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Decision No. 89183 AUG 8 - 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RAYMOND BRYAN,

PLAINTIFF,

VS.

PACIFIC TELEPHONE CO. INC.,

DEFENDANT

Case No. 10487  
(Filed January 18, 1978)

Raymond Bryan, for himself,  
complainant.  
Duane G. Henry, Attorney at Law,  
for defendant.

O P I N I O N

In his complaint, complainant makes approximately 20 various allegations against the defendant during the period from August 1977 until December 1977. He alleges that defendant interrupted his telephone service; harassed him concerning his billing; billed him with handwritten bills; charged him for service not performed; overcharged him for installation; sold him defective equipment; unlawfully gave his address to people who had only his number and not his name; billed him under unlawful tariffs; overcharged him in some case as much as \$109.25 or as much as 75 percent; deliberately mixed up the type of service ordered so as to bill him excessively; invaded his privacy by subjecting him to advertising messages when seeking information numbers; unlawfully collected state and federal taxes on mistaken

billing and not refunding such taxes; placed "vox" operated listening devices on his telephone in violation of state and federal law; failed to refund his advance monthly charges when telephone service was not rendered for periods of time; terminated his telephone service on December 28, 1977 for refusal to pay an advance toll billing in violation of his constitutional rights; violated his constitutional rights to privacy by charging him 15 cents per month for an unpublished number; billed him for service when his telephone was out of order; installed a new type of phone equipment in his residence which the defendant advertised as requiring 75 percent less labor, without a corresponding reduction of complainant's installation charge; deprived complainant of his telephone service on several occasions during rainy weather under an unpublished policy/tariff dictating deprivation of residential service so as to make more lines available for industrial users in semi-industrial areas; has deliberately duped, misled, defrauded, and confused the complainant by its billing procedures; and violated his constitutional rights of due process.

Complainant requests the following relief:

that defendant reconnect his telephone until all litigation is exhausted; that the advance toll billing be found unconstitutional and that defendant be required to refund all monies collected therefrom; that all existing tariffs of defendant be examined to see if they meet constitutional prohibitions; that the 15-cent tariff for unpublished numbers be declared unlawful and voided, and that defendant be ordered to refund all monies collected thereunder; that defendant be ordered to make all billings accurate and reflect all monies received;

that all subscribers be assigned a credit rating by defendant; that defendant inform subscribers of any special billing procedures resulting from their credit ratings; that the Public Utilities Commission find that the right of the citizen to telephone communication is a substantial one and that phone service not be disconnected for any reason without notice or right of appeal; that defendant not obstruct or impede telephone communication with informational messages unless every subscriber has been furnished with every telephone directory in the area; that defendant deduct an amount from subscriber's billing which corresponds to time the telephone was out of service; and that defendant be required to publish a tariff reflecting a 75 percent reduction of cost in the installation of new equipment.

Defendant admits the complainant was properly charged 15 cents per month for unpublished number service pursuant to applicable tariff provisions. It further admits that complainant's telephone service was out of order during part or all of August 17 and 18, 1977 due to a storm. In all other respects, the complainant's allegations are denied.

A hearing was held in Los Angeles on June 7, 1978 before Administrative Law Judge William A. Turkish pursuant to Section 1702 of the Public Utilities Code, and the matter was submitted on the filing of the transcript.

Complainant testified for himself. Thomas Longsdon, defendant's service representative supervisor, testified on its behalf.

Complainant, an attorney at law, reiterated the allegations contained in his complaint. He testified that he was never made aware of defendant's tariffs, of its advance

toll billing, or of its credit ratings, and that this violates his constitutional rights of due process. He testified that he was not prepared at the hearing to submit any proof in support of his allegations.

A motion was made by defendant that all issues as alleged be dismissed for lack of proof. Complainant stipulated to a dismissal of all issues with the exception of the constitutionality of defendant's tariffs, defendant's advance toll billing, the invasion of complainant's privacy by requiring him to listen to a recording when he dials information, and the 15-cent charge for unlisted numbers. The motion to dismiss all remaining issues was granted. Complainant declined to give any further testimony or evidence on the remaining stipulated issues.

Defendant's witness testified as follows. All charges for the installation of complainant's telephone service on number 634-4317 were in accordance with defendant's filed tariff and that such service was permanently disconnected for failure to pay the \$445.02 owing on the account. On December 2, 1977 defendant mailed to complainant a special advance toll or special long distance bill. Accompanying the printed bill was a payment card on which certain entries were handwritten and such special bills are covered by tariff Schedule Cal. P.U.C. 36-T, Rule No. 9.A.5. Complainant's number 630-5535 was disconnected on December 30, 1977 for nonpayment of \$258.08, which is still owing on the account. The witness further testified that the 15-cent unpublished number charge is covered by tariff Schedule Cal. P.U.C. 17-T, sheet 4. He also stated that defendant provides all telephone directories within the 213 area to its subscribers in the area upon request.

### Discussion

Complainant has failed entirely to carry the burden of proof in support of his allegations. He admits he came unprepared to the hearing, and at the hearing only reiterated his previous allegations.

The directory assistance recording, which is a very brief message exhorting the subscriber to check his telephone directory for a telephone number and is followed by the information operator who then assists the caller with the number desired, was specifically approved by the Commission in D.88232 of A.55492. The 15-cent unpublished number charge was approved in D.83488 dated September 24, 1974 (mimeo. page 5). The California Supreme Court indicated its approval of this Commission decision by denying a Writ of Review on April 24, 1975, in S.F. No. 23236. The special bill, or advance toll billing as referred to by the complainant, is authorized by tariff Schedule Cal. P.U.C. 36-T, Rule No. 9.A.5. Since we find no evidence to support complainant's allegations, we must deny him relief.

### Findings of Fact

1. Complainant stipulated to a dismissal of all issues contained in paragraphs 4.a, 5, 6, 7, 8, and those contained in the paragraph entitled "HISTORY" of his complaint.
2. Complainant failed to show that defendant violated any statute, law, rule, or order of the Commission.
3. Defendant complied with all applicable tariff provisions.
4. Defendant's evidence concerning the sequence of events in connection with complainant's telephone service is undisputed.

### Conclusion of Law

The complainant has failed to prove a violation of any law, tariff, or order of the Commission by the defendant; therefore, the complainant's request for relief 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 thirty days  
after the date hereof.

Dated at San Francisco, California, this 8<sup>th</sup>  
day of AUGUST, 1978.

Robert Bateman  
President

Veronica L. Johnson  
Charles D. Smith

Commissioners

Commissioner William Symons, Jr., being  
necessarily absent, did not participate  
in the disposition of this proceeding.

Commissioner Claire T. Dedrick, being  
necessarily absent, did not participate  
in the disposition of this proceeding.