

ORIGINAL

Decision No. 87509 June 28, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Victor Brincat,

Complainant,

vs.

Gordon Hough and The Pacific
Telephone and Telegraph Company,

Defendants.

Case No. 10203
(Filed November 9, 1976)

Victor Brincat, for himself, complainant.
Duane G. Henry, Attorney at Law, for defendants.

O P I N I O N

The complaint alleges several years of harassment; that payment is demanded for bills that have been paid; that deposits have never been acknowledged or credited; that defendant transferred a paid-up account to a collection agency for payment; and that a five-day disconnect service notice dated September 23 was received on September 25, a Saturday, which gave only two days' actual notice. Complainant alleges that defendant was vindictive and abusive. The complaint prays for costs and punitive damages.

Defendant filed an answer on December 14, 1976. Most of complainant's allegations were denied but defendant admits receiving a \$125 deposit on January 24, 1973, which was returned on January 24, 1974, with interest. Defendant admitted that it referred complainant's account on No. 873-5600 to a collection agency because it was unpaid. This service was disconnected at the request of the complainant. Defendant also admitted mailing a five-day notice to complainant on

September 23, a Thursday; that September 25 was a Saturday; and that complainant's service was interrupted on September 29. All service was restored after defendant was paid. Defendant denied that complainant is entitled to any relief and requested that the complaint be dismissed or denied.

A public hearing was held before Examiner Fraser in San Francisco on February 28, 1977. Evidence and testimony was provided by the parties and the matter was submitted.

Complainant testified that he operated the San Bruno Law Center in 1974, with several telephone numbers assigned; he transferred these business phones in November of 1974 to his Magna Carta University and contacted defendant to ask for an accounting of what was owed. He further testified that a \$700 advance was required in November of 1974 before the service was transferred and this money has never been used or acknowledged by the defendant. He received several bills from the phone company, but they refused to discuss his deposit or whether he had a refund coming. He identified the phone service in issue and admitted it was disconnected in January of 1975. Complainant further testified that defendant mailed a notice on Thursday that service would be disconnected in five days unless payment was received; he received the notice on Saturday, and was not able to comply with because of his practice of taking Monday as a holiday. The service was terminated and reconnected after complainant paid the bill. Complainant further advised that he recently received a notice from a collection agency that \$22 was owing on a phone service he had disconnected more than a year ago. His records indicate that defendant never billed or contacted complainant prior to assigning the account for collection.

Defendant's office records indicate that money is owing from complainant for service provided to five telephone numbers that he ordered installed, used, and then had removed. On phone number

871-1922, \$22.71 is due, which was assigned to a collection agency on November 5, 1976; \$235.86 is due on number 341-3481 for service provided during 1973; \$33.87 is due on number 574-3762, which was disconnected in February of 1974; \$18.83 is due on 873-5600, which was disconnected on January 25, 1975 at complainant's request and \$201.46 is due on 873-5601, discontinued on the same January date. The sums due total \$512.73. The record indicates that complainant was in and out of several businesses during the past several years and frequently changed phone numbers. Defendant's records reveal that complainant requested that defendant contact him only by letter rather than by telephone. Defendant's counsel advised that telephone calls were not made and complainant was not advised by telephone of delinquent bills and possible action thereon, which is done as a courtesy to all customers. It was admitted that complainant presently has telephone service and had complete service over the years even while money was owed for prior service that had been discontinued.

Complainant alleged that these bills were paid. He was allowed until March 11, 1977 to produce proof of payment. No proof has been received to date, although complainant has requested that defendant be required to produce all of its records for the periods covered by the delinquent accounts, on the theory that defendant's records would prove payment has been received. This request was denied along with a request that subpoena be issued to require defendant's president, Mr. Hough, appear and be interrogated.

Findings

1. Complainant owes \$512.73 to defendant for telephone service.
2. Defendant mailed a five-day notice of discontinuance of service to complainant on Thursday, which was received on Saturday. Adequate notice was provided since service was not terminated until the following Wednesday.

3. Defendant has not been abusive or vindictive toward the complainant.

4. Defendant has not harassed the complainant.

5. The only deposit paid in advance by complainant was the \$125 received by the defendant on January 24, 1973. It was returned with interest on January 24, 1974.

We therefore conclude that the relief requested in the complaint should be denied.

O R D E R

IT IS ORDERED that the relief requested in the complaint is denied.

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

Dated at San Francisco, California, this 28th day of JUNE, 1977.

Labstain
Robert Bateman

~~*Robert Bateman*~~
William S. Gerson, Jr. President
Leggion L. Spiegel
Richard W. Gervill

Commissioners