

Decision 83 02 042 FEB 16 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEONARD SCHWARTZBURD, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 PACIFIC TELEPHONE, )  
 )  
 Defendant. )

---

Case 82-07-03  
(Filed July 6, 1982)

Leonard Schwartzburd, for himself,  
 complainant.  
Margaret deB. Brown, Attorney at Law,  
 for The Pacific Telephone and  
 Telegraph Company, defendant.

O P I N I O N

Leonard Schwartzburd complains that The Pacific Telephone and Telegraph Company (Pacific) has made unreasonable use of his home and business telephone lines for company purposes. He seeks an order refunding him the difference between single-line and party-line rates for the entire period of time, as well as an order prohibiting the company from making further use of his line, and other relief discussed hereafter.

Pacific denies that Schwartzburd is entitled to the relief requested and states that it has corrected the problem to the best of its ability. Pacific seeks dismissal of the complaint.

A hearing was held in San Francisco before Administrative Law Judge Meaney on December 8, 1982.

Schwartzburd testified that he is a clinical psychologist. He owns a residential building at 860 The Alameda, Berkeley, which has been redesigned so that the front of it is his office and the rear is his residence. Since 1979 his business telephone at that location has been 524-0121 and his residence telephone has been 524-8029. These are two separate single-line services.

In either October or the first few days of November 1980, Schwartzburd picked up his business telephone to make an outgoing call and heard two telephone employees engaged in a conversation relating to installation. He asked them to vacate the line and they complied.

Then on or about August 20, 1981 he picked up his residence phone intending to make an outgoing call and heard two employees of Pacific engaged in a conversation concerning telephone installation, which included their laughing and joking with each other. They relinquished the line promptly at his request.

The third incident occurred on September 18, 1981 at 10:50 a.m. He picked up his business phone intending to use it and found two employees of Pacific's special services engaged in a conversation relating to installing new service. He asked one of them how long they had been on his line and was told about ten minutes. Again, the line was relinquished promptly at Schwartzburd's request.

On each occasion Schwartzburd notified Pacific. After the first incident, he received a letter from the district manager for business services, D. W. Kent, stating that they "red-beaded" the line to prevent similar occurrences. (See testimony of Pacific's witness Burch, below.) After the second incident, Schwartzburd wrote to Mrs. Wooten of Pacific's district office.

He explained that since he is a clinical psychologist it is important to him that his line not be interfered with and that it remain open for calls from patients. He testified that he occasionally receives calls from patients who are going through a crisis and who need his counseling immediately. Although it is intended that they should use his business line, his residential number is listed in the telephone book and he uses an answering service which can bridge a call from his business line to his residence line when necessary.

In response to his correspondence regarding this second incident, he received a letter dated November 12, 1981 from N. J. Roden, a district manager, who stated that the company had been working with the installation and maintenance groups to assure that appropriate precautions have been taken to reduce the chance of a technician using his telephone facility. This letter again refers to his business number, 524-0121, and no reference was made to the residential telephone.

The letter also suggested the possibility of installing a second telephone line to assure that he would not miss a call.

After the third use of his telephone line, Schwartzburd again wrote to the company demanding assurances that the use of his line for routine installation purposes cease, due to the nature of his clinical practice and the purposes for which he uses his phone. He was assured that the company had taken every possible precaution to mark his line so that installation crews would not use it for such purposes. Schwartzburd stated at the hearing that he would not be complaining about the use of his line by telephone company personnel for genuine emergency purposes.

Joseph Burch, Pacific's Berkeley maintenance center manager, testified for Pacific and stated that it is his responsibility to screen, test, and dispatch telephone employees for installation purposes in Schwartzburd's area of Berkeley.

In December of 1981 he was asked to dispatch employees to "red-bead" Schwartzburd's line. He brought some junction box equipment with him to the hearing and displayed the type of markings that are placed in the boxes so that telephone crews would know that a certain line should be used only as necessary for emergency purposes. In order to red-bead a line it is necessary to install red rubber caps over the connections at several locations. In the case of Schwartzburd's line, seven installations at different locations must be made.

Burch testified that new employees are thoroughly trained concerning the need for marking certain lines so that they will not be used for installation or other routine purposes. When the incidents occurred on Schwartzburd's line, supplementary training was given to reinforce knowledge on the part of employees regarding the use of specially marked lines. All employees are trained to make sure that no one is talking first when they begin to use a line in order to communicate with each other or with the test board, and that when they are using a vacant line they must promptly relinquish it if the subscriber wants to use it.

On cross-examination he conceded that the system was not perfect and that mistakes were occasionally made. He said service calls are the source of mistakes on already red-beaded lines, when it is possible for an employee working on certain kinds of junction boxes to enter the wrong red-beaded line when there are two of them close together.

One of Schwartzburd's requests is that the Commission order Pacific to install extra lines of communication which can be used by installers and others performing nonemergency maintenance without the necessity for using a subscriber's telephone service. In this regard Burch testified that while this is

technically feasible it would take an extra cable pair for each junction box and telephone pole. In the Berkeley area alone, he said, this would mean thousands of cable pairs. In his opinion the expense on a systemwide basis would be prohibitive.

Discussion

We believe that Schwartzburd is entitled to a refund of the difference between single-line and two-party line service for both his residence and business phone for a one-year period. (Two-party line service is not offered in the Berkeley area. Where it is offered, the monthly difference between two-party and one-party business service is \$4, and the difference between two-party and one-party residential service is \$2.) Pacific concedes that using Schwartzburd's line for nonemergency installation purposes three times in one year is an unusual statistical occurrence and is at a loss to explain it. The second of the three incidents occurred on Schwartzburd's residential line and there may have been a failure of understanding between Pacific and Schwartzburd resulting in Pacific's red-beading only his business line after his first complaint. The third incident is, however, difficult to understand if proper procedure had been followed, and does give rise to an inference that the line may have been used more often than others on other occasions (until marked). Some reparation is, therefore, appropriate.

Other relief requested by Schwartzburd should be denied.

Under Pacific's tariff Cal PUC No. 36-T, Rule 14, Pacific has the right to suspend or interrupt service temporarily for the purpose of making necessary repairs or changes in its system. When the suspension of service is "for any appreciable period" Pacific must give notice to the customers affected. The work that was in progress over Schwartzburd's line allowed Pacific to relinquish its use to Schwartzburd immediately and was not of such length that advance notice was necessary.

Schwartzburd cites numerous other tariffs and claims he should have been furnished them. An inspection of them shows that they are for the most part voluminous, consisting of hundreds of pages. Series 12-T includes three loose-leaf volumes and over a thousand pages. Pacific's offer to allow inspection of them at an East Bay location was reasonable. A review of the provisions which were not furnished to Schwartzburd shows that they are not applicable to this case. (Many of them concern "private lines," which is not a reference to local private service but to trunk lines to distant locations.)

We disagree with Schwartzburd that Pacific should be ordered to install extra cable pairs for maintenance use, and that the amount of such installation is irrelevant. In the Berkeley service area alone, this would mean thousands of installations. Pacific serves over six million customers and, geographically, most of the state. This would mean the installation of hundreds of thousands of additional cable pairs at a substantial expense. Since this expense would be directly concerned with telephone service, and would be pursuant to our order, we would hardly be in a position to deny Pacific permission to pass this cost on to the ratepayers through higher rates. At present, due to changes in the telephone industry mandated by the federal government, it is becoming increasingly difficult for this Commission to keep rates close to present levels. We recognize that the system is not perfect, but the evidence in this complaint demonstrates that with proper training of personnel, it functions adequately.

Findings of Fact

1. On the dates and times indicated in the opinion section of the decision, defendant's employees made use of complainant's telephone lines for nonemergency installation or maintenance work.

2. On all three occasions of use, defendant's employees relinquished the line at once upon being requested to do so.

3. To terminate such use at complainant's request, defendant has marked the junction box connections leading to complainant's telephones.

4. The use of complainant's lines for installation or maintenance work this often over the period of time it occurred is unusual, and diminished the value of complainant's telephone service.

Conclusions of Law

1. Under defendant's tariff Cal PUC No. 36-T, Rule 14, defendant may suspend or interrupt service temporarily for repairs or installations.

2. While the use of complainant's line was allowable under the tariff, the frequency of interruption in this particular case entitles complainant to a refund of the difference between the base rate for single-party and two-party service, for both telephones, for one year.

3. Complainant is not entitled to any other relief.

O R D E R

IT IS ORDERED that:

1. The funds on deposit with this Commission for complainant's account shall be disbursed as follows: \$72 to complainant and the remainder to defendant.

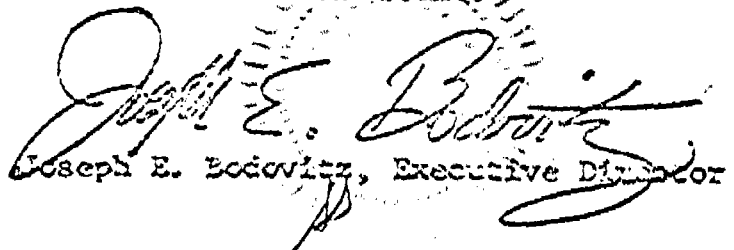
2. Other relief is denied, and the proceeding is terminated.

This order becomes effective 30 days from today.

Dated FEB 16 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President  
VICTOR CALVO  
PRISCILLA C. GREW  
DONALD VIAL  
Commissioners

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

  
Joseph E. Bodovitz, Executive Director