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ORIGINAL

Decision No. 88193 December 6, 1977

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ELLEN DALY,

Complainant,

vs.

PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY,

Defendant.

Case No. 10105  
(Filed May 25, 1976)

Ellen Daly, for herself, and M. Ann Murphy, staff counsel  
of Toward Utility Rate Normalization, for complainant.  
Duane G. Henry, Attorney at Law, for defendant.

O P I N I O N

The complaint alleges that complainant is an "on-call" nurse and is dependant on her telephone service for employment. It further alleges that since about May 1, 1975 complainant's telephone has not been functioning properly; that the phone rings 25 or 30 times a day and when the receiver is lifted only a dial tone is heard; that defendant has made seven or eight attempts to correct the problem, but has not been able to properly restore service and that defendant's employees have indicated that the problem may be due to the age of the telephone equipment. The complaint requests that all fees paid during the period of the malfunction be returned by defendant, that she not be required to pay for further service until the problem is solved, and that defendant be required to provide a proper and normal telephone service.

The complaint was filed on May 25, 1976 and answered on June 28, 1976. The parties consented to the Expedited Complaint Procedure; a hearing was held on February 18, 1977, and Commission Decision No. 87090, issued on March 15, 1977, denied all relief to the complainant.

A Petition for Rehearing was filed on June 24, 1977 by counsel for Toward Utility Rate Normalization (TURN), and rehearing was granted by Decision No. 87770 dated August 23, 1977 and held on September 22, 1977. Counsel for TURN advised she only represented complainant to obtain the rehearing and not on the merits of the case. The hearing was continued to October 21, 1977 at the request of complainant. Complainant failed to appear at the October 1977 hearing and all evidence of record was presented by the defendant.

Defendant's witness testified that complainant was bothered by a caller who constantly dialed then hung up as soon as the telephone was answered. The caller used pay telephones in several locations, making apprehension difficult, but a suspect was identified and questioned at the police station on August 12, 1976. He was not arrested, but there were no more harassing phone calls and complainant was assigned a different telephone number. Defendant's representatives had suggested a change in number when the problem was identified, but complainant claimed her customers all knew her old number and business would suffer if the old number was abandoned. Complainant made certain payments to this Commission between March 25, 1976 and July 18, 1977, which were owed to defendant for the telephone service provided by the latter.

#### Findings

1. Complainant was harassed from about May 1975 to August 1976 by a caller who hung up the receiver as soon as the telephone was answered.
2. The calls ceased after a suspect was identified and questioned on August 12, 1976.
3. The ostensible malfunction of complainant's telephone was initiated by the caller in each instance. Defendant's equipment and service were not a fault.

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4. The sums deposited with this Commission should be turned over to the defendant.

We conclude that the complaint should be denied.

O R D E R

IT IS ORDERED that:

1. Complainant is denied any relief.
2. The Executive Director shall release to defendant all funds deposited by complainant in conjunction with this complaint.

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

Dated at San Francisco, California, this 6th day of DECEMBER, 1977.

Robert Bateman  
President

William J. ...

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Commissioners