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Decision No. 90934 OCT 23 1979**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Peter W. Delahoussaye,  
Complainant,

vs.

Pacific Telephone and Telegraph  
Company,

Defendant.

Case No. 10705  
(Filed December 21, 1978)Peter W. Delahoussaye, for himself,  
complainant.  
Norah S. Freitas, Attorney at Law, for  
defendant.O P I N I O N

The complaint alleges that during February 1978, complainant was living in a mobile home on a 5-acre lot, while building his house; it further alleges he was forced to accept telephone service through a wire extended along a 275-foot trench dug by complainant down the center of his lot, from his mobile home to defendant's terminal on Acacia Lane, which parallels the west boundary of his land. It alleges that complainant requested service from a nearby line of telephone poles and was refused. Defendant advised complainant that he was required to accept underground service according to Schedule Cal. P.U.C. No. 36-T, Rule No. 16, I.C.2 (Exhibit 14). The complaint interprets this rule as being effective only where "an easement acceptable to the utility is not obtainable without charge or condemnation," (16, I.C.2.b), which does not apply on complainant's property. The complainant thereupon prays that defendant be ordered to provide complainant with overhead service without charge under the terms of Schedule Cal. P.U.C. No. 36-T.

Defendant's answer was filed on January 26, 1979. It confirms that complainant applied for telephone service in February 1978, to be extended to a mobile home located on Acacia Lane in Vacaville. It alleges that complainant first requested overhead service on July 14, 1978 and confirms that a telephone was installed on December 13, 1978. It further alleged that complainant was advised of four alternative methods of obtaining telephone service and selected the least expensive.

A public hearing was held on April 2, 1979 in San Francisco, before Administrative Law Judge Fraser. Evidence was presented by both parties and the matter was submitted.

Defendant's tariff provides that:

- "1. Aerial service connection facilities from aerial distribution facilities are furnished at the utility's expense." (Exhibit 12, Schedule Cal. P.U.C. No. 36-T, 3rd. Revised Sheet 61-A, Rule No. 16, I.B.1).

Complainant interprets this section as authorization to receive free telephone service from the overhead line near his home. He also claims 1,300 feet of free wire from defendant under the latter's Schedule Cal. P.U.C. No. 23-T, 5th Revised Sheet 3, "Charges for Line Extension and Service Connection Facilities in Suburban Areas," Section 2.1 (Exhibit 13), which reads:

- "1. Free Footage Allowance per Applicant:  
The Utility will construct, without charge, under this schedule: 1,000 feet of line extension facilities, 300 feet of service connection facilities."

Complainant also quoted Rule 16, I.C.2.b.(1)(a) Exhibit 14 as follows:

- "(1) Where all requirements will be for residential service:
  - (a) The Utility will provide the trench or undergrounding supporting structure at its expense. ..."

Complainant relies on this section as a basis for his claim that he should be reimbursed (by defendant) for the expense of excavating a ditch to hold defendant's service wire. Complainant testified that he is living in a mobile home while he builds his house. He applied

for service from nearby telephone poles and was informed he would have to accept service from a wire laid in a trench which traverses the center of a large lot behind his house. He argues that the trench may prevent him from farming the land; if the wire breaks or malfunctions, defendant's employees would trace the wire and excavate; this may cause serious damage, especially if a truck or other equipment is moved over the land. Complainant also expressed concern about the type of soil on his lot. He is concerned that it may cave in or collapse if required to support a trench for an extended period. Complainant testified that defendant provided three other alternatives:

- (1) Overhead service would be provided if complainant paid \$722 in additional costs.
- (2) Service could extend from a cable laid along Heinz Lane, which parallels complainant's north boundary, at a cost of \$1,110, which was allegedly to pay for a terminal to be attached to the cable to accept complainant's service wire. This would be acceptable to complainant if the installation was made without charge; the wire to be laid along the driveway and not interfere with the use of the premises.
- (3) The last alternative is also acceptable if installed without charge. It requires a line from defendant's pedestal at the intersection of Heinz and Acacia Lanes (at complainant's northwest boundary) to extend under Heinz Lane and along complainant's north boundary, then parallel to the eastern boundary to complainant's home. Defendant will charge \$600 for this alternate to extend the wire under Heinz Lane.

Complainant argues that under defendant's tariff sections previously quoted, he should be entitled to underground or overhead service without charge.

A field representative from the telephone company testified that:

- (1) Complainant was first contacted on February 24 and 28, 1978 to discuss service and view the premises.
- (2) The area is served by an underground cable on Acacia Lane (which parallels the western boundary

of the premises), and the witness suggested that complainant provide an 18-inch trench across his property for defendant's wire, which would extend from a pedestal on Acacia Lane at the southwest corner of complainant's property.

- (3) Complainant called on March 1 to request service from Heinz Lane, which marks his north boundary.
- (4) He was advised that the cable on Heinz Lane is buried and has no facilities to accept a service wire.
- (5) He was further advised that a pedestal might be provided if the lot across the street was occupied.
- (6) Complainant called again on June 7 to mention that someone was moving in across the street.
- (7) The sale was never made and on July 14, complainant inquired for the first time about overhead service.
- (8) It was recommended that he accept service from the pedestal on Acacia Lane and he thereupon requested permission to see defendant's tariffs.
- (9) A letter was mailed on August 18, 1978 (Exhibit 3) which briefly referred to the Acacia and Heinz alternates; an engineer's sketch and cost estimate was delivered (Exhibit 2), on September 18 and another letter on October 27, 1978 (Exhibit 9), which described and illustrated all four alternates.
- (10) Complainant had filed an informal complaint with the Public Utilities Commission, probably in August, which prompted further conferences, interviews, and telephone calls; and
- (11) service was finally provided on December 13, 1978 from the pedestal on Acacia Lane.

The witness testified as follows on tariff interpretation: Complainant's lot is next to an underground cable which was designed to serve it along with other lots in the area. The overhead line is 760 feet away and to extend it to complainant would be a duplication of the service provided from the underground cable, which is already

there; it would also increase the cost of serving the complainant and thereby be a burden on other customers; complainant's argument that aerial service should be furnished at the utility's expense (Exhibit 12) is not applicable here since defendant's service in the area is underground. Defendant has reviewed its work on the computation of cost to provide complainant with overhead service and is in agreement that 300 feet of wire should be extended without cost as claimed by complainant under Schedule Cal. P.U.C. No. 23-T (Exhibit 13). This will reduce the charge imposed for overhead service (Alternate (1) from \$722 to \$432; complainant is not entitled to "1,000 feet of line extension" without charge because he is requesting it on overhead service, and the utility has elected to service the area with an underground extension located next to complainant's property (Exhibit 13); the \$600 to be collected on Alternate 3 (service from Heinz and Acacia) is defendant's cost to excavate a ditch across Heinz Lane, lay the wire, and fill the ditch. Defendant's tariff requires that this sum be collected from the customer.

"Where an applicant requests a route or type of construction which is feasible but differs from that determined by the utility, he will be required to pay the estimated additional costs involved." (Schedule Cal. P.U.C. No. 36-T, Rule No. 16, I.A.2. Exhibit 11).

The tariff rule just quoted also applies to Alternate 2, which would cost complainant \$1,110 for a new terminal on Heinz Lane. This is a feasible method, but it differs from the underground facility defendant chose to provide. Complainant requests that defendant be required to pay for the trench on his land as a "common portion" which defendant can enter without an easement (Schedule Cal. P.U.C. No. 36-T, Rule 16, I.C.2, Exhibit 14). This interpretation is in error in view of Schedule Cal. P.U.C. No. 36-T, Rule No. 16, I.C.2.a.(1), Exhibit 10, which defines a "common portion" as a connection intended to serve two

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or more buildings on the same property. The rule quoted (Exhibit 10) also requires customers to pay for the excavation of a trench on their property. Exhibit 1 is a drawing of complainant's premises with the four alternates sketched thereon. Exhibits 4 through 8, inclusive, list a series of definitions drawn from defendant's tariff schedules.

Findings of Fact

1. Complainant's telephone is connected to defendant's underground cable by a 275-foot trench, which extends across his property.

2. Complainant favors an overhead connection or an approach parallel to his driveway, thereby eliminating the ditch.

3. Defendant has offered this service at additional cost, which complainant has not agreed to pay.

4. Customers who request a type of service which is feasible, but different from the norm provided by the utility, must pay any extra cost involved. ✓

Conclusions of Law

1. Defendant utility has authority to determine the method of providing service and how it will be extended to individual connections so long as its practices are not discriminatory.

2. Defendant provided service to complainant pursuant to provision of the filed tariffs and its application of the tariffs has not been shown to be discriminatory or unreasonable.

O R D E R

IT IS ORDERED that the relief requested in the complaint is denied.

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

Dated OCT 23 1979, at San Francisco, California.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

John E. Boyan  
President

Robert D. Lovell

Harold J. DeSantis

Richard J. [Signature]  
Commissioners