

Decision No. 87966

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THEODORE R. STOCKTON and  
LEE JOHNSON,

Complainants,

vs.

PACIFIC TELEPHONE & TELEGRAPH  
COMPANY,

Defendant.

Case No. 10230  
(Filed January 10, 1977)

O P I N I O N

Complainants Theodore R. Stockton, operator of Stockton's Beauty and Barber Supplies, 2601 Seminary Avenue, Oakland, California, and Ms. Lee Johnson allege that defendant, the Pacific Telephone and Telegraph Company (Pacific), disconnected telephone number 568-1156 without justification, that Pacific falsely informed callers by means of a recording that complainants had requested temporary disconnection, and that Pacific failed to acknowledge correspondence. Complainants pray for restoration of service and reasonable damages for causing mental anguish and embarrassment by cutting off information from the public.

In its answer filed February 11, 1977, Pacific admits to disconnecting service on telephone number 568-1156 as a result of complainants' refusal to comply with Pacific's filed tariffs. Pacific alleged that telephone service was disconnected on December 22, 1976 due to failure of complainants to remove an illegally attached customer provided device, that the device was discovered November 15, 1976 when a repairman was dispatched to 2601 Seminary Avenue, Oakland, in response to a trouble report; that the repairman

reported a recording device attached by means of "alligator clips"; that complainants were advised in writing on two occasions that it would be necessary to disconnect telephone service if the device was not removed; that complainants failed to advise Pacific in writing that the device had been removed, and as a result the telephone service involved was disconnected. All action was taken pursuant to applicable filed tariffs. Upon receipt of a letter dated December 22, 1976 stating that the illegally attached device had been removed, service was restored on January 4, 1977.

Public hearing was held at San Francisco July 22, 1977.

First, with respect to damages, we have repeatedly held that the Commission is without jurisdiction to award damages. (Schumacher v Pacific Telephone and Telegraph (1965) 64 Cal PUC 295; Edward L. Blincse, et al. v Pacific Telephone and Telegraph (1963) 60 Cal PUC 432, and Glynn v Pacific Telephone and Telegraph, 62 Cal PUC 511.) There is no need to discuss this issue.

At the hearing complainants introduced Exhibits 1 through 6 to show that they had responded to Pacific's inquiries and that service was still disconnected. These exhibits show that the complainants were advised on three occasions, beginning November 17, 1976, that a foreign device was allegedly attached to the telephone network and were requested to contact Pacific. Complainants responded by letter on two occasions stating they were unable to understand Pacific's request.

Pacific produced one witness who testified in substance to the facts stated in the answer to the complaint, i.e., that Pacific was operating within its filed tariffs; that service was suspended only after complainants failed to return a signed statement that the foreign device was removed, and that service was restored as soon as such notice was received.

Pacific's witness also stated that the trouble originally complained of was corrected by the serviceman when he removed the "alligator clips". (Exhibit 7.)

Exhibit 3, a letter dated December 1, 1976 from Pacific to complainant Stockton, advised that compliance with Pacific's filed tariffs must be completed by December 10, 1976 or service would be suspended. That letter also provided that compliance could be met by signing and returning the letter. The letter was signed by complainant and dated December 22, 1976, the date service was disconnected. Pacific testified that it was received in Pacific's service department on January 4, 1977 at which time service was restored.

With respect to a foreign device connected to the telecommunication network, both Exhibit 7 and complainants' admission show that a foreign device was being utilized with telephone number 568-1156. A device produced by complainants at the hearing as the one so utilized was subsequently identified as a Crown Model CTA 4100, certified under General Order 138 as Number 0170. This device can be legally connected to the network pursuant to Pacific's filed tariffs. Had complainants identified the device when requested, the available options for connection would have been explained and disconnection would not have been necessary.

Pacific acknowledged that during the period of disconnection persons calling 568-1156 were advised that the number had been disconnected at the request of the customer. This was clearly in error. However, the complainant Stockton acknowledged that he was aware from the date of disconnection that the wrong information was being given. He also stated that he confirmed each day that the same information was being given but did nothing to alleviate the problem. Pacific was not made aware that an incorrect recording had been attached to the disconnected line.

From the foregoing we conclude that neither party was without fault. There was a lack of communication. Complainants

to avoid disconnection of service, should have cooperated more fully by identifying the device being used and, upon discovery of the incorrect message being disseminated, should have made attempts to correct the problem. Pacific committed an error in placing an incorrect recording on the disconnected line.

Relief should be granted to the extent of a billing adjustment for the time service was disconnected in the amount of \$45.

Findings

1. Complainants operate Stockton's Beauty and Barber Supplies, 2601 Seminary Avenue, Oakland, telephone number 568-1156.
2. In response to a service call on November 15, 1976, a Pacific serviceman observed a foreign instrument attached to the network by means of "alligator clips". Trouble was corrected by removal of the alligator clips.
3. Complainants were advised on three occasions that the foreign attachment must be removed in compliance with Pacific's tariffs filed with the Commission.
4. Complainants were advised by letter on December 1, 1976 that if written notification of compliance was not received by December 10, 1976, service would be suspended.
5. Complainants notified Pacific on December 10, 1976 that the December 1, 1976 letter had been forwarded to legal counsel for handling.
6. On December 15, 1976, Pacific advised complainants by letter that five days remained in which to return a signed statement that the unauthorized connection had been removed.
7. Complainants' service at telephone number 568-1156 was suspended on December 22, 1976.

8. A document signed and dated December 22, 1976, stating that the equipment had been removed, was received at Pacific's service department on January 4, 1977 at which time service was restored.

9. While service was suspended, Pacific installed a recording that advised callers that number 568-1156 had been disconnected at the request of the customer.

10. Pacific committed an error by placing an improper recording on complainants' line while service was suspended.

11. While service was suspended, complainants made daily calls to number 568-1156 to confirm that improper information was being given to callers.

12. When complainants became aware that the wrong information was being given to persons calling 568-1156, they should have made attempts to correct the error.

13. Complainants did not contact Pacific to advise that incorrect information was being given to persons calling 568-1156.

14. The parties herein failed to properly communicate with each other to resolve the problem.

The Commission concludes that there should be reparations in the form of a billing adjustment, for the period telephone number 568-1156 was disconnected, in the amount of \$45.

O R D E R

IT IS ORDERED that the Pacific Telephone and Telegraph Company is hereby ordered to make a billing adjustment, for the period of time telephone number 568-1156 was disconnected, in the amount of \$45.

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

Dated at San Francisco, California, this 12<sup>th</sup> day of August, 1977.

Robert Bateman  
President  
William J. ...  
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...  
...  
Commissioners