

ORIGINAL

Decision 89 03 005 MAR 8 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WALTER F. TEUBNER and FELISA F.  
TEUBNER,

Complainants,

vs.

PACIFIC BELL,

Defendant.

(ECP)

Case 88-12-018

(Filed December 8, 1988)

Walter Teubner, for Felisa Teubner and  
himself, complainants.  
Phyllis J. Conran, for Pacific Bell,  
defendant.

O P I N I O N

This expedited complaint proceeding was heard before Administrative Law Judge John Lemke on January 26, 1989 in Los Angeles, and was submitted at the close of hearing.

Walter and Felisa Teubner (complainants) allege that Pacific Bell (defendant) improperly terminated their telephone service at 13810 South Vermont Avenue, Gardena. They request an order "clarifying any problem not clearly covered by CCP and Utilities code and make sure that telephone service involved in litigation is not disrupted against the leasees (sic) consent." They also request remuneration for expenses incurred in pursuing correction of the alleged injustice.

Defendant filed its Motion to Dismiss and Answer to Complaint on January 14, 1989, denying each material allegation contained in the complaint. Defendant asserts that complainants' service was disconnected in compliance with Rule 11 of its Schedule

Cal. P.U.C. No. A2, Paragraph 4, relating to "Interference with Telephone Service of other Customers."

Complainants

Complainants presented their case through the testimony of Walter Teubner. He stated that he considers this proceeding to be an integral portion of a "slum lord" case stemming from his eviction from the South Vermont Avenue premises, where complainants were tenants; that he no longer resides at 13810 South Vermont Avenue, and is no longer requesting the reconnection of telephone service at that address for his account; that he is seeking "satisfaction" for himself and others similarly involved in eviction proceedings whose telephone service has been improperly disconnected, as well as an unspecified amount of remuneration for his costs in prosecuting this complaint.

Defendant

Phyllis Conran, appearing for defendant, stated that Pacific Bell believes its position here to be primarily that of a party in the middle of a dispute between landlord and tenant, and that complainants wished originally to keep their telephone service on South Vermont Avenue as evidence of their right to occupy the premises as legal tenants. Defendant believes that complainants' case is now moot, as they no longer wish reinstatement of that service, and suggests that this case has evolved into a class action proceeding. As such, defendant asserts, the signatures of 25 or more customers are required before the complaint may be entertained by the Commission.

Defendant apparently refers to Public Utilities (PU) Code Section 1702, and to Rule 9(a) of the Commission's Rules of Practice and Procedure. Both of these provisions require the signatures of 25 or more customers before a complaint will be entertained by the Commission as to the reasonableness of any rates or charges of any telephone corporation. However, reasonableness of rates is not the issue here; rather, this case has to do only

with defendant's practices in terminating telephone service, and particularly with Rule 11, paragraph 4.

Defendant presented its case through the testimony of Rachel Parker-Stephens, a service representative with Pacific Bell for 10 years. She testified essentially as follows:

1. On August 24, 1988 Mr. Luc Vu called defendant, requesting a transfer of service from his then current address to 13810 South Vermont Avenue, Gardena. Defendant advised Vu that its records indicated there were already two working services at the address. Vu advised defendant that the house was vacant, and the former tenants (complainants) were gone.

2. After verifying the address and the vacancy of the house with the incoming customer, an order was placed to disconnect the working services at the vacant premises, and a separate order placed to install the new customer's service. Defendant attempted for two days to contact the former tenants. Defendant's Tariff A2, Rule 11, paragraph 4, provides that the utility will attempt to reach and resolve the matter with the customer causing any interference; but when it is not possible to reach the offending customer by telephone or where the offending customer refuses to stop the interference, the utility may disconnect the service without advance notice.

3. Defendant's Discrepancy Representative attempted to contact Mr. Teubner at the telephone numbers he had provided, but was unable to do so. Defendant then spoke with the owner of the premises, Mr. Nguyen, who advised that Mr. Teubner was no longer a resident at 13810 South Vermont Avenue. Disconnection orders were placed, with a due date of September 7, 1988.

4. On September 7 defendant received a telephone call from Mr. Teubner, questioning the disconnection. It was explained that Mr. Nguyen had stated complainants no longer resided there. Mr. Teubner said that Mr. Nguyen did not have the authority to order the disconnection, and requested restoration of the service.

The disconnect order was canceled, defendant believing it had been misinformed concerning complainants' move.

5. On September 13 Mr. Teubner called to advise that his services had not been restored, and also informed defendant that he was no longer living at the South Vermont Avenue address. On the same day, Mr. Vu called to find out why his new service had not been connected. He informed defendant that complainants had been evicted and were causing problems for him. Later, the landlord, Mr. Nguyen, called and stated that Vu was the actual tenant, and the Teubners had been out of the residence for about 5 months. Based on this information, defendant placed two new orders to disconnect the Teubner accounts. Its Discrepancy Representative again tried, unsuccessfully, to contact complainants. On the day of disconnection, Mr. Teubner called, again requesting restoration of his service. On September 21 a representative advised Teubner that his service could not be reconnected because he was no longer the resident of the South Vermont Avenue premises.

6. Retaining complainants' service would have interfered with Vu's service, constituting a violation of its above referenced tariff rule. Complainants could not be considered as residents of the South Vermont Avenue premises, since the definition of "Premises, Residence" contained in defendant's tariff specifies that premises are: "That portion of an individual house or building entirely occupied by one family..." (Schedule A2, Rule No. 1, emphasis added.)

7. A series of telephone calls has been received from Mr. Teubner, requesting restoration of service, which requests have been declined by defendant.

Complainants' request for remuneration of costs will be denied, as there is no authority for such a grant under the provisions of the PU Code. Their request for satisfaction for other parties similarly situated is in effect a request for the Commission to investigate the practices of defendant with respect

to its termination of services. Such practices are governed by its rules on file with this Commission, which previously have been found to be reasonable. We are not aware of any general dissatisfaction with the practices of defendant under its Rule 11. The recital by defendant's witness Parker-Stephens indicates that the practices employed by defendant in this case were reasonable, and in conformance with its tariff provisions. The complaint should be denied. Since this is an expedited complaint proceeding, no findings of fact or conclusions of law will be made.

O R D E R

IT IS ORDERED that the complaint in Case 88-12-018 is denied.

This order becomes effective 30 days from today.

Dated     MAR    8    1989    , at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. CHANTAN  
Commissioners

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

*Victor Weisner*  
Victor Weisner, Executive Director  
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