

Decision 90 03 069 MAR 28 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

James Sinclair,  
Complainant,  
vs.

The American Telephone and  
Telegraph Company, General  
Telephone Company, Pacific Bell,  
Continental Telephone Company,  
CP National, Calaveras Telephone  
Company, California Oregon  
Telephone Company, Capay Valley  
Telephone System, Inc.,  
Citizens Utilities Company,  
Ducor Telephone Company, Evans  
Telephone Company, Foresthill  
Telephone Company, Happy Valley  
and Hornitos Telephone  
Companies, Kerman Telephone  
Company, Livingston Telephone  
Company, Pinnacles Telephone  
Company, Ponderosa Telephone  
Company, Roseville Telephone  
Company, Sierra Telephone  
Company, Siskiyou Telephone  
Company, Tuolumne Telephone  
Company, Volcano Telephone  
Company, and West Coast  
Telephone Company,  
Defendants.

ORIGINAL

Case 85-03-020  
(Filed March 5, 1985)

O P I N I O N

This complaint was filed on March 5, 1985 by James Sinclair. The complaint alleges that emergency call interruptions made by telephone company operators disclose unlisted telephone numbers in violation of Public Utilities Code (Code) § 451. The complaint was originally filed against American Telephone and

Telegraph Company (AT&T) and General Telephone Company (General). It was amended on August 30, 1985 to include all other local exchange companies in California as defendants.

The Complaint

Sinclair's amended complaint states that operators of some of the named telephone company defendants interrupt telephone conversations in order to inform the parties that an emergency exists and to request that the parties free the line so that a call may be made to one of the parties. During these emergency interrupts, the operator announces the number to which the emergency call is being made even if that number is unlisted by the telephone company.

The disclosure of the number, according to the complaint, violates the privacy of customers who have paid a tariffed rate to have an unlisted number. The complaint states this disclosure is a violation of Code § 451 because it is not a service that is adequate, efficient, just, and reasonable. The complaint invokes Code § 451 because, as it states, "much mischief" could result from disclosure of unlisted numbers. As an example the complaint states a party may be able to trace a customer with an unlisted number and impose violence on that customer. The complaint also expresses concern with business and trade secrets.

The amended complaint requests an order from the Commission prohibiting AT&T and local exchange companies, upon interrupting a telephone conversation, from disclosing the number of the line sought to be interrupted unless both interrupted parties consent to the disclosure.

AT&T's Response

AT&T replies that its operators, during emergency interruptions, do not know which of the two or more parties to the interrupted call is on the number the third party is trying to reach. Neither are its operators aware of whether the number is published or unpublished. AT&T believes its procedure is the most

efficient in that the parties are informed as quickly as possible as to a possible emergency.

General's Response

General asks that the Commission dismiss this case because the complaint does not state that the present procedures violate any law or Commission rule.

General's reply asserts that the procedure suggested by the complaint would expose one of the parties to unnecessary anxiety because the operator would not disclose for which party the emergency call is requested. General is also concerned that the suggested procedure would take more time than its existing procedure.

Responses of Other Defendants

Defendants Kerman Telephone Company (Kerman), Sierra Telephone Company (Sierra), Siskiyou Telephone Company (Siskiyou), and Volcano Telephone Company (Volcano) respond that their interrupt procedures do not call for routine disclosure of the called number or the called party, although such disclosure may occur during an interruption.

Continental Telephone Company and Roseville Telephone Company (Roseville) state that they use AT&T's interrupt procedures. Roseville and Citizens Utilities Company of California ask the Commission to order telephone companies to state the name of the party to whom the emergency caller seeks connection.

CP National Corporation responds that its operators identify the party to whom the emergency call is being made and the party who seeks interruption of the connection. Its response defers to the Commission's judgment regarding appropriate procedures and seeks dismissal of the complaint.

Other defendant telephone companies state they do not provide their own operator services.

Discussion

The essential facts in this case are undisputed and therefore no hearing is required. At the time of the complaint, when a third party wished to make an emergency phone call to a line in use, AT&T's operators and those of some other telephone companies would interrupt the telephone conversation by indicating that they had received an emergency request to place a call to a specific telephone, the number being called by the third party. By interrupting the telephone conversation in this manner, the operator would thereby disclose the telephone number of one party to the other party to the conversation.

The complaint alleges that the number thus disclosed by the operator might be unlisted and that a party might not want their unlisted number disclosed to the other party.

The complaint asks that the Commission prohibit operators from disclosing the telephone number when interrupting the call. Instead, the complainant suggests that the operator merely indicate that she has had a request to place an emergency call to one of the two parties to the conversation, without identifying either party by name or number.

The central issue in this case is whether existing procedures fairly balance the need for customer privacy with the need to promote safety and operational efficiency. AT&T and General do not wish to use the procedure proposed by complainant because it would require additional time and may create anxiety for the party to whom the interrupting call is not directed.

First, we deny General's motion to dismiss for failure to state that the present procedures violate any law or rule. We find that the complaint is sufficient on its face to allege a violation of a law or rule.

Turning to the substance of the complaint, we do not believe that the procedure identified in this complaint is an undue invasion of privacy considering that call interruptions are

infrequent and of an emergency nature. Moreover, complainant's proposed procedure may, as General points out, create anxiety for a party who is not the subject of the call interruption and must wait in vain for an emergency call. Complainant's proposed procedure may also cause delay during an emergency when time is of the essence.

While we can imagine a situation where a customer with an unlisted number might object to the disclosure of his unpublished number to the other party to the telephone conversation, even where disclosure of the unpublished number is for the purpose of an emergency interruption. We believe, however, that such circumstances are likely to be very few and far between. In such circumstances, a customer may request a new unpublished telephone number from the utility.

Although we do not believe the existing procedure represents an undue invasion of privacy, we do believe a simple operational change could be made by respondents. Roseville and Citizens suggest that operators use the name, rather than the number, of the party to whom the interruption is directed. CP National and several of the smaller companies already use this procedure. This procedure addresses some of complainant's concerns without risk of increased delay or customer anxiety. We encourage other respondents to consider the CP National procedure as a means of fully protecting unpublished numbers from unnecessary disclosure. If for some reason disclosure of the telephone number is required in order to identify the line to which the emergency call is directed, the operator should be permitted to disclose the number.

Findings of Fact

1. Some California telephone utilities, at the time they filed pleadings in this case, disclosed unlisted telephone numbers during the course of an emergency call interruption.

2. The procedure for emergency call interruptions proposed by complainant in this case may cause undue delay or anxiety for one of the parties to the interrupted call.

3. A customer may object to the disclosure of an unlisted telephone number in certain circumstances.

4. A customer who might otherwise be harmed by the disclosure of an unlisted number during an emergency interruption may mitigate his or her damages by changing his or her telephone number.

5. The procedure used by AT&T and other defendants which permits disclosure of unlisted numbers during an emergency interruption is not an undue invasion of privacy under the circumstances.

6. Several defendant utilities, at the time they filed pleadings in this case, disclosed the name, rather than the number, of the person to whom the emergency call is directed.

7. Disclosure of the name, rather than the number, of the person to whom the emergency call is directed would not cause undue delay or anxiety for a party to the interrupted call.

Conclusion of Law

This complaint should be denied.

O R D E R

IT IS ORDERED that this complaint is denied.

This order is effective 30 days from today.

Dated MAR 28 1990, at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

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

  
NEAL J. SHULMAN, Executive Director  
DB