone. It was noted that raising the phone and tapping the switch hooks, or twisting the dial several times, could ring complainant's number. Defendant's representatives recommended that complainant be issued a new phone number, without charge, and that calls be referred from the old to the new phone number for as long as necessary. Complainant was advised that his phone trouble will continue with the 441-1111 number.

Complainant's phone service was temporarily disconnected for nonpayment of the February 17, 1975 bill on March 19, 1975. It was restored on March 25, 1975 after a check was deposited with the Public Utilities Commission. During the investigation of complainant's service from May 30 through October 11, 1974, no bills were paid. Complainant's informal complaint was closed by the Commission on October 16, 1974, and defendant wrote to request that a payment be made on the \$2,644.86 due on November 17, 1974, which included a six-month balance of \$2,192.06. Complainant paid \$1,000 on December 10, 1974 after advising defendant's representative that service was still bad and that he had filed another informal complaint. This complaint was closed in February, but nothing was paid and defendant wrote on March 13, 1975 to advise that the service would be subject to suspension if the \$2,759.68 owing on February 17th was not paid within five days. This notice was disregarded, and the service was disconnected on March 19, 1975. On March 25 complainant deposited a check for the full amount due with the Commission. Defendant thereupon restored the service which is still operating since complainant has paid all current charges.

Complainant advised that he does not want a new phone number. He stated that his customers and suppliers are familiar with his number, and if it is changed everyone will have to be notified and he will have to purchase new business forms and stationery. He does not favor typing or stamping the new number on business forms or stationery. He stated it might alienate his customers and would indicate an inefficient business office.

Discussion

It is evident that a telephone number with five consecutive 1's may be subject to calls caused by errors in dialing. If complainant retains the number, he must accept its disadvantages. Defendant has offered free installation of a new service, and complainant refused. Defendant cannot be required to eliminate problems which are caused by the number selected rather than the service or equipment.

Findings

1. Complainant selected 441-1111 as his business phone number, and it was installed on December 11, 1970.
2. Complainant's phone has since suffered continuing wrong number and information calls, as well as buzzing and dial tones after ringing.
3. Repeated equipment checks found no malfunctions and a subsequent logging of calls at complainant's business for an extended period revealed that the phone number selected by complainant was at fault.
4. Complainant's phone number differs by a single digit from the number reserved for information calls, and its five 1's make it susceptible to children tapping phone buttons or twisting the dial.
5. Complainant should accept a new telephone number at defendant's expense. If the present number is retained, defendant should not be responsible for continuing service problems.

6. The money complainant deposited with the Commission should be delivered to defendant.

Conclusions

1. Defendant is not responsible for complainant's service problems.

2. The relief requested should be denied.

O R D E R

IT IS ORDERED that:

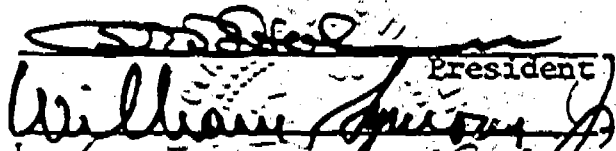
1. The Executive Director of the Commission is directed to mail to The Pacific Telephone and Telegraph Company a check in the amount of \$2,759.68.


2. The relief requested should be denied.

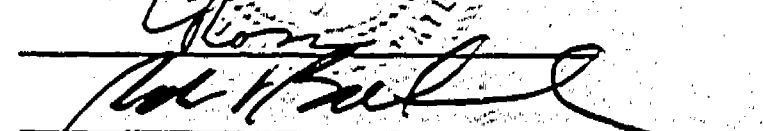
3. Defendant shall continue its offer to change complainant's telephone number at no expense to complainant, with referral service, for 30 days after the effective date of this order.

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

Dated at San Francisco, California, this 27th day of JANUARY, 1976.



President




Commissioners