

Decision SZ OS 022 AUG 18 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Computer Reservation Services, Inc.,)
)
 Complainant,)
)
 vs.)
)
 Pacific Telephone and Telegraph)
 Company,)
)
 Defendant.)

Case 82-01-03
(Filed January 28, 1982)

Steven A. Haquewood, Attorney at Law,
 for complainant.
Margaret deB. Brown, Attorney at Law,
 for defendant.

O P I N I O N

Complainant Computer Reservation Services, Inc. (CRS), a California corporation, seeks an order providing that defendant The Pacific Telephone and Telegraph Company (Pacific) not terminate service to CRS's Wide Area Telephone Service (WATS) lines (800) 854-3400 and (800) 432-7221 during the pendency of this proceeding. It requests an adjudication by this Commission of the amounts, if any, owed defendant for service to the following numbers: (213) 705-1005, (800) 423-5361, and (800) 382-3602.

A duly noticed hearing was held before Administrative Law Judge N. R. Johnson in Los Angeles on May 18, 19, and 20, 1982, and the matter was submitted. Testimony was presented on behalf of CRS by its president, John B. Schestag, and by its manager, Karen A. Mobley, and on behalf of Pacific by one of its assistant

managers, Patricia Weyant, by one of its market administrators in industry transportation, Pamela J. Young, by one of its PBX foremen, Louis De Maria, and, under subpena, by one of the founders of CRS, Jerome L. Goldberg.

Background

CRS and a travel agency, Travel By Genie (Genie), shared a building at 19560 Ventura Boulevard, Tarzana, California. Genie subscribed to local service from Pacific under the basic subscriber number of (213) 705-1005 with additional lines emanating from the basic number, and to WATS under the basic subscriber numbers of (800) 423-5361 for nationwide service and (800) 382-3602 for statewide service. According to the testimony of witness Schestag, CRS and Genie had an agreement whereby CRS was given permission by Genie to share these lines in return for which CRS would pay Genie for its proportionate usage of the lines. Both Genie and CRS vacated the Tarzana premises on July 21, 1981 leaving an unpaid balance of \$15,087.82 for the two WATS numbers (800) 423-5361 and (800) 382-3602. Subsequently, Pacific threatened discontinuance of CRS's present WATS lines numbers (800) 854-3400 for nationwide service and (800) 432-7221 for statewide service in Irvine, California, unless CRS pays the balance owed on the Tarzana WATS lines. CRS disclaims any and all liability for the closing bill balance of \$15,087.82.

According to the record, Genie was formed about 1975. Jean Goldberg had worked for Worldwide Travel, owned by Ed Belford. When Mrs. Goldberg decided to open her own travel agency, Belford opened a branch office for her under Ed Belford, dba Genie, in order to get immediate airline appointments, then subsequently sold the agency to her some months later. According to the testimony of witness Jerome L. Goldberg, husband of Jean Goldberg, Genie was

a retail travel agency open 9:00 a.m. to 5:00 p.m. five days a week. Goldberg further testified that he took over the operation of Genie when his wife suffered a cerebral hemorrhage. He recognized the need to develop commercial business clients and discussed the formation of a national computer reservations service with a part owner of Genie, Gerald P. Colapinto. As a result, CRS was formed in 1979 for the purpose of providing 24-hour service to travel agencies who subscribed to the service. According to the testimony, clients and subscribers to CRS were provided with pressure-sensitive labels stating that if additional reservations were required, they should call the Tarzana WATS numbers at issue in this matter, an announcement card indicating the travel agency now provided 24-hour per day, seven days a week service, and a copy of the Business Week advertising brochure imprinted with the travel agency's logo rather than CRS's logo. The subscribing agencies paid a fee to CRS for the reservation service and Genie was reportedly one of the subscribing agencies.

Witness Goldberg further testified that before CRS was formed Genie had a band 5 WATS line limited to the continental United States. When CRS commenced operations, it obtained a band 6 WATS line which included the continental United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands. According to the testimony, these lines were listed in the 800 directory as CRS numbers but were billed to Ed Belford, dba Genie, in order to avoid paying a substantial deposit to establish credit for CRS.

According to the testimony of this witness, the WATS billings were paid for by CRS and the local telephone charges, the rent, utilities, and other costs associated with the Tarzana premises were apportioned between Genie and CRS.

Genie was sold to a company called Jeff-Cor on September 6, 1979. The sale included the rights to the local Genie numbers but did not include the WATS numbers.

At the time CRS was formed, Genie had United Airline Apollo computers and leased two of them to CRS. CRS subsequently acquired Mars Plus computers resulting in its having eight computers for its exclusive use.

Position of CRS

Testimony and exhibits presented on behalf of CRS indicated that:

1. In August 1980 CRS occupied two facilities: one at 20335 Ventura Boulevard in Woodland Hills occupied by Mr. and Mrs. Goldberg, and a bookkeeper, and the other in the back of Genie's facility at 19560 Ventura Boulevard in Tarzana. Both facilities were operated under the direction of Jerome Goldberg.
2. The facilities at 19560 Ventura Boulevard were jointly occupied, with Genie using the front section of the building and CRS occupying the rear portion of the building.
3. CRS and Genie shared telephone lines and all common expenses such as rent, Sparkletts water, janitorial services, and utility bills.

4. Schestag, presently president of CRS, was initially hired by CRS as an investigative consultant. After three days on the job his recommendation that witness Goldberg be terminated was adopted.
5. CRS was headed by witness Goldberg from March 1979 to August 1980 when Schestag took over as president.
6. Genie was headed by Jerome Goldberg from March 1979 to September 1979, by Jean Goldberg from October 1979 to July 1980, and by Jeff-Cor from August 1980 to July 1981 when it ceased its operations.
7. CRS and Genie telephones were all connected to WATS lines (800) 423-5361 for nationwide service and (800) 382-3602 for statewide service. These lines were first listed in the 800 directory as Genie lines and were later changed to CRS listings. The billing was listed as Ed Belford, dba Genie, and CRS never agreed in writing with Pacific to take responsibility for the billings on these lines. CRS did, however, occasionally pay the bills for these two WATS lines by check.
8. These two numbers were listed on CRS business cards, in advertisements for CRS and American Business Travelers Association, a division of CRS, and on Genie business cards.
9. Calls received over these two WATS lines were answered "reservations" and not "CRS reservations".
10. During an average month approximately 800 incoming WATS calls were for Genie and approximately 850 to 900 calls were CRS calls.

11. Pacific would refuse to service CRS trouble reports until verified by Genie personnel. Also, CRS could not file a formal complaint against Pacific for the Tarzana WATS lines because they were in the name of Ed Belford, dba Genie, not CRS.
12. Witness Goldberg and six other individuals broke into CRS's premises and took all records and checks, etc., resulting in CRS personnel having to work overtime at premium rates and causing a cash shortage which resulted in CRS being unable to pay the bills for WATS service.
13. During the last six to eight months of occupancy of the Tarzana facilities CRS paid every single bill in the entire building. When CRS moved out, it was orally agreed that Genie would pay the balance outstanding on the telephones in return for all the money paid for Genie's share of the building costs.
14. In June 1981 CRS had supersedure forms prepared to transfer the billing on WATS lines (800) 423-5361 and (800) 382-3602 from Genie to CRS, but Genie refused to sign as the outgoing customer because it continued to use the nationwide number on its business cards.
15. CRS presently has WATS lines (800) 854-3400 for nationwide service and (800) 432-7221 for statewide service and the billings are current and paid in full.
16. At Irvine, Pacific did not count CRS's use of Genie's 800 lines as prior service and demanded a deposit to establish credit before rendering service on new CRS 800 lines in Irvine.

17. Pacific indicated that it would disconnect CRS's Irvine WATS lines for nonpayment of the Tarzana WATS lines closing bill even though the account was in the name of Ed Belford, dba Genie.

In its closing statement CRS argued as follows:

1. A reservations service serving travelers by means of computers was opened by Jerome E. Goldberg in San Fernando Valley in 1979 under the name of CRS and the 800 service under the numbers (800) 423-5361 and (800) 382-3602 was granted by Pacific to Genie at 19560 Ventura Boulevard in Tarzana.
2. Numerous service problems were encountered on the Tarzana WATS lines and Schestag of CRS, joint user of the telephones with Genie, was asked to pursue the matter on behalf of both Genie and CRS.
3. For the convenience of Genie and CRS, CRS sometimes would issue checks to Pacific for payment of the telephone bill even though CRS was not the billed party.
4. CRS applied for supersedure of the 800 lines in question in order to become the billed customer for those lines. The supersedure was denied from lack of consent by the customer reflected in Pacific's records, i.e., Ed Belford, dba Genie.
5. Pacific takes the position that CRS is not the customer for supersedure purposes but is the customer for payment of bills. CRS argues that either CRS was the customer or it was not the customer, and that Pacific cannot have it both ways. Pacific's records clearly indicate that Ed Belford, dba Genie, and not CRS, was the customer responsible for any payment that may be due on the 800 lines in question.

Evidence and testimony presented on behalf of Pacific indicated that:

1. CRS was incorporated on March 26, 1979 and the original shareholders were Jerome Goldberg, Colapinto, Ken McAres, Genie, and Roger Miller.
2. CRS provided 24-hour a day, seven days a week computer reservation service to business traveler clients of subscribing travel agents in contrast to Genie which operated as a retail travel agency open 9:00 a.m. to 5:00 p.m., five days a week.
3. When CRS started operation, Genie had no need for a WATS line. Consequently, the total bill for the WATS lines was incurred by CRS.
4. The WATS lines under Genie's name were not transferred to Jeff-Cor when Genie was sold because Genie did not use these lines; they were used by CRS.
5. Jerome Goldberg placed advertisements in Business Week in the May 28, 1979 issue listing the WATS numbers at issue under the name of CRS and in the May 19, 1980 issue of Time Magazine under the name of American Business Travelers Association, a division of CRS. Similar ads were placed in 10 or 11 magazines published by Penton Publications.
6. The rights to all the computers were transferred from Genie to CRS.
7. The closing bill for (800) 382-3602 was \$5,661.13 and for (800) 423-5361 was \$9,426.69. The accumulated charges became so large because Pacific did not disconnect for nonpayment while CRS was trying to deposit the amount in dispute with this Commission. The deposits were returned with a Commission letter stating this was not a matter which it handled because CRS was not the billed customer. Pacific asserts that the billed customer was Ed Belford, dba Genie, but that the listed address for the main listing was in the name of CRS.

8. The local number for Genie, (213) 705-1005, was superseded by CRS on January 8, 1981 but no supersedure was processed for the WATS number.
9. Pacific was informed by Colapinto that the WATS numbers should be billed to CRS not Ed Belford, dba Genie. A supersedure would have been required to effect the change.
10. On September 2, 1980 a sales contract opportunity referral evaluation (SCORE) was initiated indicating the customer wished to change the billing name for WATS lines (800) 423-5361 and (800) 382-3602 from Ed Belford, dba Genie, to CRS. Super-sedure forms were mailed to CRS for completion on September 10, 1980 but were never signed.
11. The person to whom a bill is sent is the individual who would be obligated to make payment on the account. In the case of the WATS lines at issue it would be Ed Belford, dba Genie.
12. Schestag called Pacific's assistant manager, Weyant, on March 4, 1981 to inform her that CRS was having all kinds of repair problems and that he was going to be paying his bill to this Commission. He did not indicate that the service was Genie's service.
13. Part of the high decibel loss encountered by CRS telephones was due to improper transfer of the lines during a splicing operation in the area. This condition was reportedly corrected.
14. Genie personnel indicated no problems with telephones used by them in the front half of the premises whereas CRS personnel indicated problems with telephones located in the rear of the premises.

15. Some of the service problems with the telephones used by CRS personnel were caused by improper use of the telephones, objects wedged under the cradle causing the line to open, and general abuse. Five or six telephones had to be replaced because of their poor condition due to such misuse.
16. Arrangements were made to refer Tarzana WATS number (800) 382-3602 to CRS's Irvine WATS numbers (800) 423-7221 and the (800) 423-5361 number to (800) 854-3400. These referrals were discontinued due to the fact that the closing bills on the Tarzana WATS numbers had not been paid.

In its closing statement Pacific offered the following arguments:

1. If two individuals are sharing telephone service and are both receiving telephone service at a particular address, they are both defined as a customer under Pacific's tariffs. Consequently, even if one of the customers is the one listed on the bill, Pacific is entitled to seek payment from the other customer.
2. According to the tariffs, Pacific is entitled to discontinue service for non-payment of the same class of service previously furnished and WATS service was previously furnished CRS at the Tarzana location.
3. The two WATS numbers at issue in this proceeding were ordered in May 1979 and were billed to Ed Belford, dba Genie, but were listed to CRS.

4. CRS and Genie were completely divorced in October 1980 and Pacific was advised by Colapinto, Mobley, Weyant, and Schestag that both Belford and Goldberg were gone (the original signers for service) and there would need to be a supersedure.
5. The supersedure forms were sent to CRS but were not completed because Genie would not consent. It would have been possible under Pacific's tariffs for the supersedure to have been effected even without the consent of Ed Belford if Ed Belford could not have been located but no further attempt was made by CRS to complete the supersedures.
6. CRS made no attempt to pursue the supersedure process further because a large deposit would have been required on each of the two numbers.
7. Pacific did not pursue supersedures further because its representative handling the matter was away at a training course during that period.
8. Service was not discontinued for nonpayment of bills in the spring and summer of 1981 because of numerous complaints and checks being sent to this Commission.
9. As proof that the closing bills in dispute were created by CRS is the fact that CRS requested referral to the new Irvine numbers which was granted until it was ascertained that there was a large balance outstanding on the Tarzana numbers and the referrals were discontinued.
10. The first time that CRS disclaimed responsibility for the payment of the closing bills on the WATS lines at issue in this proceeding was when the referrals were discontinued.

Discussion

From the evidence adduced in this matter the following chronology is evident: ✓

1. Ed Belford opened a travel agency branch office for Jean Goldberg which was listed as Ed Belford, dba Genie, in 1975. Local telephone numbers were billed and listed under Ed Belford, dba Genie.
2. CRS was incorporated March 23, 1979. Local number (213) 705-1005, established in April 1979, was billed to Ed Belford, dba Genie, and listed under CRS at 19560 Ventura Boulevard, Tarzana, California. A supersedure changing the billing from Ed Belford, dba Genie, to CRS was effected January 8, 1981.
3. A band 6 WATS line, (800) 423-5361, was subscribed to May 21, 1979, billed to Ed Belford, dba Genie, and listed to CRS.
4. A California WATS line, (800) 382-3602, was subscribed to May 21, 1979, billed to Ed Belford, dba Genie, and listed to CRS.
5. On September 10, 1980 Pacific mailed supersedure forms for (800) 423-5361 and (800) 382-3602 to CRS for signatures. These forms were never completed.
6. On June 11, 1981 CRS posted a security bond to establish credit for WATS lines (800) 854-3400 for nationwide service and (800) 432-7221 for statewide service at CRS's premises at 2148 Michelson, Irvine, California.
7. On July 21, 1981 CRS moved out of the Tarzana facility, the WATS lines at issue were disconnected, and the CRS Irvine WATS lines were activated.
8. CRS received telephone calls and letters from Pacific threatening discontinuance of the WATS lines unless the unpaid balance from the Tarzana WATS lines was paid.

The record also shows that WATS lines (800) 423-5361 and (800) 382-3602 were installed primarily, if not exclusively, for the use of CRS. Under these circumstances it is apparent that CRS should have been listed as the billing name on the account rather than Ed Belford, dba Genie, especially when the two numbers were listed in the 800 directory as CRS numbers rather than Genie numbers. However, for whatever reason, the account was initiated in the name of Ed Belford, dba Genie. Consequently, Genie, not CRS, was responsible for the charges incurred under these numbers. Any arrangement between Genie and CRS regarding the payment of the bills for these WATS numbers is outside the scope of the tariffs and this Commission's adjudication of the matter. Because of the common ownership and management at the time the WATS line services were established, it is understandable that the correct billing name was not applied. However, Pacific was fully aware of the situation in September 1980 when supersedure forms were sent to CRS. Its failure to pursue the matter further is difficult to comprehend, especially in view of the fact that a supersedure changing the billing name for (213) 705-1005 from Ed Belford, dba Genie, to CRS was processed at the Tarzana address effective January 8, 1981. It is obvious that at that time supersedures should also have been processed for the two WATS numbers in question. Pacific's failure to process appropriate supersedures results in the billing responsibility for the two numbers remaining with Ed Belford, dba Genie.

According to Pacific's tariffs, changing the billing responsibility is accomplished by the processing of a supersedure form as set forth in tariff Rule 23 which, in pertinent part, reads:

"(B) SUPERSEDURE AND CHANGE IN BILLING*

"An arrangement for supersedure or change in billing of a working service may be made under the following conditions:

"The applicant qualifies for the establishment of service under these Rules and other applicable tariff schedules. The form 'Request to Transfer Customer Responsibility' is signed by the outgoing customer and the applicant, and received by the Utility. The outgoing customer is responsible for charges for the service and other obligations such as contracts and basic termination charges through the effective date of supersedure or change in billing. The applicant is responsible for charges for the service beginning the day after the effective date of supersedure or change in billing. Continuing obligations, such as contracts or basic termination charges became the obligation of the incoming customer at the same time. Supersedure and Change in Billing are not applicable while a service is temporarily discontinued, temporarily suspended, partially or permanently discontinued by the Utility."

"*Refer to Schedule Cal. P.U.C. No. 28-T, IV, for application of charges, and to Rule No. 1 for definitions."

It will be noted that there is no provision for effecting such a supersedure without the signature of the outgoing customer. However, the failure of the outgoing customer to sign the form continues his responsibility for paying the charges incurred on the numbers. Under those circumstances it is obvious that the billing responsibility for charges accruing to WATS lines (800) 423-5361 and (800) 382-3602 was and is Ed Belford's, dba Genie.

Pacific argues that its tariffs, particularly 36-T, Rule 1, Original Sheet 6-B, and 36-T, Rule 11, 6th Revised Sheet 50, provide that if two individuals are sharing telephone service at a particular address, both are defined as customers and even if only one of the customers is listed on the bill, Pacific is entitled to receive payment from the other customer or to seek payment from the other customer. Rule 1 defines a customer as "an individual or concern regularly receiving exchange telephone service other than that from public telephone stations." We agree that under this definition CRS could be considered as a customer. Rule 11 states in part:

"c. Former or Concurrent Service

"A customer's telephone service may be temporarily or permanently discontinued for nonpayment of a bill for the same class of service (residence or business) furnished at a location served by the Utility, provided said bill is not paid within 15 days after the date of presentation at the location of the new or existing service."

There is no doubt that had the supersedure been effected, Pacific would be permitted to discontinue service to the WATS lines in Irvine for nonpayment of the WATS lines in Tarzana. However, Rule 11-A, "Reasons for Discontinuance of Service", states in part:

"2. Nonpayment of Bills

"a. All Classes, Types and Grades of Exchange and Toll Service

"Bills shall be considered past due (delinquent) and service to a particular premises, separately served and billed, may be temporarily or permanently discontinued for the nonpayment of a bill for the service furnished, provided: (1) The bill has not been paid within the period...and, (2) the Utility first gives notice of such delinquency and impending termination at least 7 calendar days prior to the proposed termination by first class mail addressed to the customer to whom the service is billed, or delivered in person or delivered to the customer's billing address."

Obviously, in accordance with the above-quoted tariff provisions, discontinuance of service is permitted only to the service address of the customer to whom service is billed. Service to the Tarzana premises could have been discontinued for nonpayment of a bill and such discontinuance would have affected both Genie and CRS. However, the tariffs do not permit discontinuance of service to CRS at a new and separate address for nonpayment of a Genie bill, even though CRS obviously and admittedly used the service at Tarzana.

The record is replete with instances of service problems encountered by CRS at the Tarzana premises. According to the record, these problems were addressed by Pacific and generally resolved prior to the time service was terminated at Tarzana. In any event these service problems are separate and distinct from the basic issue of this proceeding which is whether or not the tariffs permit Pacific to discontinue service to CRS on the Irvine WATS lines for the nonpayment of the closing bills for the Tarzana WATS lines. As previously discussed, the tariffs do not permit such a service discontinuance.

Findings of Fact

1. Genie was incorporated in 1975 with local telephone numbers billed and listed as Ed Belford, dba Genie.
2. CRS was incorporated March 23, 1979. Its local telephone number (213) 705-1005 was billed to Ed Belford, dba Genie, and listed under CRS. A supersedure changing the billing to CRS to coincide with the listing was effected January 8, 1981.
3. On May 21, 1979 a band 6 WATS line number (800) 423-5361 and a California WATS line number (800) 382-3602 were installed at the Tarzana facility primarily for the use of CRS, with the billing in the name of Ed Belford, dba Genie.
4. On September 10, 1980 Pacific mailed supersedure forms to CRS to change the billing on the WATS lines to CRS. These forms were never completed.
5. On June 11, 1981 CRS posted a security bond to establish credit for WATS lines (800) 854-3400 (band 6) and (800) 432-7221 (California) for use at its new facilities in Irvine.

6. On July 21, 1981 service to Genie and CRS was terminated at Tarzana with closing bills outstanding of \$5,661.13 for (800) 382-3602 and \$9,426.69 for (800) 423-5361, a total of \$15,087.82.

7. Pacific threatened discontinuance of CRS's present Irvine WATS lines (800) 854-3400 and (800) 432-7221 for nonpayment of the above closing bills for the Tarzana WATS lines billed to Ed Belford, dba Genie.

8. According to Pacific's tariff, a change in billing of a working service can be accomplished only by completion of the proper supersedure forms.

9. In accordance with Pacific's tariffs, CRS can be considered a customer of Pacific. However, the tariffs provide that the responsibility for payment of the bills lies with the party listed as the billing address, in this case Ed Belford, dba Genie.

10. CRS's present Irvine WATS lines cannot be discontinued for nonpayment of the Tarzana WATS lines to be billed to Ed Belford, dba Genie, even though it is obvious that CRS used the Tarzana WATS lines.

11. The service problems CRS encountered in connection with the Tarzana WATS lines have generally been resolved and are separate and distinct from the basic issue of this proceeding which is whether or not the tariffs permit Pacific to discontinue service to the Irvine WATS lines for nonpayment of the Tarzana WATS lines closing bills.

Conclusions of Law

1. Pacific should not be permitted to discontinue service to CRS's Irvine WATS lines (800) 432-7221 and (800) 854-3400 for nonpayment of the Tarzana WATS lines (800) 423-5361 and (800) 382-3602, even though CRS used these lines, because the billing responsibility lies with the billed party, i.e., Ed Belford, dba Genie. ✓

2. In all other respects the relief requested should be denied.

O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company shall not discontinue service to Computer Reservation Services, Inc.'s Irvine Wide Area Telephone Service (WATS) lines (800) 432-7221 and (800) 854-3400 for nonpayment of the Tarzana WATS lines (800) 423-5361 and (800) 382-3602.

2. In all other respects the relief requested is denied.

This order becomes effective 30 days from today.

Dated August 18, 1982, at San Francisco, California.

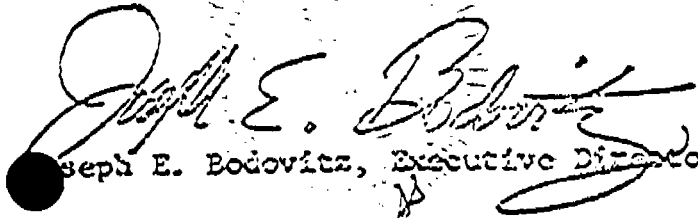
I will file a written
concurrence.
/s/ RICHARD D. GRAVELLE
Commissioner

RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
Commissioners

Commissioner John E. Bryson
present but not participating.

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

Commissioner Priscilla C. Grew,
being necessarily absent, did
not participate.


Joseph E. Bodovitz, Executive Director


RICHARD D. GRAVELLE, Commissioner, Concurring:

I concur in the decision, by which we hold that, under its present tariffs, Pacific may not discontinue service to a customer for non-payment of bills at a former number listed in that customer's name but on which a third-party had responsibility, under Pacific's records, for payment of bills.

At first glance, the result is anomalous, because CRS admits use of the two 800 numbers for which the bills are unpaid. However, the result properly protects CRS from disconnection at its present Irvine numbers, finding that Pacific's remedies for non-payment of the Tarzana 800 numbers lie against Belford, dba Genie. This is true as far as disconnection is concerned, because Pacific's tariffs limit extension of the disconnection remedy against CRS.

The facts do not disclose whether Pacific has pursued relief against Belford, dba Genie. I presume such an avenue for relief is not realistically available.

However, the facts disclose at least the possibility that CRS may be found liable under a partnership theory, or, if no partnership with Genie and/or Belford can be established, under the ordinary principles of agency. If Pacific can establish that Belford, dba Genie acted as the agent of CRS, which appears likely since service was established with Belford, dba Genie listed as the responsible party for billing purposes in order to help CRS avoid payment of a deposit, then CRS may be liable as the principal behind Genie. I would hope that such a remedy might be explored, for the sake of Pacific's ratepayers, in order to prevent the approximately \$15,000 in unpaid bills from being included in Pacific's uncollectibles when rates are next fixed. More importantly, this would forestall the obvious injustice of CRS apparently never having to pay for service which it freely admits having received.


RICHARD D. GRAVELLE, Commissioner

Discussion

From the evidence adduced in this matter the following chronology is ~~self~~-evident:

- SS
1. Ed Belford opened a travel agency branch office for Jean Goldberg which was listed as Ed Belford, dba Genie, in 1975. Local telephone numbers were billed and listed under Ed Belford, dba Genie.
 2. CRS was incorporated March 23, 1979. Local number (213) 705-1005, established in April 1979, was billed to Ed Belford, dba Genie, and listed under CRS at 19560 Ventura Boulevard, Tarzana, California. A supersedure changing the billing from Ed Belford, dba Genie, to CRS was effected January 8, 1981.
 3. A band 6 WATS line, (800) 423-5361, was subscribed to May 21, 1979, billed to Ed Belford, dba Genie, and listed to CRS.
 4. A California WATS line, (800) 382-3602, was subscribed to May 21, 1979, billed to Ed Belford, dba Genie, and listed to CRS.
 5. On September 10, 1980 Pacific mailed supersedure forms for (800) 423-5361 and (800) 382-3602 to CRS for signatures.. These forms were never completed.
 6. On June 11, 1981 CRS posted a security bond to establish credit for WATS lines (800) 854-3400 for nationwide service and (800) 432-7221 for statewide service at CRS's premises at 2148 Michelson, Irvine, California.
 7. On July 21, 1981 CRS moved out of the Tarzana facility, the WATS lines at issue were disconnected, and the CRS Irvine WATS lines were activated.
 8. CRS received telephone calls and letters from Pacific threatening discontinuance of the WATS lines unless the unpaid balance from the Tarzana WATS lines was paid.

Conclusions of Law

1. Pacific should not be permitted to discontinue service to CRS's Irvine WATS lines (800) 432-7221 and (800) 854-3400 for nonpayment of the Tarzana WATS lines (800) 423-5361 and (800) 382-3602, even though CRS used these lines because the billing responsibility lies with the billed party, i.e., Ed Belford, dba Genie.

2. In all other respects the relief requested should be denied.

O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company shall not discontinue service to Computer Reservation Services, Inc.'s Irvine Wide Area Telephone Service (WATS) lines (800) 432-7221 and (800) 854-3400 for nonpayment of the Tarzana WATS lines (800) 423-5361 and (800) 382-3602.

2. In all other respects the relief requested is denied.

This order becomes effective 30 days from today.

Dated AUG 18 1982 at San Francisco, California.

I will file a written concurrence.
/s/ RICHARD D. GRAVELLE
Commissioner

RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
Commissioners

Commissioner JOHN E. BRYSON

Present but not participating.

Commissioner Priscilla C. Grew,
being necessarily absent, did
not participate