

ORIGINAL

Decision JUN 1 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Chandelier Hairstyles The Nail)
Salon (William L. and Violet R.)
Baker),)

Complainants,)

vs.)

Pacific Telephone Company,)

Defendant.)

Case 82-12-02
(Filed December 17, 1982)

Kenneth M. W. Bradley, Attorney at Law,
for complainant.
David J. Benner, Attorney at Law, for
defendant.

O P I N I O N

Chandelier Hairstyles The Nail Salon (Chandelier) is an Anaheim business jointly owned by William L. and Violet R. Baker. Until September 16, 1982 Chandelier was served with two business lines from The Pacific Telephone and Telegraph Company (Pacific). On that date, however, Pacific disconnected the service claiming that Mrs. Baker had used "vile, abusive or profane language" to Pacific employees in violation of Rule 11.A.10. of Pacific's tariff. The complaint denies Pacific's claims and requests reconnection of service.

The matter was submitted after hearing before Administrative Law Judge Colgan on March 1, 1983 in the Commission's Courtroom in Los Angeles.

Testimony

Mrs. Baker testified that she had been operating her business for about five years at the present location and had applied for the installation of two business phones in June 1981. She stated that at the time, she had 17 employees. She went on to state that in August 1981 she contacted Pacific to complain that her business name was not in the yellow pages. She stated that she spoke to a woman later identified as Sue Galencher. She contended that Galencher was "very abusive to me on the telephone" and that she, herself, was polite and did not use abusive, offensive, or vile language.

While Mrs. Baker was somewhat confused about the dates of various telephone conversations with Pacific personnel, she said she believed she had no further contact during 1981. However, in 1982 she stated she talked with "Kathy Tipton", later identified as Katherine H. Tiptre, about 64 local calls charged to her business phone. Mrs. Baker also testified that she spoke again to Tiptre in October 1982 (a date subsequent to the service termination) for about two minutes to discuss billing errors. She says that Tiptre asked her to mail the statement to the company and that she (Tiptre) would take care of it. Mrs. Baker claimed that three months' worth of reverse charges from a credit card which should have been charged to Rockwell International (Rockwell) were mistakenly charged to her. Mrs. Baker stated that she also talked to a person named Mrs. McCormick about the same situation. She testified that she did not use profane, vile, or abusive language when speaking to either Tiptre or McCormick. On cross-examination Mrs. Baker testified that she always asked for a supervisor when calling the business service center and that she could not estimate how many times she called people there.

Mrs. Baker's husband and business partner, William Lomax Baker, testified that he discovered the phones were disconnected (later identified as a temporary disconnect) when a patron called him at home. He stated that he then called the business office and spoke to Galencher and Mrs. Hoyle. He stated that someone at Pacific read the tariff provision regarding abusive language to him during this conversation and that some days later he and his wife received a letter in the mail with the same information stating that Mrs. Baker had used such language to Pacific personnel. Mr. Baker testified that Hoyle also stated that Mrs. Baker had gone to Rockwell and had used vile language and that Pacific had a letter from Rockwell to that effect. Mr. Baker also testified that Hoyle offered to reinstate the phone service if Mr. Baker would be present at the business premises and tend the phone and make sure his wife did not use it. He said this was unacceptable, adding that he does not work there and will not run his wife's life.

On cross-examination Mr. Baker stated that he had received three letters from three people regarding Pacific's tariff Rule 11 and also testified that he had been the recipient of abusive language used by his wife. When asked to define the words abusive, vile, and profane he stated, "Anything that is abusive is profanity", giving as an example "taking the Lord's name in vain."

Pacific called four witnesses in its defense. The first, Susan L. Hoyle, office manager of Pacific's Orange business center, testified that she had been informed by various members of her staff (comprised of 50 service representatives) of many complaint calls received by them from Mrs. Baker.

Hoyle stated that 90% of her staff had dealt with Mrs. Baker at one time or another, that Mrs. Baker generally called every month, that her complaints were generally legitimate, that Mrs. Baker typically called several times on the first day after receiving a bill, that the service representatives complained of vile, profane, or abusive language, and that Mrs. Baker was often excessively loud and screamed during these conversations.

Through Hoyle Pacific introduced five exhibits. Exhibit 1 is a letter which Hoyle testified she sent to Mrs. Baker on July 16, 1981. It requests that Mrs. Baker confine all future communication with Pacific's billing office to written form because of her "abusive and profane language" during "numerous... conversations over the past several months." The letter also makes reference to tariff Rule 11 which, it says, would permit Pacific to discontinue Mrs. Baker's service if she continued to use this language with Pacific personnel.

The pertinent part of Pacific's Rule 11 (11.A.10.) was introduced as Exhibit 2. It states:

"The Utility may discontinue the telephone service of any customer who uses vile, abusive or profane language, or impersonates any other individual with fraudulent intent, over any line connected to the Utility's system, after the customer has been advised of that fact."

Hoyle testified that Mrs. Baker did not stop calling as requested, but that she did "improve" in that, while she was still loud and "easily explosive", she did make an effort not to use profanity.

According to another Pacific witness, service manager Mattie Sue Galencher, there was a "standing rule" at the office from the time Hoyle's letter was sent in July 1981 that whenever Mrs. Baker called, she was to be referred immediately by the service representative to one of the service managers.

However, Patricia Anne Schroeder, who began work as a service representative in Hoyle's office in September, apparently did not know about the rule. She testified that during her first week on the job after completing her training course, she received a call from Mrs. Baker complaining about overcharges for outgoing calls from her phones, claiming the calls could not have been made because her phones had no dials. Schroeder testified that she looked up Mrs. Baker's records and told Mrs. Baker that the records indicated that she did have dial phones. Schroeder stated that Mrs. Baker then called her several names which, under her training, Schroeder recorded on the form which was received as Exhibit 6. The exhibit speaks for itself. The language recorded there would be regarded as abusive, vile, and profane in the extreme by most persons hearing it. It was to Schroeder who obviously found it very difficult to repeat these epithets at the hearing. She testified she reported the conversation to her supervisor, an assistant to Hoyle.

Hoyle further testified that she prepared Exhibit 3, a letter dated May 13, 1982, for the signature of her superior, H. C. Ewen. Exhibit 3 is also addressed to Mrs. Baker. It informs her that at least two of the three service representatives and three assistant managers who spoke with her on May 13, 1982 were "subjected to abusive profanity" and that service "will be disconnected without further notice unless you restrict all future dealings with the Pacific Telephone billing office to written correspondence." A copy of the prior letter (Exhibit 1) was attached.

Hoyle went on to state that approximately four months later on September 16, 1982 Mrs. Baker's service was "temporarily interrupted" by Hoyle after another employee, assistant manager Katherine Tipre, reported that Mrs. Baker had been abusive to her.

Tipre, an assistant service manager, testified about this. She stated that she and Mrs. Baker had three conversations on September 15 and one on September 16, 1982 regarding why Mrs. Baker's local call charges could not be itemized. During the course of those conversations Tipre testified that Mrs. Baker shouted, said that the billing office personnel were a "bunch of liars", told Tipre that she was a "lying bitch", and stated she hoped Tipre would "have a heart attack" and "die", after Tipre mentioned that she had a medical appointment. Tipre recorded these comments on a form which was received as Exhibit 7.

After this temporary interruption began Hoyle testified she received a call from Mr. Baker, whom she described as "extremely polite". She testified that the temporary status of the disconnection meant that service could be reinstated by flipping a switch rather than necessitating the services of a Pacific installer at the site of the phone. She said she informed Mr. Baker she would reinstate service without a reconnection charge if he would promise to make certain that all future complaints about service were from him and not from Mrs. Baker. She said she also explained that if he did not agree to this, the phones would be permanently disconnected and any agreement reached after that would have to involve new installation charges. She testified that Mr. Baker stated he would not agree to such terms. As a result, Hoyle testified, she prepared and sent Exhibit 4, a letter to Mrs. Baker informing her that she had continued to violate Rule 11 despite "verbal and written notification", that she had been informed

Process

#5

6-1

by the letters of July 1981 and May 1982 (Exhibits 1 and 3) of Pacific's intent to enforce Rule 11, and that an order to discontinue service to each of Mrs. Baker's lines had been issued.

On cross-examination Hoyle testified that she had personally been subjected to Mrs. Baker's "loud and explosive" outbursts, but not to vile language.

Through the testimony of Galencher it was established that Mrs. Baker did receive the letters described by Hoyle. Galencher testified that she spoke to Mrs. Baker five or six times and Mrs. Baker used profane, abusive, or vile language each time but the last. The last time was September 17, 1982 when the service had been interrupted. Galencher testified that Mrs. Baker and she discussed the letters to Mrs. Baker and read them together. Galencher stated that Mrs. Baker cried and stated she wanted the service reinstated.

Discussion

The witness testimony together with Mrs. Baker's volatile outbursts during the hearing lend credence to the assertions of Pacific regarding Mrs. Baker's past behavior. Nevertheless, we conclude that the remedy imposed by Pacific to correct this type of behavior, namely disconnection of service, was harsh and extreme. We conclude that less severe remedies are available.

A public utility is in many ways like a governmental agency to the extent that a utility is charged with carrying out essential public services. Performance of these services necessarily will entail close and frequent contact with members of the public. Inevitably, some of this contact will lead to angry and unpleasant telephone exchanges. In the vast majority of cases, however, we are confident that the utility is able to diffuse and resolve volatile disputes to the satisfaction of the customer. In the extreme case, as appears here, we would not expect the utility's employees to listen to repeated and excessive verbal abuse from a customer.

We believe, however, that a remedy other than disconnection of service is available to the utility. In the extreme case we believe it appropriate for the utility to advise the customer that any further communications about a particular dispute will be in writing only. Should the customer nevertheless telephone the utility, the utility can instruct its employees to remind the customer that communications will be in writing only and then simply hang up.

The customer in turn may always avail himself or herself of the billing dispute procedures set forth in the utility's tariffs and which appear on the customer's bill if he or she is not satisfied with the utility's resolution of the dispute. These procedures provide for referral of the dispute to the Commission for resolution.

We believe that the less harsh approach to handling the problem of customers who use vile, abusive and profane language as described above is reasonable and effective. We therefore will require Pacific to revise its tariff Rule 11.A.10 to reflect this approach. The customer should also be informed that he or she may invoke the billing dispute procedures in the event the utility and customer cannot resolve the dispute.

Since it appears that every telephone utility in this state has a tariff rule similar to Pacific's Rule 11.A.10, we will serve copies of this decision upon each such utility.

Findings of Fact

1. The telephone service of Chandelier, owned by Violet R. and William L. Baker, was terminated by Pacific on September 16, 1982 for Mrs. Baker's alleged violation of Pacific's tariff Rule 11.A.10.
2. Pacific's tariff Rule 11.A.10, permits Pacific to discontinue its telephone service to any customer who uses "vile, abusive or profane language" over any line connected to Pacific's system, after first advising the customer.
3. Pacific sent and Mrs. Baker received two letters informing Mrs. Baker that she was in violation of Pacific's tariff Rule 11.A.10 and requesting that all future communication regarding billing be in written form.
4. Mrs. Baker continued to communicate her billing by inquiries by phone after receiving these letters, until the service was terminated.
5. A remedy less harsh than service termination was available to Pacific for handling the problem of communicating with Mrs. Baker.
6. Disconnection of utility service for use of vile, abusive or profane language is unreasonable.

Conclusions of Law

1. Pacific's Rule 11.A.10 should be revised in the manner set forth in this decision.
2. The complaint should be granted.

O R D E R

IT IS ORDERED that:

1. The complaint of Chandelier Hairstyles the Nail Salon (Chandelier) (William L. and Violet R. Baker) is granted to the extent set forth below:

- a. The Pacific Telephone and Telegraph Company (Pacific) shall immediately reinstall service to Chandelier without cost.
- b. Pacific shall, within 60 days of the date of this decision, file an advice letter with the Commission revising Rule 11.A.10 in the manner set forth in this decision.

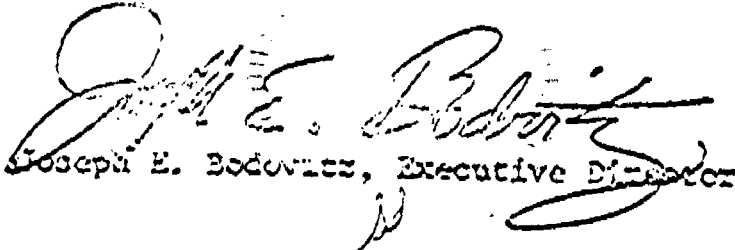
2. The Executive Director shall serve a copy of this decision upon every telephone company regulated by this Commission.

This order is effective today.

Dated JUN 1 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

by the letters of July 1981 and May 1982 (Exhibits 1 and 3) of Pacific's intent to enforce Rule 11, and that an order to discontinue service to each of Mrs. Baker's lines had been issued.

On cross-examination Hoyle testified that she had personally been subjected to Mrs. Baker's "loud and explosive" outbursts, but not to vile language.

Through the testimony of Galencher it was established that Mrs. Baker did receive the letters described by Hoyle. Galencher testified that she spoke to Mrs. Baker five or six times and Mrs. Baker used profane, abusive, or vile language each time but the last. The last time was September 17, 1982 when the service had been interrupted. Galencher testified that Mrs. Baker and she discussed the letters to Mrs. Baker and read them together. Galencher stated that Mrs. Baker cried and stated she wanted the service reinstated.

Discussion

The witness testimony together with Mrs. Baker's volatile outbursts during the hearing lend credence to the assertions of Pacific regarding Mrs. Baker's past behavior. Nevertheless, we conclude that the remedy imposed by Pacific to correct this type of behavior, namely disconnection of service, was harsh and extreme. We conclude that less severe remedies are available.

A public utility is in many ways like a governmental agency to the extent that a utility is charged with carrying out essential public services. Performance of these services necessarily will entail close and frequent contact with members of the public. Inevitably, some of this contact will lead to angry and unpleasant telephone exchanges. In the vast majority of cases, however, we are confident that the utility is able to diffuse and resolve volatile disputes to the satisfaction of the customer. In the extreme case, as appears here, we would not expect the utility to listen to repeated and excessive verbal abuse from a customer.

We believe, however, that a remedy other than disconnection of service is available to the utility. In the extreme case we believe it appropriate for the utility to advise the customer that any further communications about a particular dispute will be in writing only. Should the customer nevertheless telephone the utility, the utility can instruct its employees to remind the customer that communications will be in writing only and then simply hang up.

The customer in turn may always avail himself or herself of the billing dispute procedures set forth in the utility's tariffs, *and which appear in the utility's tariffs*, if he or she is not satisfied with the utility's resolution of the dispute. *These procedures provide for referral of the dispute to the Commission for resolution.*

We believe that the less harsh approach to handling the problem of customers who use vile, abusive and profane language as described above is reasonable and effective. We therefore will require Pacific to revise its tariff Rule 11.A.10 to reflect this approach. The customer should also be informed that he or she may invoke the billing dispute procedures in the event the utility and customer cannot resolve the dispute.

Since it appears that every telephone utility in this state has a tariff rule similar to Pacific's Rule 11.A.10, we will serve copies of this decision upon each such utility.