

Decision No. 89129 JUL 25 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBERT D. BORREGO,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Case No. 10536
(Filed April 3, 1978)

Edward W. Suman, Attorney at Law, for
complainant.

Stanley J. Moore, Attorney at Law, for
defendant.

O P I N I O N

Robert D. Borrego requests an order of the Commission directing The Pacific Telephone and Telegraph Company to restore telephone service.

Public hearing was held before Administrative Law Judge Daly on June 15, 1978 at San Francisco.

The record discloses and the Commission so finds:

1. Complainant resides with his daughter and son at 670 Lisbon Street, San Francisco, and was a subscriber of defendant's telephone service on 586-3443 until October 20, 1977.
2. At the request of complainant, service was disconnected on October 20, 1977 because of an outstanding bill in the amount of \$2,085.75.
3. Of the amount due \$40.23 covered exchange service and toll calls made within the United States, \$2,045.52 covered calls to or from Mannheim, Germany, telephone number 621-73188. Collect calls from the German number to complainant's number totaled \$331.27. Calls placed from complainant's number to the German number totaled \$884.89 and calls placed from third numbers and billed to complainant's number totaled \$907.36. Complainant paid a total of \$78.00 on his September 1977 bill.

4. Complainant denies any knowledge or responsibility for the calls to and from the German telephone number and when first informed of such calls by defendant, requested discontinuance of service until he could investigate the situation.

5. By letter dated February 15, 1978, complainant's attorney requested defendant to restore complainant's telephone service.

6. Because complainant denies any responsibility for calls placed from third numbers to Germany and billed to complainant, defendant reduced the outstanding amount due by \$907.36 leaving a balance of \$1,178.39.

7. Defendant refuses to restore service to complainant until the balance due is paid and relies upon Rule 6.D.1 as set forth in Schedule Cal. P.U.C. No. 36-T, 7th Revised Sheet 36 and Paragraph 2.4.1 as set forth in Tariff F.C.C. No. 263¹/₁.

8. Complainant refuses to pay defendant the sum of \$1,178.39, but requests restoration of telephone service because such service is essential to his job as a commercial upholsterer who supervises jobs at many hotels in the San Francisco area.

1/ Rule 6.D.1

"1. A customer whose service has been disconnected for non-payment of bills will be required to pay any unpaid balance due the Utility for the premises for which service is to be restored and will be required to pay a reconnection charge* [fn omitted] as prescribed in Rule No. 11 under 'Restoration-Reconnection Charge' and to reestablish credit by making the deposit prescribed in Rule No. 7.B., before service is restored."

"Rule 2.4.1 Payment for Service

The customer is responsible for payment of all charges for service furnished the customer, including charges for services originating or charges accepted at the customer's station."

9. Defendant's records indicate that complainant had a good credit rating and up to September 1977 had never failed to pay his telephone bill.

10. Although complainant denies responsibility for the calls he does not deny that, except for the third number calls, all of the calls to, or from Germany were either placed or accepted on his telephone.

11. In refusing to restore service until the balance of \$1,178.39 has been paid, defendant is in compliance with its published tariffs.

The Commission concludes that defendant should be ordered to restore telephone service to complainant upon payment or settlement of the outstanding balance of \$1,178.39.

O R D E R

IT IS ORDERED that:

1. Upon payment or settlement of the outstanding balance of \$1,178.39 The Pacific Telephone and Telegraph Company shall restore telephone service to Robert D. Borrego at 670 Lisbon Street, San Francisco, California.

2. Robert D. Borrego's motion for an interim order restoring telephone service pending a final decision is denied.

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

Dated at San Francisco, California, this 25th day of JULY, 1978.

Robert Byrnes
President
William S. Jones Jr.
Vernon L. Sturgeon
Charles D. Howell
Alvin T. Davis
Commissioners