

Alfred.
APR 22 1992

Decision 92-04-054 April 22, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Charles C. Vogl,

Complainant,

v.

Call America, Inc.,

Defendant.

(ECP)
Case 91-12-035
(Filed December 19, 1991)

Charles C. Vogl, for himself, complainant;
Stephan Abraham, for Call America, Inc., defendant.

O P I N I O N

Complainant seeks reparations of \$3,603 because of poor service and excessive charges rendered by defendant. Defendant denies the allegations of the complaint. Public hearing was held before Administrative Law Judge Barnett on March 11, 1992.

Complainant testified that in 1989 he purchased a cellular telephone from defendant and became a customer of defendant for cellular telephone service. He said that his primary purpose in acquiring the telephone was to obtain roamer service when he travelled. He said that for the first few years he used the cellular service very sparingly and did not pay much attention to his billing. However, after returning from a three-month vacation between April 1991 and July 1991 he found that his bill for cellular service was extremely high, about \$700 to \$800 a month. He said that all of his problems arose while he was outside of the territory of defendant. He was also disappointed with defendant and the cellular system because of his inability to place and receive calls in active cellular areas. When travelling out of state and calling after business hours he would either get a busy

signal or a recording asking him to call the carrier during business hours to arrange service. When he did obtain service outside of his base area he was charged an average rate of almost \$1 per minute. He had expected charges of about \$0.25 a minute. He said that when he signed up for the service he was told by defendant that charges for off-peak service would be about \$0.25 a minute. He claims that Call America falsely advertised its service to him. He wants reparation for the total billing for the period April 1, 1991 to July 2, 1991 of \$1,792; a refund of the base service charges from February 1989 to April 1991 of \$650; and a refund of the purchase of cellular phone of \$1,161.

Defendant testified that his company made no promise that cellular rates would be \$0.25 a minute outside of the base area. He said that he told complainant when the account was opened that complainant should review the roamer guide which explained roamer procedures and rates. The roamer guide stated that "in some cities you must register with the local carrier before roaming." He said that his company never told complainant or anyone else that roamer charges would be the same outside the basic service area as within the basic service area.

Complainant does not allege that defendant violated its tariffs. The charges rendered to complainant were set forth in the tariff of defendant and to the extent that the charges were imposed by other carriers there is no evidence that those charges exceeded tariff rates.

To the extent that complainant seeks reparations because of defendant's false advertising we find that defendant did not make misrepresentations regarding the service it was providing. Defendant provided complainant with material which informed complainant how to obtain charges for roamer service in various areas where complainant would travel.

The Commission concludes that the relief requested by complainant should be denied.

ORDER

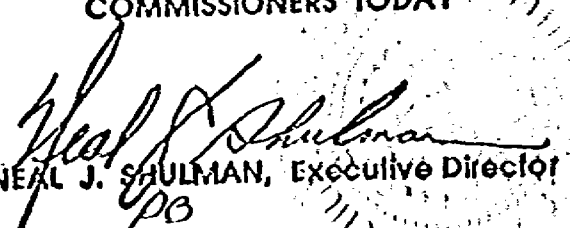
IT IS ORDERED that the relief requested by complainant is denied.

This order is effective today.

Dated April 22, 1992, at San Francisco, California.

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

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


NEAL J. SHULMAN, Executive Director