

Decision 91-04-050 April 24, 1991

APR 24 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LOAN ORIGINATORS MORTGAGE CORP.,)
)
 Complainant,)
)
 vs.)
)
 GTE CALIFORNIA INCORPORATED,)
)
 Defendant.)

ORIGINAL

Case 90-10-045
(Filed October 18, 1990)

George L. Schasa, for Loan Originators
 Mortgage Corp., complainant.
Michael L. Allan, Attorney at Law, for GTE
 California Incorporated, defendant.

O P I N I O N

Complainant seeks reparations of \$1,616 from defendant as a result of charges for excessive minutes of use for telephone calls. Defendant denies the allegation. Public hearing was held before Administrative Law Judge Barnett.

Complainant testified that his company receives telephone service from defendant and has an answering service called Alert Communications (Alert). He has ten incoming lines, including two 800 lines. In 1987 complainant hired Alert to provide an answering service, a voice mail. Alert attached a call diverter to complainant's line so that phone calls coming in on complainant's 800 lines would be diverted to the answering service if there were no one available at complainant's office to answer the phone. There was a separate telephone line (967-5327) between the call diverter on complainant's premises and the Alert voice mail terminal.

Complainant said that his problem started in June of 1989 when he noticed that calls coming into his office after

5 p.m., which were answered by Alert, would keep the line between the call diverter and Alert open on occasion for up to 30 to 45 minutes. In one instance there was a 65-minute call. These calls, prior to June of 1989, usually lasted less than a minute. He had other telephone lines coming into his office which did not present this problem. He said that only his 800 lines, which were the only lines connected to the diverter, had the problem. He said that the diverter was activated after 5 p.m. and when no one was in the office. The problems occurred only when the diverter was activated.

He requested defendant to inspect the equipment which they did and found nothing wrong. He also requested Alert to inspect their equipment, which they did and found nothing wrong. He had a meeting with both of the companies but neither could satisfactorily resolve the problem until, in December 1989, a new call diverter was installed and the problem disappeared. The \$1,616 reparations request is his estimate of the excessive minutes charged during the period June 1989 through December 1989.

Defendant presented the telephone technician who investigated complainant's problem. He tested all of defendant's lines going into complainant's office and found no problems. He went to complainant's office and tested the call diverter. When a call came in on complainant's 800 number, the call diverter accessed a second telephone line which connected to the voice mail service of Alert. When the caller on the 800 line disconnected, the line from the call diverter to Alert often stayed up. When he tested the line, the call diverter stayed up for about three minutes after he had hung up the 800 line.

To confirm his analysis he called in defendant's special service crew to check all of defendant's lines. That check also showed that defendant's lines were operating correctly and that the problem was with the call diverter. The telephone line that was

showing the excess billing was the 967 line which was the line between the call diverter and Alert.

Discussion

The testimony is undisputed that the problem with billing occurred only when the call diverter was in use. During the day there were no problems with excessive minutes on the telephone lines. When the diverter was activated after the office was closed, there were numerous problems with failure of the line from the diverter to Alert to disconnect. At all times when the lines were checked by defendant, the lines operated correctly. When the line to Alert was checked on a call routed through the diverter, the line did not always disconnect immediately when the incoming call terminated. The diverter is not part of defendant's equipment. The fault was in the diverter which was provided by the answering service. Although defendant received increased telephone charges because of the failure of the diverter to disconnect the line, those telephone charges were the tariffed rates for the time the telephone line was in use. Liability is with Alert, not defendant.

Findings of Fact

1. Complainant was billed for excessive minutes of use over his 967 line which connected a call diverter in his office with his answering service.
2. The excessive minutes were caused by a mechanical failure in the call diverter which did not always shut off when an incoming call terminated.
3. The call diverter was provided by the answering service.
4. All of defendant's equipment servicing complainant worked properly.

Conclusion of Law

Complainant should take nothing by his complaint.

O R D E R

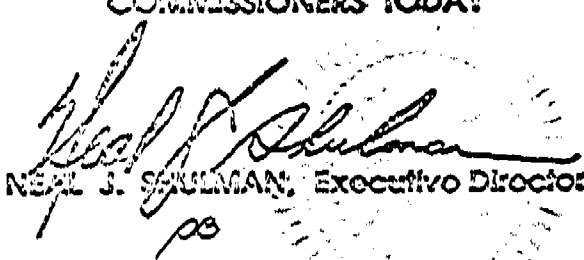
IT IS ORDERED that complainant take nothing by his complaint and this proceeding is closed.

This order becomes effective 30 days from today.

Dated April 24, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SCHULMAN, Executive Director
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