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Decision No. 86099

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

NORRIS B. WILLIAMS,

Complainant,

vs.

PACIFIC TELEPHONE COMPANY, a corporation,

Defendant.

Case No. 9982
(Filed September 29, 1975)

Norris B. Williams, for himself, complainant.
Norah S. Freitas, Attorney at Law, for The Pacific Telephone and Telegraph Company, defendant.

O P I N I O N

Statement of Facts

Complainant is employed by the University of California and also is a part-time student at Lincoln University School of Law. During times material herein he maintained an apartment in San Francisco and subscribed to defendant's residential telephone service. Complainant's now deceased mother, with whom he was close, resided in Georgia until she became terminally ill with bone cancer and moved to Rochester, New York, to be near another son. Before these events, complainant last visited his mother in Georgia during 1974 Christmas holidays.

In April 1975, after advice that his mother's condition had deteriorated, complainant determined upon a short trip back East to Rochester to be with her. He obtained leave from the university from April 8 to April 22, 1975 inclusive. Thereafter, after making

arrangements with his first cousin Oneida, who resided with him off and on, to have his plants and cat looked after during his absence, he flew East with his fiancee. Oneida in turn was to follow the next day and join him in Rochester, after which another cousin, Louis - a high school youth - would come in and take care of the place for the balance of his absence.

After complainant left April 8 for Rochester, his cousin Oneida, before she in turn left, allowed her acquaintance, one Adeline Ward, into the apartment along with Adeline's small child. Complainant asserts that after Oneida left Adeline persuaded Louis to permit her to "frequent" the apartment during much of complainant's absence because Adeline "...didn't have anywhere to stay...." Complainant returned home to San Francisco April 21, 1975, one day before his leave was up.

Defendant's telephone bill to complainant dated April 11, 1975, mailed to him during his absence back East, was in the amount of $200.38. This amount included a past-due balance of $63 from the March 11 bill. Complainant asserts that he did not receive this April 11, 1975 bill; that upon his return April 21 there was a gas bill and a letter from a friend - but no phone bill. On May 2 a "Have you forgotten to pay your phone bill" reminder notice was mailed to complainant. Complainant acknowledges he received the reminder notice, and states that on May 5 he called the telephone business office to ask if defendant had received his partial payment of $75 mailed early in April toward his March bill,[1/] and to advise defendant

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1/ Complainant's partial payment of $75 toward his unpaid March 11, 1975 telephone bill was received by defendant's business office April 7, 1975. After being credited toward the March bill, an unpaid balance of $63 remained and was carried forward as a balance on the April 11, 1975 bill and was included in the $200.38 total due on the April 11 bill.

he had not received his April bill. Thereupon he was sent a photocopy of his April 11 bill. Complainant asserts he was "shocked" at the $200.38 size of the bill when he received it.

On May 8 defendant mailed complainant its "Your payment hasn't arrived yet" notice - in reality a five-day disconnection of service advice. On May 12 complainant called the business office to request payment arrangements. In view of the statement by complainant that he had been out of town attending his sick mother, he was told that if he paid $50 by May 13 on account, defendant would extend payment time to June 2, but that the entire $200.38 had to be paid by June 2 or service would be disconnected. Complainant agreed to try, but he did not make any payment on May 13.

On May 20 complainant received defendant's May 11, 1975 telephone bill which added another $237.95 in telephone charges (including $205.92 in long-distance calls) to the $200.38 remaining from the April and March bills. Therefore, as of May 20, a total of $438.33 was owed by complainant on telephone bills dating back to March.[2/]

At this point complainant telephoned the business office and informed defendant that he disavowed responsibility for any calls listed on his bills for calls to or from (305) 759-1490 in Miami, Florida,[3/] as they assertedly were made in his absence and without his

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2/ Despite the sizeable unpaid arrearages in March, April, and May, complainant continued extensive use of his telephone. For June his charges were $53.62 and for July $72.26.

3/ The April 11 bill included three Miami, Florida (305) 759-1490 calls in the $107.38 of long-distance calls. These three calls totaled $24.36.

The March 11 bills included 16 Miami, Florida (305) 759-1490 calls in the $205.92 of long-distance calls. These 16 calls totaled $161.73.

authorization by one Adeline Ward. He was told that as the subscriber he was responsible for all calls made from or accepted over his telephone.[4/] On June 2 complainant appeared at the business office. It is defendant's contention that complainant offered to pay $125 on account; that he was reminded of the now defaulted payment extension agreement of May 12; and that he was told he must pay the $200.38 in arrears immediately, with the balance of $237.95 to be paid by July 1, or service would be disconnected. On the other hand, it is complainant's contention that he offered to pay $200.38 immediately, but that defendant demanded payment of the full $438.33 and would disconnect if it were not paid immediately. In either event, complainant left without paying anything, and on June 2 service was disconnected.

Complainant thereafter on June 4 informally appealed to the Public Utilities Commission staff. Upon request of the staff, defendant contacted complainant and service was restored on June 6 after complainant paid the $200.38 delinquent on the April 11 bill and arranged to pay half the $238 amount of the May 11 bill plus the entire June 11 bill by July 1, and the balance of the May 11 bill plus the entire July 11 bill by August 1. These arrangements were confirmed by a letter sent complainant on June 9.

4/ As provided for by Tariff F.C.C. No. 263, paragraph 2.4.1, the applicable A.T.&T. Co. Long Lines Department Tariff, to which defendant is a concurring carrier: Paragraph 2.4.1 reads:

> "The customer is responsible for payment of all charges for services furnished the customer, including charges for services originated or charges accepted at the customer's station."

Complainant met his July 1 obligation by paying defendant $153.62 on July 1. However, he did not make the August 1 payment as agreed and service was again disconnected. Again the Commission staff intervened, and arrangements were made whereby complainant paid $100 toward the delinquent May 11 bill plus the July 11 bill of $76.26 in full, and agreed to pay the remaining $19.16 on the May 11 bill plus the August 11 bill in full 15 days after mailing of the August 11 bill. Service was then restored. Complainant subsequently filed this complaint.

A public hearing was held February 23, 1976 in San Francisco before Examiner John B. Weiss. By his complaint, complainant asked that defendant be ordered to repay $238 "illegally charged" for the Adeline Ward calls, $362 damages and legal expenses, and $500, and make a formal apology for indignations and humiliation suffered by complainant. At the public hearing complainant withdrew all requests save repayment of the $238 assertedly attributable to the Ward calls. The case was submitted April 1, 1976 after receipt of defendant's brief. Complainant did not elect to file a brief.

Discussion

As did defendant in Maria Gargiulo v P.T.&T. Co. (Decision No. 78830 dated June 22, 1971 in Case No. 9188), a case in some respects remarkably similar to the instant case,[5/] defendant in the instant case in its answer asked for dismissal of the complaint, contending, as it had successfully in Gargiulo, that the Federal Communications

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5/ In Gargiulo the complainant refused to pay for overseas calls to or from Naples, Italy, on the grounds that they were placed without her knowledge or consent, by her husband and/or brother.

Commission tariff provides for discontinuance of long-distance message telecommunications service after nonpayment of any sum due the telephone company.6/ Here, as there, defendant also asserted, in the alternative, that if the Public Utilities Commission determined that it had jurisdiction, defendant's domestic tariff included procedures for disconnection for nonpayment of monthly bills for "all classes, types, and grades of exchange and toll service".7/ In Gargiulo the Commission dismissed the complaint on the ground that jurisdiction over the disputed bill rested with the FCC and, therefore, the complaint did not state a cause of action.

Despite Gargiulo, the examiner here declined to dismiss the complaint without a hearing, noting that while the same ultimate issue appeared to be raised in the instant case as was essentially raised in Gargiulo (to wit: "whether a subscriber can be deprived of his intrastate service (over which this Commission without question does have jurisdiction) without recourse of an administrative hearing before this Commission, because of nonpayment of an interstate service bill (over which this Commission assertedly has no jurisdiction), when that interstate bill apparently is in dispute?"), the assertions made by the respective parties in the pleadings in the instant case were not on their face reconcilable so as to clearly frame the issue without further clarification. Furthermore, the examiner noted that, although apparently a matter of first impression in this jurisdiction, the issue

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6/ Tariff F.C.C. No. 263, paragraph 2.4.3 of A.T.&T. Co. Long Lines, provides:

> "Upon non-payment of any sum due the Telephone Company, ...the Telephone Company may by notice in writing to the customer, without incurring any liability, forthwith discontinue the furnishing of service."

7/ Rule No. 11 of Cal. P.U.C. Schedule No. 36-T, 4th Revised Sheet.

really was not discussed in Gargiulo. In Gargiulo, based upon a review of the pleadings, the Commission merely concluded that the Federal Communications Commission had jurisdiction over the disputed interstate bill and that therefore the complaint failed to state a cause of action. The difficulty is that such conclusion avoided recognition of the duality of jurisdiction necessarily present in this type of case. Without question this Commission has jurisdiction over intrastate service, and when application of a disconnection penalty for nonpayment of interstate charges under an applicable AT&T tariff in which defendant is a concurring carrier will also necessarily disconnect intrastate service we do have jurisdiction to determine on the merits whether disconnection of the intrastate portion of the overall service is just and reasonable and provides due process. Necessarily raised, it seems to us, is the conjunctive question of severability of the services, and if that is not feasible, the matter of how far the concurrent jurisdiction established under the Communications Act of 1934 allows our entry into the merits of the disputed interstate charges. Inferentially it might be concluded that Gargiulo, inter alia, relied upon defendant's domestic tariff,[8/] and that insofar as it has been held that such a tariff has the force and effect of a statute,[9/] nothing more is needed so there remained no justiciable issue. However, absent any discussion, stated rationale, or discernible source on the face of that decision, the examiner in the instant case declined to apply Gargiulo as precedent to dismiss the instant case for lack of jurisdiction, and we think properly went to hearing.

8/ Id.

9/ See Fortier Transp. Co., Decision No. 53006 (1956) 55 CPUC 27, 29.

The right to telephone service in California is not an inherent one. Rather it arises out of the fact that the state, in the exercise of its police powers, has seen fit through the Public Utilities Code to require telephone companies to serve the public without undue or unreasonable discrimination (Rosenthal v Pac. Tel. & Tel. Co. (1953) 52 CPUC 528, 533, reaffirming and citing Decision No. 41415 dated April 6, 1948 in Case No. 4930 (47 CPUC 853, 858)). In addition, the inherent right of a public utility to make reasonable rules for the conduct of its business includes the right to make reasonable regulations regarding service discontinuance to customers who fail to pay the proper and just bills (Coosa Valley Tel. Co. v Martin (1961) 133 So 2d 505, 506 and O'Neal v Citizens Public Service Co. (1930) 154 SE 217, 218. See also Steele v Clinton Electric Light & Power Co. (1937) 123 Conn 180, 193 A. 613; Annot. 112 ALR 237), and the reasonableness of such a regulation is hardly open to question. The slightest reflection will show that a telephone company could not do business if its only remedy for nonpayment of bills consisted in actions at law against the delinquent subscribers severally (Southwestern Tel. & Tel. Co. v Danaher (1915) 238 US 482, 489-490).

It must be noted, however, that the general rule that a public utility may enforce a reasonable regulation that service to a customer may be shut off for default in payment does not apply where there is a bona fide dispute concerning either the customer's liability or the correctness of the bill rendered, as the right to disconnect cannot be exercised so as to coerce a customer into paying a bill which is unjust or which in good faith is disputed (Hiers v Southeast Carolinas Tel. Co. (1950) 58 SE 2d 692, 694, Barry v Commonwealth Edison Co. (1940) 29 NE 2d 1014, and Schultz v Town of Lakeport (1936) 5C. 2d 377, 381). But when a customer concedes a certain amount to be due and fails to tender payment of such amount, his service may be disconnected.

In recent years in some jurisdictions a question has been raised whether state agencies such as public utilities commissions, in approving disconnection rules adopted by the utilities for nonpayment of bills, deprive consumers of due process of law - the argument being that such approval makes the utility's action state action. In a few instances the federal courts have intervened to enjoin utilities from disconnecting service, but these seem centered in situations where the disconnections were made under grossly heavy handed application.10/ The more prevalent answer is that found in one of the leading cases dealing with this question, Kadlec v Illinois Bell Tel. Co., 407 F 2d 624 (6th Cir 1969); cert. denied, 396 US 846 (1969), wherein the court found that a telephone company's filing of its tariff with a state regulatory agency and subsequent action in disconnecting for nonpayment pursuant to those tariff provisions did not constitute state action under color of state law as the telephone company was acting pursuant to its "own regulations". The court concluded that there was not sufficient nexus between the state and the telephone company's conduct to find that conduct action taken under color of

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10/ In a typical case, Palmer v Columbia Gas of Ohio (1972) 342 F Supp 241; aff'd 479 F 2d 153 (6th Cir. 1973), the evidence showed that estimated bills made by the gas company's computer were usually underestimated; that often when a protracted period elapsed without an actual reading, the bill after the meter was finally read would be many times greater than the usual bill, and the company would show a "rather shockingly callous and impersonal attitude, shutting off service and inflicting serious hardships in the bitterly cold, wet, and windy Ohio winter." The Ohio statutes specifically allowed disconnection, and the federal court found that Ohio's thumb was indeed heavy on the scales in that the utility's actions were taken under color of those statutes.

state law. Similarly, in Lucas v Wisconsin Electric Power Co., 466 F 2d 638 (7th Cir en banc 1972); cert. denied (1973) 409 US 1114, the court concluded that the action of the State Public Utilities Commission in promulgating regulations under which the utility filed rules which permitted disconnection for nonpayment of bills did not make exercise of those rules "state action", and the customer was not denied due process. Answering the basic contention so frequently made in these cases that it simply is not fair to permit the utility to be the effective judge of its own credit disputes, the court noted:

> First: The amount usually is small so that the maxim of de minimis non curat lex applies.
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> Second: Where the utility errs, its judgement is not final. If service is wrongfully terminated, the company must answer in damages, so it acts at its peril whenever it exercises that judgement.
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> Third: The utility's conference with the customer over the delinquent account is only preliminary and tentative; further appeal is available to adjudicate the customer's liability for arrearages - usually before a state hearing officer. Therefore the tentative determination made by the utility satisfies due process. The customer could have forestalled the disconnection by paying the disputed amount to the Public Utilities Commission under protest.11/

11/ Similarly in the instant case, each telephone bill used by defendant bears an imprint in buff on the reverse side which reads:

> "Should you question this bill please request an explanation from the utility. If you thereafter believe you have been billed incorrectly, the amount of the bill should be deposited with the California Public Utilities Commission, State Building, San Francisco, California 94102 or State Office Building, 107 South Broadway, Los Angeles, California 90012, to avoid discontinuance of service. Make remittance payable to the California Public Utilities Commission and attach the bill and a statement supporting your belief that the bill is not correct. The Commission will review the basis of the billed amount and make disbursement in accordance with its findings.
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> "Failure to make such deposit with the Public Utilities Commission within fifteen days after notice by the utility that such a deposit must be made or service may be discontinued, shall warrant the utility in discontinuing the service without further notice."

On balance, when we address the question raised both by Gargiulo and the instant case: "whether a subscriber can be deprived of his intrastate service without recourse to a hearing because of nonpayment of a disputed interstate telephone bill", we think the answer must be no. Certainly where there is a bona fide dispute over intrastate charges, this Commission would not knowingly permit disconnection pending resolution of the disputed matters, even where the subscriber has not availed himself of defendant's rule regarding disputed bills. We see no reason why the appeal right should differ merely because the dispute is over interstate charges. Federal and state regulatory agencies have long recognized that certain aspects of the telephone industry are not severable in that common facilities are involved (Jordaphone Corp. of America v AT&T (1954) 18 FCC 644; and Katz v AT&T (1953) 8 FCC Radio Regulations 919). This Commission also recognizes that defendant's division of toll revenue agreement with AT&T contains express provisions for defendant to bill and collect all interstate and foreign toll revenues originating within defendant's territory, and that defendant in rendering bills to subscribers does not treat separately the intrastate and the interstate charges. However, as a matter of essential fairness and equity, it appears to us that a subscriber with a dispute over the interstate charges on his telephone bill, which the utility under our jurisdiction has contracted with the utility under federal jurisdiction to collect, must be allowed such recourse to further administrative adjudication as would be available to the subscriber with a purely intrastate dispute when his dispute cannot be resolved by conference with the utility. Otherwise as a practical matter he has no administrative appeal. There is no federal forum locally available to which a subscriber with a disputed interstate bill can have expedient resort so as to forestall disconnection while the dispute is resolved. The decision of a utility business office is only preliminary and tentative, as was recognized in

Lucas v Wisconsin Electric Power Co., supra, and further administrative appeal apart from resort to the legal remedy of an action for damages should be available. It should not be that a subscriber with a bona fide dispute over interstate charges on his bill, unsuccessful in his conference with the utility, should have no recourse other than to pay or suffer disconnection and sue for damages. That is what happened in the three cases cited by defendant to us. In Johnson v Gen. Tel. of Southeast (1964) 135 SE 2d 854, 856, the court concluded that "...the only reasonable inference from the evidence is that the defendant exercised a clear legal right in terminating plaintiff's telephone service and that such termination was not an actionable wrong" (emphasis added) in a situation where a house guest left behind a sizeable ($107.20) unpaid unauthorized toll call charge to Okinawa which the subscriber just did not pay even after being advised during discussions with the company that it was her responsibility. In a second case, Sonstegard v Gen. Tel. Co. (1969) 273 NE 2d 151, 152, where the subscriber's son, away out of state at a military school, made long distance calls to various places and charged these to the father's telephone, the Ohio court, noting that unsophisticated billing procedures between the telephone companies involved made it impossible to place upon the telephone company responsibility to verify acceptability of calls charged before they were completed, held that the father, the only one who could have effectively controlled the use of his telephone by his son, must be responsible for the calls. When the subscriber did not pay, disconnection of his service was found to be covered by the telephone company's tariff on file with the Ohio Public Utilities Commission; which tariff provided "...for the discontinuance of service for the nonpayment of any sum due." Similarly, in Minor v Southern Bell Tel. & Tel. Co. (1967) 71 PUR 3d 207, 208, the U.S. District Court, Southern District of Florida, considered disconnection of a customer's service for nonpayment of

interstate WATS service and upheld the telephone company's disconnection of service based upon a tariff filed with the Florida Public Service Commission which provided for termination of service for "nonpayment of any sum due for exchange, toll, or other services". In all three of these cases the intrastate service was terminated by reason of nonpayment of disputed interstate calls under authority of tariff provisions not essentially dissimilar from defendant's Rule No. 11 of Cal. P.U.C. Schedule No. 36-T, 4th Revised Sheet (Exhibit No. 4) which provides for discontinuance of service for nonpayment of "All Classes, Types and Grades of Exchange and Toll Service."

But not every subscriber can afford expensive litigation to prove his contentions or resolve a disputed interstate bill. Were interstate toll capability readily and cheaply interdictable from intrastate capability, so that a subscriber (with paid-up intrastate service) who refuses to pay a disputed interstate bill could have his telephone service limited to intrastate calls until he pays, or resolves the dispute, a viable solution might be found and we could leave the interstate toll problem to the federal regulatory agency. But while it is technically feasible to install restrictive devices to interdict interstate toll service to individual residential service, similar to that available at a price to business, the equipment and the adjustments required are expensive, and would mean substantially increased costs which in turn would necessarily have to be passed on to all paying subscribers.[12/] Under these circumstances we can see no valid reason to require installation of such equipment and control systems. In our view, a more realistic solution would be to provide

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12/ Devices are available which are capable of handling this type of restriction. A unit capable of handling 16 lines would cost an estimated $13,500 installed. Applied across the board to defendant's central offices in California, the equipment and installation would equate to an investment of at least $10,125,000.

administrative hearing recourse alternatives for resolution of interstate toll charge disputes; alternatives beyond the tentative and preliminary determinations of the utilities; alternatives similar to those we provide for resolution of intrastate service disputes. We recognize that defendant is a California corporation under jurisdiction of this Commission and is contractually required under provisions of a federally approved tariff as a concurring carrier to collect interstate toll charges arising out of use of instruments in part situated in California. We also note that a form of concurrent jurisdiction is exercised between the state and federal regulatory bodies (see 47 USCA Section 410), and that under the current exercise of that concurrent jurisdiction there exists a void in that there is no federal forum reasonably available to resolve interstate toll disputes. From this it appears that the only practical local and economically feasible form of administrative appeal from dispute determinations made by this utility would be to this Commission. Accordingly, we conclude that this Commission does have sufficient peripheral jurisdiction within the penumbra of the overall federal-state concurrent jurisdiction to grant and conduct hearings on the merits of a disputed interstate toll telephone bill in those situations where the intrastate portion of the service is threatened with disconnection for nonpayment of a disputed interstate telephone bill. Therefore the notice on the reverse side of each telephone bill states the administrative recourse available for resolution of both intrastate and interstate billing disputes.[13/] In addition, the facilities of this Commission are always directly available as provided in our Rules of Practice and Procedure to the subscriber with a dispute, particularly where the amount in dispute is sizeable.

13/ See Footnote 11. It is noteworthy that complainant did not avail himself of this approach to his problem. His contention at hearing was that he should have been reminded personally of it.

We next turn to the disputed portions of complainant's telephone bills, noting that claimant asserts he was told he would suffer disconnection of his service on June 2, 1975 unless he paid $438.38, "...of which $200.38 was my actual and legal telephone bill", with the remaining $237.95 being "...illegally charged to my number for calls made to Miami, Florida by one Adeline Ward without my consent or knowledge." Here we need address only one question: whether complainant is liable for calls made, unauthorized by complainant, by a guest on complainant's premises? It is the general rule that a subscriber is responsible for calls made on his telephone even if unauthorized by the subscriber (L. E. De Witt v General Tel. Co. (1966) 65 CPUC 538, 540; Johnson v General Tel. Co. of Southwest (1964) 135 SE 2d 854, 856; Miller v Central Carolina Tel. Co. (1940) SE 2d 355, 359; and Southwestern Tel. & Tel. Co. v Sharp (1915) 177 SW 25, 26). We see no reason to depart from this rule. Accordingly defendant was legally entitled, both under its domestic and interstate tariffs as well as generally accepted case authority, to disconnect service June 2 for nonpayment of a delinquent bill (Minor v Southern Bell Tel. & Tel. Co. (1967) 71 PUR 3d 207, 208;[14] Mobile Electric Co. v Nelson (1923) 96 So 713, 717, aff'd (1925) 104 So 407; and Sims v Alabama Water Co. (1920) 87 So 688, 689, rehearing denied (1921)), and the relief requested by complainant should be denied.

Similarly in August defendant was entitled to disconnect service when complainant reneged on his earlier promise to pay delinquent amounts.

14/ The Court in Minor, in support of disconnection solely on the basis of nonpayment of interstate calls, held:

> "Under the facts of this case the defendant had no alternative to the denial of further service to the plaintiff and to have not done so would have constituted discrimination in favor of the plaintiff."

Findings

1. At the times material here complainant was a subscriber to defendant's telephone service and an extensive user of interstate toll service.

2. At all times during April and May 1975 complainant was in arrears on his March 11, 1975 telephone bill.

3. During the period April 8-21, 1975 complainant was on leave from his job on a trip East.

4. Complainant left his apartment while on the eastern trip in the successive custody of his two cousins.

5. During a portion of his absence one Adeline Ward, assertedly unknown to complainant but an acquaintance of one cousin, frequently visited the apartment with the approval of those left in charge by complainant.

6. Adeline Ward using complainant's telephone, incurred charges of approximately $230 for interstate telephone calls to Miami, Florida. These calls were unauthorized by complainant and were made during his absence from the apartment. Adeline Ward did not pay the $230 or any part thereof. Two calls to Miami were admittedly made by complainant.

7. Complainant is responsible for his own Miami calls as well as for the calls made by Adeline Ward and is liable to defendant for the $238 in calls to Miami.

8. In the telecommunication industry there is a shared jurisdiction between state and federal regulatory bodies.

9. This shared jurisdiction, because of the involvement of common facilities, is not in some regards severable.

10. Defendant, a concurring carrier under FCC tariff provisions applicable here, is required under FCC Tariff No. 263 to disconnect for nonpayment of interstate charges.

11. Defendant, under Rule 11, Cal. P.U.C. Tariff No. 36-T, on file with this Commission, is required to disconnect for nonpayment of charges for "All Classes, Types and Grades of Exchange and Toll Service."

12. It is not economically feasible to install devices to interdict interstate toll service for nonpayment of charges for interstate calls.

13. There exists no federal forum readily available locally to provide administrative appeal hearings from the preliminary and tentative determinations made by the telephone company in nonpayment disputes involving interstate charges.

14. This Commission on the other hand does provide means whereby disputed charges may be administratively adjudicated; namely, the deposit system where disputed amounts may be paid to the Commission to avoid disconnection while the staff resolves the dispute, and formal hearings before an examiner.

15. In this instance complainant would be subject to disconnection under provisions of both the federal and the state tariffs for nonpayment.

16. Both tariffs are just and reasonable, being designed to prevent loss of revenue justly due defendant - the collection of which by legal processes would in a practical sense be prohibitively expensive, and result in unfair imposition of this additional and unnecessary expense upon all those other subscribers who do pay their bills.

Conclusions

1. In view of our shared jurisdiction in telecommunications matters with the Federal Communications Commission, and the unseverable aspects of the service as well as the existence of readily available Commission adjudicative remedies, this Commission assumes jurisdiction over the merits of disputed interstate toll charges in the same manner as we do in disputed intrastate matters, when these charges are billed through a telephone utility within our jurisdiction and when the entire service, including the intrastate portion, is subject to disconnection penalties for nonpayment of any portion.

2. Complainant was entitled to a hearing before this Commission on the merits of his dispute on the interstate toll charges.

3. Defendant acted within its authority in disconnecting complainant's service for nonpayment of both intrastate and interstate toll charges.

4. Complainant should be denied the relief requested.

O R D E R

IT IS ORDERED that the relief sought by complainant is denied.

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

Dated at San Francisco, California, this 13th day of JULY, 1976.

President

Commissioners