

Decision No. 90786 SEP 12 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Jeffrey Springfield, dba
Springfield Sound,
Complainant,
vs.
Pacific Telephone Company,
Defendant.

(ECP)
Case No. 10729
(Filed March 27, 1979)

O P I N I O N

Jeffrey Springfield, complainant, is the sole proprietor of a retail store in San Anselmo which sells high fidelity components and certain other electronic products. The Pacific Telephone and Telegraph Company, defendant, furnishes telephone service to complainant at that location.

The case was heard under the expedited complaint procedure before Administrative Law Judge Meaney in San Francisco on June 25, 1979 and submitted on that date subject to defendant's filing a letter containing information relative to complainant's payments for yellow page advertising. The letter was received on June 29, 1979.

Complainant seeks reimbursement of \$750 for loss of business due to problems with telephone service at his store. The evidence shows that complainant contacted defendant numerous times from June 5, 1978 to May 10, 1979 concerning cross-talk on the line, a dead phone, and failure to ring (the person calling his store would hear the ring as he listened, but there would be no actual ring at the store). The first two problems were occasional, but the failure to ring happened frequently and was the source of much of complainant's requests for repairs.

Some time before the trouble began, complainant's landlord had made some repairs and had apparently rewired the phone line to move it out of the way. (There is no evidence that complainant ever tampered with the lines.) Defendant's personnel rewired the lines but the trouble persisted until complainant's number was changed to a different exchange.

There is much evidence on what defendant's repairmen did at complainant's premises to try to locate any problems, but we need not review it in detail because we believe the circumstances demonstrate that the troubles complainant was experiencing were traceable to some central office switching difficulty. The problems terminated when complainant's service was moved to another exchange.

We may not award complainant damages for loss of business or mental anguish because we have no jurisdiction to do so. (Mak v Pacific Tel. & Tel. Co. (1971) 72 CPUC 735; Horwitz v Pacific Tel. & Tel. Co. (1971) 72 CPUC 505; Sonnenfeld v General Tel. Co. (1971) 72 CPUC 419; cf. Waters v Pacific Tel. & Tel. Co. (1974) 12 Cal 3d 1, 114 Cal Rptr 753.) We may award reparations based upon what complainant has paid defendant or owes defendant for services.

Defendant has already reimbursed complainant \$46.76 (five months of single business phone exchange service at \$8.95 a month plus tax). Complainant asserted at the hearing that he should not be charged for the installation of the new number. At the time defendant switched him to the new number, complainant also converted to key system. Defendant waived that part of the charge relating to changing complainant's number to another exchange.

We believe that the failure to ring through resulted in service unreliability from June 1978 to May of 1979 of sufficient seriousness that complainant is entitled to an adjustment of an additional five months of his basic exchange service, including tax

(\$46.76) plus an adjustment in the form of a refund of the amount he spent for his yellow page advertisement for the 1978 Marin County telephone book (\$46.10). This book runs from April to April and therefore roughly spans the same time as the period of trouble. Since many calls were apparently "lost" through failure to ring through, complainant realized little, if any, benefit for his advertisement for this period.

O R D E R

IT IS ORDERED that defendant shall refund to complainant, by adjustment to complainant's bill, the sum of \$92.86.

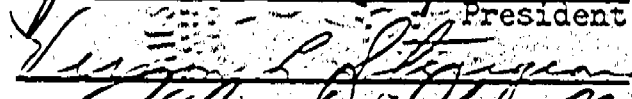
This proceeding is closed.

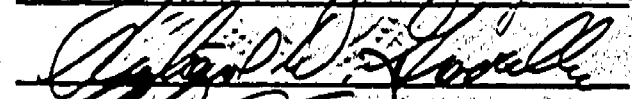
The effective date of this order shall be thirty days after the date hereof.


Dated SEP 12 1979, at San Francisco, California.

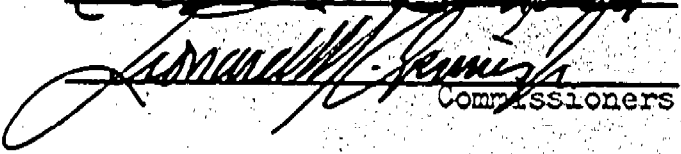


President









Commissioners