

Position of Complainant

Testimony presented on behalf of complainant indicated that:

1. Service was established to complainant's key telephones connected in rotary at 23901 Civic Center Way, Malibu, on September 6, 1980.
2. The numbers of these telephones were (213) 456-1717 and 456-1718.
3. The power supply necessary for the operation of the key set lights and bells was a switched outlet. When turned off, the telephones could be used for outgoing calls, but since neither the lights nor the bells were operative, incoming calls went unnoticed.
4. This defective wiring was reported to General on numerous occasions, but complainant was unable to have it corrected.
5. General made an appointment to have the repairs effected on one day and the serviceman called on another day when complainant was not on the premises.
6. Complainant withheld payment of his telephone bill pending the correction of the improper wiring and General disconnected service for nonpayment of bill.
7. Complainant requested reconnection, which General denied on the basis of an unpaid balance outstanding. Complainant was willing to pay the bill only after the wiring was corrected.
8. A firm appointment to have the wiring repaired was made for Monday, January 26, 1981 between 5:00 p.m. and 8:00 p.m., but representatives from General did not appear.

9. Complainant initiated action in Superior Court (Case No. WEC068294) and, as a result, on April 4, 1981 complainant met with General's repair crew and after the repairs were made, he gave one of the crew members a check for the balance outstanding on his telephone bill at that time.
10. On September 11, 1981 and on September 19, 1981, complainant received early morning calls made by General's repairmen which, complainant alleges, served no purpose but to harass him.

Position of General

Testimony on behalf of General elicited through cross-examination of its personnel appearing as adverse witnesses indicated that:

1. As a result of complainant's informal complaint to this Commission, a special inspection was initiated to thoroughly test all equipment associated with complainant's line.
2. To complete the testing, it would be necessary for a repairman to inspect the equipment in complainant's office. General's representative made numerous unsuccessful attempts to contact complainant during business hours to arrange for such an inspection.
3. A letter dated February 10, 1981, over the signature of Lauralei Nichols, was sent to complainant, asking him to contact her to discuss the service problem and to arrange an appointment to inspect the equipment.
4. By letter dated February 13, 1981, over the signature of D. Dallope, complainant was informed that to avoid discontinuance of service he should pay the unpaid balance on his account by February 25, 1981.

5. Service was disconnected for nonpayment on January 22, 1981 and reconnected on January 30, 1981 when General was informed the balance outstanding had been deposited with this Commission.
6. The deposit was returned to complainant for forwarding to General. This was not done and the telephone was again disconnected on February 25, 1981.
7. General's Customer Operations Unit was unaware of the fact that the key telephones were wired to a switched outlet at the time the telephone was disconnected for nonpayment of bills.

Discussion

It is obvious that the key telephones installed at 23901 Civic Center Way, Malibu, Nos. (213) 456-1717 and 456-1718, were connected to a switched outlet so that when that particular circuit was turned off, the lights and bells on the key telephones were inoperative. In the complaint filed February 11, 1981, complainant stated he had only recently learned of this condition whereas General stated in its reply that it had been notified of the condition on October 30, 1980 but had been unable to gain access to the premises to remedy the condition. Apparently General's repair department, where assumably the report of this condition was lodged, did not transmit this information to its Customer Operations Unit. Consequently, the account was handled as a normal delinquent account and the telephone was disconnected for nonpayment of the telephone bills.

Complainant requests an order requiring General to repair the telephone and pay for damages he has suffered. According to the record, the necessary repairs were made on April 4, 1981. Complainant did not request reparation for telephone service not received, nor did he offer any evidence at hearing on this subject. It is our understanding that an adjustment has been made by General for the periods complainant's phone was out of service and that this issue has been resolved between the parties. No evidence was submitted at the hearing on the amount of damages purportedly suffered. In any event, this Commission has consistently held that the awarding of legal damages as such is outside the jurisdiction of this Commission (Villa v Tahoe Southside Water Utility (1965) 233 CA 2d 469, 479). Under these circumstances, the complaint should be denied on the basis that the remedial action within our jurisdiction has already been accomplished. ✓

We note, however, that this was not a frivolous complaint. We regret that neither General nor our own Consumer Affairs Branch was able to remedy this dispute short of a disconnection of service and a formal complaint to this Commission. ✓

Findings of Fact

1. Service to two key telephones, located at 23901 Civic Center Way, Malibu, Nos. (213) 456-1717 and 456-1718, was initiated on September 6, 1980.

2. These telephones were connected to a switched outlet with the result that when the circuit was turned off, the lights and bells on the two telephones were inoperative.

3. Complainant made numerous unsuccessful attempts to have this improper connection rectified.

4. General's personnel made numerous unsuccessful attempts to contact complainant in order to gain access to the premises to inspect the facilities.

5. General's Customer Operations Unit was unaware of the incorrect wiring so treated complainant's account as a normal delinquent account.

6. Complainant refused to pay the balance of his account until the incorrect wiring was remedied with the result that his telephone service was disconnected for nonpayment of bill.

7. As a result of a Superior Court action, the incorrect wiring condition was remedied on April 4, 1981 at which time complainant paid the outstanding balance on his account.

Conclusion of Law

The improper wiring has been corrected and this Commission lacks jurisdiction to award legal damages. Consequently, the complaint should be denied on the basis that any remedial action within our jurisdiction has already been accomplished.

O R D E R

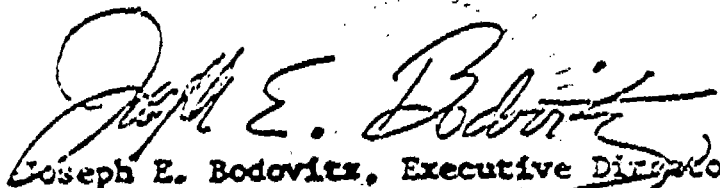
IT IS ORDERED that Case 10955 is denied.

This order becomes effective 30 days from today.

Dated MAR 16 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

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


Joseph E. Bodovitz, Executive Director