

Decision 87 11 059 NOV 25 1987

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Robert S. Sachs,)
 Complainant,)
 vs.)
 General Telephone Company of)
 California,)
 Defendant.)

(ECP)
 Case 87-07-043
 (Filed July 27, 1987)

Robert S. Sachs, for himself,
 complainant.
Edward R. Duffy, for General Telephone
 Company of California, defendant.

OPINION

Complainant seeks a \$76 refund resulting from the failure of defendant to provide adequate call-waiting telephone service. Complainant owns his own telephone. Complainant testified that the call-waiting feature was added to his telephone on December 20, 1985 and has never been satisfactory. The problem occurs when complainant has one call and the tone tells him he has a call waiting. He depresses the hook to take the call waiting and place the first caller on hold. When he goes back to the first caller at least half the time the first caller has been disconnected. He then must call the first caller back at his own expense.

Defendant's witnesses testified that they checked complainant's equipment on eight occasions between May 1986 and March 1987 and found no defects with the call-waiting system, although on two occasions they found faulty line cards in the central office which could have affected complainant's telephone

service, but not the call-waiting feature. The central office hardware affecting complainant's service was changed but the problem did not abate. Defendant's expert testified that any call-waiting problem would be in the software in the central office. Because the software in the central office controls all call-waiting service any defect would affect all customers. Defendant received no complaints from other customers about call-waiting.

In our opinion the call-waiting problems described by complainant, if not caused by complainant's operation of the telephone (e.g. depressing the hook too long will cause a disconnect), would be in the central office software and would affect all call-waiting customers of that central office. We have reviewed our files for complaints from complainant's central office and find that between March 1986 and September 30, 1987 there have been only four service complaints, one of which is complainant's. We do not know the nature of the other complaints.

Complainant asserts that he loses about 50% of his first calls when he uses the call-waiting feature of his telephone. If the problem was in defendant's software other customers would also be affected, but our records show they are not. The problem is either in other parts of the telephone equipment or in the way that complainant operates the feature. Because defendant admits that on two occasions it found some defects in complainant's lines, and complainant has been having difficulties for a number of months, complainant is entitled to a partial refund of charges. Complainant estimated that he spent approximately \$68 to return calls which had been disconnected and approximately \$8 on other charges. A refund in a case like this is very difficult to quantify but we believe \$50 is reasonable under the circumstances.

O R D E R

IT IS ORDERED that defendant pay complainant \$50.

This order is effective today.

Dated NOV 25 1987, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Victor Weisser, Executive Director