

Decision 83 07 017 JUL 20 1983

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Donald J. Kuznetsov,)
)
Complainant,)
)
vs.)
)
Pacific Telephone & Telegraph,)
)
Defendant.)

Case 82-10-06
(Filed October 27, 1982)

Donald J. Kuznetsov, for himself, complainant.
Michael D. Sasser, Attorney at Law, for
defendant.

O P I N I O N

Donald J. Kuznetsov (complainant or Kuznetsov) is a residential telephone subscriber of The Pacific Telephone and Telegraph Company (Pacific or defendant) at 2332 Portland Street, Los Angeles, telephone number (213) 744-1588.

In the complaint Kuznetsov alleges that (a) since June 1982 he experienced telephone service failures which Pacific failed to correct; (b) he notified the Commission staff (staff) about his telephone service problems (three Kuznetsov letters to the staff, attached to the complaint, list his service complaints), but the staff discouraged action to resolve those problems, delayed his filing of both an informal complaint and a formal complaint, did not do much to cure his telephone problems, and sided with Pacific; (c) he was told by Pacific employees that Pacific would not fix telephone cables "in this part of town because it is an 'old'

Process
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(Hispanic, black, & student) area and 'isn't worth it'..."; and (d) Pacific lied in saying his service was satisfactory when it was not, and it tried to get him to say that his service was satisfactory. Complainant did not produce evidence in support of all these allegations at hearing. Complainant requests telephone service equal to that provided to others, a full refund of his phone bill from the time his service problems began in June 1982 to the filing date of his complaint, and an accounting of Pacific's repair and replacement policies in different parts of Los Angeles County.

Hearing

After notice, a hearing was held before Administrative Law Judge (ALJ) Levander. The matter was submitted on receipt of late-filed Exhibit 2. Kuznetsov testified for himself. Gilbert L. Rodriguez, Harold H. Ries, and John Fish testified for Pacific.

Complainant's Testimony

Following is a summary of Kuznetsov's testimony:

1. Pacific's methods of handling complaints compounded his service problems; he was told to call in to report telephone service problems; Pacific's follow-up calls were always made by different people; those employees were shocked, bewildered, and skeptical when told his problems were not solved. Some employees said he was simply bothering them, used abusive language, or hung up on him.
2. He listed his service problems in three letters attached to the complaint. These letters show that Pacific did clear up his service problems.

When Kuznetsov was cross-examined he testified as follows:

1. Pacific told him who to contact if he had further service problems and he had hung up on a Pacific employee who was asking for more information about his complaint.
2. When questioned about his conversations with Pacific's employee, Mr. Marco, he initially alleged that Marco hung up on him after saying, "I know your kind. I have been in this business for 20 years. You are a damn pest." In his answer to the next question asked, he admitted to refusing to deal with Marco and to hanging up on him.
3. Rodriguez, a Pacific employee, came to his home. Rodriguez told him that his answering machine (CPZ) was working fine, and that Pacific would not put money into fixing service in complainant's neighborhood because it was old, occupied primarily by Chicano, black, and poor people. Rodriguez also said that Pacific was investing in new areas, not in Kuznetsov's neighborhood which had a third priority on Pacific's money, and that was why service was not good in that area.
4. He made between zero and 30 calls per day. His service problems usually occurred after dialing a particular number.
5. His service problems were not necessarily limited to a call on his list, but he could have had trouble on six calls and given up trying to make additional calls on that day. In fact, there were many occasions when his line was dead.

6. He had no technical knowledge about providing telephone service.

In response to questions from the ALJ he testified that the bulk of his June to October 1982 bills, which totaled approximately \$600, was for long distance calls. He reported problems on some long distance calls, and when he noted a problem on a long distance call he would quickly hang up, call the operator, and redial the number because long distance calls cost more money. He did not report 20 to 30% of the problems he encountered, including "time delay problems." He also experienced problems on long distance toll-free numbers.

Pacific's Testimony

Rodriguez, Ries, and Fish all hold management positions for Pacific. Each of them had installed, repaired, and trouble-tested simple and complex telephone equipment. All of them testified that plastic sheath cable (PIC), which is armored underneath, is the newest type cable used in Pacific's system. Rodriguez and Ries testified that PIC is the type of cable used between Kuznetsov's residence and the central office serving him; and that Kuznetsov lives in a middle class neighborhood. Their testimony mentions the following types of land use in the area: single and multiple dwellings, including new apartments, the University of Southern California campus and housing, Mt. St. Mary's College campus, and a new shopping center.

Rodriguez flatly denied Kuznetsov's account of their conversation, except to state that Kuznetsov's CPE had a Federal Communications Commission registration number. He testified that Kuznetsov would not furnish information about his equipment registration without a request in writing.

Consequently, he was sent a form letter telling him that the connection of customer-provided equipment to the telephone system "must be accomplished via a protected connecting arrangement, or via the specifications of the Attestation Certification (or Registration) programs." The letter put Kuznetsov on notice that his CPE must be removed or be in compliance with Pacific's rules or his service would be suspended within 10 days.

Ries testified as follows: He conducted a three-hour inspection of Kuznetsov's residential interior wiring and exterior service wiring, and followed PIC cable running down an alley; he makes such thorough inspections only once or twice a year; this inspection was due to the large number of service problems reported by Kuznetsov; he made 23 test calls after his inspection, including four long distance calls into the 714 and 805 area code exchanges and found the quality of Kuznetsov's telephone service to be perfect.

During his inspection he found a slightly loose connection where the wire from Kuznetsov's telephone is connected to the wall and a slight amount of corrosion where the service wire to Kuznetsov's residence terminated in a block on a telephone pole. He tightened the loose connection and replaced the terminal block installation. He did not believe that the connection was loose enough to cause any kind of a problem, or that further corrosion of the old terminal block installation could have caused any problems for years.

Fish prepared Exhibit 1, a summary of trouble reports Pacific received from Kuznetsov, in the ordinary course of its business from April 29, 1982 (the earliest date in Kuznetsov's list of service complaints) to December 8, 1982. Pacific received no further complaints from Kuznetsov through February 1, 1983.

Fish testified that the central office serving Kuznetsov contains an electronic switching system (ESS) which is the latest type of local exchange switching system operated by Pacific; there is nothing in Pacific's service, maintenance, replacement, and equipment practices which would provide Kuznetsov with service that is inferior to that provided in the rest of its system; the level of trouble reports for the exchange serving Kuznetsov is one-half of the reportable limit in the Commission's General Order 133. He states that Pacific stands ready to continue to take all reasonable steps to correct any telephone service problems encountered by Kuznetsov.

He claims that Kuznetsov's actions hampered Pacific's ability to correct his service problems, namely, he did not return calls, he was rude, he used profane language, he called Pacific's employees liars, and he refused to discuss the nature of his service problems and hung up on Pacific's employees on several occasions.

He further testified that a large number of Kuznetsov's complaints related to problems of static, lack of dial tone, or the inability to reach a specific number. When this type of problem is associated with local lines it is caused by the outside grounding of a portion of the local system, an open connection through central office trunking to carrier systems (e.g. microwave transmission), terminating

equipment, or by CPE. Pacific requested Kuznetsov to deal directly with its specialists in locating the source of recurring problems which are difficult to locate. Time was of the essence to track down problems, but Kuznetsov prevented Pacific from acting quickly by calling its central trouble board at 611 to be sure that his complaint would be logged in (calls to its specialists would also be logged in). Few, if any, service complaints have been received from Kuznetsov's neighbors. When Pacific became aware of the recurring nature of Kuznetsov's complaints, it made follow-up investigations after eliminating or clearing the reported trouble. Central stations are interconnected by tens to hundreds of cable pairs or trunks depending on telephone traffic volumes; on five occasions, Pacific detected malfunctioning or defective trunks when checking out Kuznetsov's trouble calls. Pacific will either repair such trunks immediately or take action to prevent other calls from being routed over those lines before they are repaired. The defective trunks identified while checking out Kuznetsov's complaints or on follow-up checks may or may not have been responsible for Kuznetsov's service problems since there are many potential routes for transmitting messages from the central office used for routing messages to and from Kuznetsov. If Pacific's check indicates that no trouble was found that meant service was satisfactory at that point in time; however, it is possible that Kuznetsov could have been experiencing problems at the time he made his complaint. On every trouble report received from Kuznetsov, his service connection to Pacific's central office was checked out as a standard procedure; on several occasions no trouble was

found on Kuznetsov's line or the trouble was repaired and Kuznetsov was then contacted to verify that he was not then experiencing trouble.

Discussion

Complainant lacks credibility in testifying about Rodriguez's explanation for poor service in his neighborhood. Rodriguez knew that defendant was operating up-to-date equipment in his neighborhood and he is knowledgeable about defendant's repair practices.

Similarly, while complainant undoubtedly experienced telephone service problems, he is not entitled to a full refund on all of his telephone bills from early June to October 27, 1982. His own list of trouble calls shows a single complaint call on April 29, another on May 6, another on May 29, and no further calls until July 22. Defendant's list of trouble calls does not show the May calls.

Defendant's adjustment of \$2.64 for service charge credits between October 13-16 is inadequate for the service deficiencies experienced by complainant. But complainant's request is unreasonable. It covers nearly a two-month period when complainant experienced no problems. Most of the trouble reports received by Pacific appear to be isolated reports. However, defendant's trouble analysis understates complainant's problems since its reports combine several complaints in a single entry. There are multiple entries between July 22 and August 2, August 18-23, September 17-20, September 28 to October 4, and October 13-16. Service during those intervals was unsatisfactory.

We find that it would be reasonable to award reparation in the amount of 25% of the \$132.02 total billed to complainant for the above-noted intervals, an adjustment of \$33.00.

Defendant is obligated to provide a reasonable level of service, but it cannot provide trouble-free service; it has made reasonable efforts to cure complainant's service problems; and its efforts in correcting complainant's service problems were hindered by complainant's lack of cooperation.

Complainant may inspect all of the reports filed by defendant, in compliance with General Order 133, Rules Governing Telephone Service, at the Commission's Los Angeles and San Francisco offices or at defendant's main office.

Defendant's October 4, 1982 letter to complainant does not explain that it requires certification of CPE or a protective connecting arrangement to protect the quality of service on its system. There is nothing on this record to indicate that complainant's CPE, which is a certified device, was malfunctioning and causing service problems.

Findings of Fact

1. Pacific's service complained of in this proceeding was unsatisfactory to complainant.

2. Pacific's service to complainant was not adequate or within accepted standards during the following periods: July 22 to August 2, August 18-23, September 17-20, September 28 to October 4, and October 13-16.

3. Complainant's allegation about Rodriguez's explanation for poor service in his neighborhood is without foundation.

4. Complainant has not cooperated with defendant in resolving service problems. He has not furnished complete reports or made the calls needed for defendant to quickly check out his problems.

5. A \$2.64 credit adjustment was previously allowed to complainant by Pacific's local manager in mitigation of the diminished value of the service accorded complainant.

6. Reparation should be awarded for the diminished value of the service accorded complainant based on 25% of the \$132.02 billed for the periods listed in Finding 2. The payment due is \$33.00 less the prior \$2.64 credit or \$30.36. This unpaid amount should be subject to interest from the effective date of the decision at 7% per annum.

Conclusions of Law

1. Reparation should be awarded for the diminished value of service accorded complainant in the above findings.

2. Interest in the amount of 7% per annum should be added to the unpaid balance of reparations from the effective date of this order to the date of payment.

3. No discrimination will occur as the result of this order.

4. To the extent not granted, the complaint should be denied.

O R D E R

IT IS ORDERED that:

1. Donald J. Kuznetsov shall retain the \$2.64 credit adjustment made by The Pacific Telephone and Telegraph Company.

2. Complainant is entitled to reparation of 25% of the amounts billed for the time periods described in Finding 2 or \$33.00. ✓
The \$2.64 credit adjustment shall be deducted from this reparation. This net amount of \$30.36 is subject to interest at the ✓
rate of 7% per annum calculated from the effective date of this order.

3. Except to the extent granted above, the complaint is denied.

This order becomes effective 30 days from today.

Dated JUL 20 1993, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

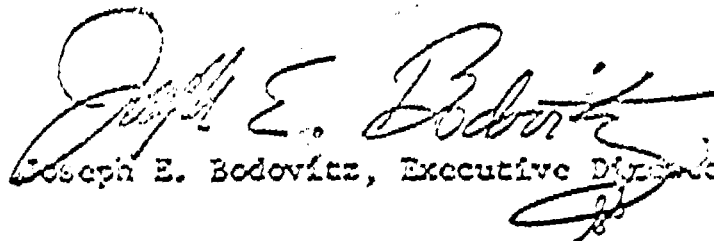
VICTOR CALVO

PRISCILLA C. GREN

DONALD VIAL

WILLIAM T. BAGLEY
Commissioners

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


Joseph E. Bodovitz, Executive Director

(Hispanic, black, & student) area and 'isn't worth it'..."; and (d) Pacific lied in saying his service was satisfactory when it was not, and it tried to get him to say that his service was satisfactory. Complainant requests telephone service equal to that provided to others, a full refund of his phone bill from the time his service problems began in June 1982 to the filing date of his complaint, and an accounting of Pacific's repair and replacement policies in different parts of Los Angeles County.

Hearing

Complainant did not produce evidence in support of all these allegations at hearing.

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2. He listed his service problems in three letters attached to the complaint. These letters show that Pacific did clear up his service problems.

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2. When questioned about his conversations with Pacific's employee, Mr. Marco, he initially alleged that Marco hung up on him after saying, "I know your kind. I have been in this business for 20 years. You are a damn pest." In his answer to the next question asked, he admitted to refusing to deal with Marco and to hanging up on him.
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He further testified that a large number of Kuznetsov's complaints related to problems of static, lacking ^{ring} tone, or the inability to reach a specific number. When this type of problem is associated with local lines it is caused by the outside grounding of a portion of the local system, an open connection through central office trunking to carrier systems (e.g. microwave transmission), terminating

SS

We find that it would be reasonable to award reparation in the amount of 25% of the ^{152.02}total billed to complainant for the above-noted intervals, *an adjustment of \$38.00:*

Defendant is obligated to provide a reasonable level of service, but it cannot provide trouble-free service; it has made reasonable efforts to cure complainant's service problems; and its efforts in correcting complainant's service problems were hindered by complainant's lack of cooperation.

Complainant may inspect all of the reports filed by defendant, in compliance with General Order 133, Rules Governing Telephone Service, at the Commission's Los Angeles and San Francisco offices or at defendant's main office.

Defendant's October 4, 1982 letter to complainant does not explain that it requires certification of CPE or a protective connecting arrangement to protect the quality of service on its system. There is nothing on this record to indicate that complainant's CPE, which is a certified device, was malfunctioning and causing service problems.

Findings of Fact

1. Pacific's service complained of in this proceeding was unsatisfactory to complainant.
2. Pacific's service to complainant was not adequate or within accepted standards during the following periods: July 22 to August 2, August 18-23, September 17-20, September 28 to October 4, and October 13-16.
3. Complainant's allegation about Rodriguez's explanation for poor service in his neighborhood is without foundation.
4. Complainant has not cooperated with defendant in resolving service problems. He has not furnished complete reports or made the calls needed for defendant to quickly check out his problems.

5. A \$2.64 credit adjustment was previously allowed to complainant by Pacific's local manager in mitigation of the diminished value of the service accorded complainant.

6. Reparation should be awarded for the diminished value of the service accorded complainant based on 25% of the amounts billed for the periods listed in Finding 2. ^{\$132.02} ~~An adjustment should be made for the prior \$2.64 credit.~~ The unpaid amount should be subject to interest from the effective date of the decision at 7% per annum.

Conclusions of Law

1. Reparation should be awarded for the diminished value of service accorded complainant in the above findings.

2. Interest in the amount of 7% per annum should be added to the unpaid balance of reparations from the effective date of this order to the date of payment.

3. No discrimination will occur as the result of this order.

4. To the extent not granted, the complaint should be denied.

O R D E R

IT IS ORDERED that:

1. Donald J. Kuznetsov shall retain the \$2.64 credit adjustment made by The Pacific Telephone and Telegraph Company.

2. Complainant is entitled to reparation of 25% of the amounts billed for the time periods described in Finding 2, ^{or \$33.00} The \$2.64 credit adjustment shall be deducted from this reparation. This net amount ^{of \$30.36} is subject to interest at the rate of 7% per annum calculated from the effective date of this order.

The payment due is \$33.00 less the prior \$2.64 credit or \$30.36.