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Decision No. 90257 MAY 3 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Catherine Lyons,)
 Complainant,)
 vs)
 Pacific Telephone Co.,)
 Defendant.)

Case No. 10735
(Filed April 19, 1979)

Catherine Lyons, for herself, complainant.
James S. Hamasaki, Attorney at Law, for
 defendant.
Ellen S. Levine, Attorney at Law, for the
 Commission Staff.

O P I N I O N

The facts are not in dispute. Complainant lives on the second deck of an old auto ferry grounded at Gate 6, Waldo Point Harbor, 3 miles north of Sausalito, in Marin County. The vessel is on the mud flats a few feet from shore. Access is by a 12-foot-long plank at high tide. One can step ashore from the lowest deck at low tide. The second deck is the boat or promenade deck located under the fore and aft wheel houses.

The complaint was filed on April 19, 1979 and includes an emergency request for telephone service. It alleges that complainant is 8½ months pregnant and requires a telephone in the event of an emergency and as a convenience to summon medical aid. It further alleges that the prior tenant had continuous phone service, and complainant had no notice that service would be refused. The prior

tenant's telephone is still on the premises and is connected to the telephone pole next to the ferry. It is further alleged that complainant applied for telephone service on February 26, 1979 and was advised a deposit was required (\$25), which she paid. Testimony at the hearing revealed that the deposit was returned to her on April 25, 1979, with 15 cents interest. The complaint alleges that complainant waited three days and then telephoned defendant's office where she was advised she could not have service due to the unsafe condition of the premises. An informal complaint was filed with the Public Utilities Commission on March 30, 1979 and formal action was initiated on April 18, 1979.

A hearing was held on April 27, 1979 in San Francisco before Administrative Law Judge Fraser. Evidence was presented by complainant, defendant, and the Commission staff. The matter was submitted after final argument on the date of hearing.

Complainant testified to the facts related in the complaint. She also advised that she has lived on and off the ferry (ISSAQUAH) for at least three and a half years and five years in the vicinity without being advised that the premises or the area was too dangerous to allow installation of telephone service. She noted that the last telephone service on the ferry was installed on October 27, 1978 (confirmed by defendant) for the previous tenant. She further testified that the ferry is isolated and if an emergency occurred there may be no one near to call. Having a telephone will provide a margin of safety and eliminate the need to walk to neighbors for help. Complainant noted that the neighborhood is still receiving gas, electricity, water, and garbage service in spite of an earlier effort to shut it off.

Defendant's installer supervisor testified that he visited the ferry while checking on premises where telephones were to be installed. The telephone pole next to the ferry was erected by local residents. He stated the pole is draped by several wires which are directly connected to the Pacific Gas and Electric Company (PG&E) power line, some of which bypass the meter. There are several signs nailed to the pole and it stands in the midst of various types of debris, in violation of Commission General Order No. 95 (G.O. 95). The telephone wires on the pole registered a live charge of 100 volts, which is in violation of Bell Telephone system safety directives. There is also a wire from the pole which extends over the top of the ferry, without a meter, a fuse panel, or insulators. On one occasion, the witness had one leg penetrate the lower deck while walking; he was not injured, but has since kept off the lower deck. The witness advised that the installer would have to climb the pole to reconnect the service and then would check the telephone instrument to certify that the line was working.

A letter dated April 19, 1979 from a union local president to the district manager of defendant was placed in evidence. The letter lists a series of safety violations observed by the writer during a tour of the area and warns that union members have been advised not to work there. The letter further noted that if defendant does not cooperate, a complaint alleging a violation of safety procedures may be filed under the California Occupational Safety and Health Act.

A Marin County marina inspector testified there are many violations of various safety codes in the area, and there have been efforts to force the occupants to vacate. Some of these proceedings

are still pending before the courts. He confirmed and substantiated the testimony of the prior witness. Defendant's district supervisor testified that he made the final decision not to provide the telephone service. He further testified that he has been advised by the people who lease the area (and separately by their attorneys) that those who reside in the area are trespassers, not tenants, and defendant's representatives are therefore denied permission to enter or cross the premises for the purpose of providing telephone service. An undated memo from defendant's safety advisor to the witness was placed in evidence which remarked on the lack of safety in the area and the presence of foreign current in the telephone lines, which was noted as an extra hazard to employees.

A staff electrical engineer testified that he inspected the ferry on April 26, 1979. He found no G.O. 95 violations on the ferry. He found several violations on the pole next to the ferry and other unsafe conditions which are not regulated by this Commission. He confirmed that it would be unsafe to work in the terminal box with live telephone lines, unless the leads were grounded, which would require an electrician. The manager of the Commission's Consumer Affairs Branch testified there had been an agreement that complainant would have service, but a supervisor who was to make the installation was supposedly prevented by a court order which was shown or referred to by one of the lessees. The staff made inquiries and discovered that no one knew of such a court order.

Discussion

Complainant should have telephone service as requested. A contrary finding would endanger her health and the life of her unborn child. She and others have lived on the ferry for a number

of years without injury and with telephone service. We can safely infer that under the circumstances, an active man (utility employee) can successfully negotiate the hazards without undue risk. The evidence shows that denial of telephone service to the complainant is unjustified and discriminatory.

Findings of Fact

1. Complainant is 8½ months pregnant and has requested telephone service so medical aid can be obtained if needed.
2. Service has been refused because complainant's home and the area where she lives have been declared unsafe.
3. Complainant prefers to live where she is and may not be able to move for physical or financial reasons.
4. A deprivation of telephone service may endanger her health or the life of her unborn child and would unreasonably constitute discrimination in the furnishing of public utility service.
5. It can be assumed that the lessees will not interfere with defendant's efforts to provide service.

Conclusions of Law

1. The relief requested should be granted.
2. This emergency situation requires that relief be provided without delay. This decision will therefore be signed without being listed on the Commission's Public Agenda for consideration during a regularly scheduled conference and should be effective on the date of signature.

O R D E R

IT IS ORDERED that The Pacific Telephone and Telegraph Company shall provide Catherine Lyons with telephone service at the ferry ISSAQUAH within two days of the date hereof and shall notify this Commission in writing within five days of the installation of said service.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 3rd day of MAY, 1979.

John E. Bayne
President
Deborah L. Sturgeon
Robert D. Gould
Wine J. DeBriek

Commissioners

Commissioner Leonard M. Grimes, Jr.
being necessarily absent, did not
participate.