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ORIGINAL

Decision No. 86873

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JAMES A. LONGMIRE,

Complainant,

vs.

The Pacific Telephone and  
Telegraph Company, et al.,  
Corporation,

Defendant.

Case No. 10145  
(Filed July 23, 1976)

James Arthur Longmire, for himself,  
complainant.

Duane G. Henry, Attorney at Law,  
for The Pacific Telephone and  
Telegraph Company, defendant.

O P I N I O N

The complaint alleges that defendant has violated its tariff provisions by unlawfully discontinuing complainant's telephone service for extended periods of time without justification and prays that defendant be ordered to cease and desist and to pay complainant a reasonable reparation for the inconvenience caused by the cessation of service. The answer filed by defendant alleges that complainant neglected to pay a telephone bill and service was discontinued on October 30, 1975 and restored on November 7, 1975. The answer denies the other allegations of the complaint.

A hearing was held in San Francisco on October 22, 1976 before Examiner Fraser. Testimony was presented by the complainant and by defendant's customer operations manager.

Complainant requested that defendant's records be searched to determine the occasions during which his telephone service has been disconnected since January 1974. The records indicate that complainant called defendant's operator at 3:15 a.m. on January 28, 1974 to request that he be connected with Leon Jaworski, the public prosecutor, or the head of the FBI. The operator was unable or unwilling to complete these calls and complainant started to use profane, vulgar, and abusive language over the telephone. After several warnings complainant was cut off and his service was interrupted from 3:15 a.m. to 5:30 a.m. A second incident was recorded on March 24, 1974. Complainant called at 3:10 a.m. and became abusive; he was warned again and his service was interrupted from 3:10 a.m. to 7:43 a.m. The third instance concerned the one-week interruption during the first week of November 1975, which resulted from a failure to pay for telephone service.

Defendant's customer operations manager testified that during 1974 and 1975 complainant called him at home between midnight and 6:00 a.m. on 12 to 15 occasions. The calls were described as frivolous, with name-calling and frequent demands for improved service. Some of the language used was profane and vulgar. There were also calls and complaints during business hours and complainant's service was checked on at least one occasion and seemed in good condition. Complainant asked about May 5, 1974 and the witness replied that according to his recollection complainant had used abusive language in a conversation with an operator and the latter put his line on hold. Service was restored as soon as complainant hung up his receiver.

Complainant testified that the week's cessation of service in November 1975 was justified. He further testified that his telephone calls were made to request that his service be improved. He testified he could not contact a doctor on May 5, 1974 due to an

inoperative telephone. He further testified that he called the telephone company about 1:00 a.m. on January 1, 1976 to complain that his telephone was inoperative and the operator informed him that his service could not be restored until the next business day, which was January 2, 1976 according to the calendar. Complainant requested that he receive a rebate on his monthly \$5.85 service charge for the periods of interrupted phone service. He also requested that the telephone employees who answered his calls be brought in so he could interrogate them. This last request was denied at the hearing.

#### Discussion

Complainant did not deny using abusive language during his telephone calls. Defendant's tariff (Sub. 10, Rule 11, Revised Sheet 53-A, Pacific Telephone and Telegraph Co. Cal P.U.C. Schedule No. 36-T) provides for discontinuance of a customer's service after a warning, if abusive language is used. Complainant relied on defendant's records and provided no other evidence. It is evident that defendant was justified in taking the action complained of during the instances in 1974. The phone call to defendant during the early morning of January 1, 1976 is no basis for a complaint. The operator advised that the regular maintenance crews were off duty due to the holiday and that complainant's service could not be checked until January 2, 1976. Even if reparation was due, which it is not, it would total \$1.00 or less, based on the monthly service charge of \$5.85.

#### Findings

1. Defendant's operator answered an abusive and profane telephone call from complainant at 3:15 a.m. on January 28, 1974 and 3:10 a.m. on March 24, 1974.
2. Complainant's service was interrupted for two hours during the first call and for four hours and forty minutes during the second call, after requests to stop using abusive language were disregarded.

3. Incoming telephone calls were not affected and could still be received while service was interrupted.

4. The two interruptions of service were in accord with and required by the provisions of defendant's tariff.

Conclusions

1. Defendant's interruption of complainant's telephone service due to use of abusive and profane language over the telephone was justified.

2. The relief requested in the complaint should be denied.

O R D E R

IT IS ORDERED that the relief requested is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 18<sup>th</sup> day of JANUARY, 1977.

Robert Bateman  
 President  
William S. Lyons, Jr.  
James L. Bateman  
John  
 Commissioners