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Decision No. 91025 NOV 20 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MICHELLE MACLEOD, dba MICHE I,
Complainant,

vs.

GENERAL TELEPHONE COMPANY OF
CALIFORNIA, a corporation,
Defendant.

Case No. 10684
(Filed October 30, 1978)

Michelle MacLeod, for herself,
complainant.
Allyson B. Davidson, Attorney
at Law, for defendant.

O P I N I O N

In her complaint, complainant, among other things, alleges she has had faulty telephone service for the last three years and that defendant charged her for telephone calls she had not made; provided her with a multi-party line instead of the private business line she ordered and paid for; failed to furnish listings of toll and message unit call details for two and one-half years out of the three-year period; that defendant's problems with its equipment have resulted in her business telephone service being permanently disconnected and her account turned over to a Santa Monica credit agency for collection.

Complainant requests that the action of the Santa Monica credit agency against her be stopped until this complaint is decided and seeks an order requiring that

defendant restore her business telephone service and number; provide her with the requested listings of call details; credit her account for each disclaimed call; reimburse her for each 24 hours she has not had use of business telephone service; provide her with listings of call details (i.e., primarily the name of the subscriber at the number called) until such time as she can see that all of the calls listed are consistently calls made by her; put her telephone service in proper working order; and reimburse her for all of the calls she made to the Commission.

Defendant admits that (1) complainant's delinquent business service account was turned over to a Santa Monica credit agency for collection; (2) it provided complainant with listings on her telephone service for the six-month period preceding her first request therefor; (3) complainant requested additional retroactive listings beyond the immediately preceding six-month period, which listings defendant was unable to provide; and (4) adjustments without further investigation in the amount of \$124.42 have been made through December 29, 1978 for calls that complainant disclaimed having made. In all other respects, complainant's allegations are denied. In November 1978 defendant instructed the Santa Monica Credit Bureau to suspend any collection efforts on the complainant's delinquent account until this complaint is resolved by the Commission.

A hearing was held in Los Angeles on July 2, 1979 before Administrative Law Judge Main pursuant to Section 1702 of the Public Utilities Code, and after receiving certain late-filed exhibits, the matter was submitted July 19, 1979 upon the filing of the transcript.

Complainant testified for herself. Defendant's service representative supervisor, its service results analyst, and its Santa Monica Division facilities manager testified on its behalf.

Complainant's Evidence

Complainant's testimony indicated that:

1. Complainant has had both residential telephone service and business telephone service at her present address. Her residential telephone service commenced about nine years ago. Her business telephone service (451-4147) was installed August 22, 1975. Upon the latter installation her telephone service became faulty.

2. Typical problems with her telephone service are:

"I dial the phone number and I do not get a ring through. I will dial again and get nothing. I will dial again and get a dial tone."

3. Complainant is convinced that on some occasions her telephone was out of order for 24 hours or longer.

"Anytime on the bill there is not a listing for that particular day, that phone was out of service for 24 hours or more. I use my phone constantly."

4. Complainant concluded her business telephone was not one-party service because:

"...there are other people on my line, other conversations are going on at the same time, either in the background or...I'm talking to my party and two other people are on the phone carrying on a conversation."

5. On April 14, 1978 complainant's business service was temporarily disconnected for nonpayment of \$422.10.

6.a. Starting in 1975 after her business telephone was installed, complainant on several occasions received listings for calls made. However, complainant did not receive them regularly as she had requested.

b. At some point, presumably shortly after her business service was temporarily disconnected, complainant requested listings for all message-unit and toll calls made on her business telephone since it was installed in August 1975. Defendant only furnished call detail listings for the most recent six-month (November 1977-April 1978) period.

7. Complainant is receiving call detail listings for her residential service. She has been disclaiming about one-third of the calls and receiving credits therefor on her telephone bills. She attributes the problem of being billed for numbers she claims she did not call to equipment failures, but has not kept her own list of calls made. Instead she has insisted on defendant's providing the listings.

"I will not, I don't have time to...go through my phone bills every month unless I get these listings with people's names on them."

8. With respect to her business telephone service complainant was not aware of the disputed bill provision printed on her bill nor did she recall any of defendant's people informing her that payment of a disputed bill could be made to the Commission pending resolution of the dispute.

9. Complainant did not attempt to have her business phone reconnected because of the poor quality of service.

Defendant's Evidence

Testimony presented on behalf of defendant indicated that:

1. According to defendant's service results analyst, from September 1976 through June 1979 there were 29 instances in which trouble on complainant's residential telephone service was reported and investigated. The investigations undertaken in response to trouble reports were appropriate to the type of trouble reported and encompassed, as required, inspections of

the central office equipment processing complainant's calls, pertinent outside plant, and the premise installation. In virtually all instances the equipment was found to be working properly. That was also the outcome of six special investigations, undertaken because the customer reported continuing problems, which were initiated to expand the scope of the investigation to look for the unusual and inspect thoroughly all aspects of her service. In the service results analyst's opinion, complainant's trouble history was not unusual for the number of calls she was making.

"...we can't guarantee the phone will work 100 percent every time. You are going to run into equipment failure of some sort along the way, depending on all trunks busy, depending on your calling, the time of day, because of peak traffic loads and just equipment malfunctions."

2. Defendant's trouble history record on complainant's business telephone service disclosed four reported cases of trouble and three special inspections. In all instances the equipment was found to be working satisfactorily.

3. There is no indication in defendant's records on complainant's telephone service, either for business or residence service, that there was a service interruption of 24 hours or more in duration.

4. In response to complainant's question "...doesn't it seem strange to you that these problems are continuing in my phone, after all this work that you have been doing since 1975...?", defendant's facilities manager testified:

"...it amazes me that you have as many problems as you say you are having after the work that has been done. ...I have never yet seen a customer that we have put as much effort into and not been able to resolve the problem in total. And

again I'll state that you will have problems at one time or another; I do not expect that you would be able to...make two or three hundred calls without running into a problem of some sort."

5. According to defendant's service representative supervisor, copies of customers' bills are retained for six months and then are destroyed. Similarly, listings for calls made are retained for six months and then destroyed.

6. In the late spring of 1978 defendant furnished complainant with listings for the previous six-month period, approximately November 1977-April 1978, for both her business and residential services. After complainant's business service was disconnected in April 1978, she continued to receive listings for her residential telephone service. Although furnishing such listings was a departure from defendant's normal procedures, it was done each time "to assist Mrs. MacLeod in trying to resolve her billing problem and trying to help her identify the calls that were in question on her bills."

7. Complainant disclaimed certain calls on the listings and pending investigation, received credits therefor up to October 7, 1978 in the amount of \$124.42. Although listings continued to be sent, defendant did not hear from complainant regarding any disclaimed calls.

8. Defendant attempted investigations of those disclaimed calls.

"However, most of the listings were to business and it was very difficult for us to really identify any type of calling pattern."

9.a. In early June 1979 defendant's representatives hand-carried to complainant listings for the October 1978 through May 1979 period, which defendant indicated she had not received.

Complainant disclaimed certain calls thereon, and an investigation was undertaken by defendant.

b. According to the results of that investigation, as shown in Exhibit 2, there was recognition by complainant of ten of the telephone numbers she disclaimed and to which 32 calls had been placed during the October 1978-May 1979 period.

c. Some of the other disclaimed calls could not be verified because they were businesses, because the numbers had been changed, or because defendant was unable to contact the party called.

d. An investigation of this type is unusual. It occurs only when a customer continually disclaims calls.

e. There was no opportunity to confer with complainant on results of this investigation before the hearing.

Complainant's Rebuttal Evidence

At the hearing complainant did not dispute the results on six of the ten disclaimed telephone numbers listed on Exhibit 2 and accounting for 28 of 32 calls involved. She indicated that she had been unable to determine that either she or her daughter knew someone at those numbers from the listings she had been furnished but was able to do so from the additional information contained in Exhibit 2.

Through late-filed Exhibit 4 complainant reported she was able to contact someone at three of the four remaining disclaimed numbers. In each instance the outcome was that she was not known at that number. Although repeated attempts were made, she was unable to get through to the fourth disclaimed number. She remains convinced she is not known at that number.

In addition, complainant called Mrs. Maurice Chapman, who, according to defendant's service representative supervisor, knew complainant under the name of Mary Frances MacCleod.

Mrs. Chapman told complainant that "she told the telephone company representative there was some mix-up, that she only knew a Mary Frances Cloud of Hawthorne, not a Michelle MacCleod of Santa Monica."

Discussion

It is clear that complainant is a heavy telephone user who is very demanding and finds unacceptable the quality of service General and, to whatever extent involved, the integrated telephone network renders to her. It is equally clear that that is the quality of service available.

Unquestionably, recent rapid growth in California is putting severe pressure on the telephone system's ability to meet service performance standards as specified in General Order No. 133. However, even absent such extraordinary growth, telephone service neither would be, nor could be, completely trouble-free as evidenced by the performance standards themselves.

For interruptions in exchange telephone service of 24 hours or more not due to conduct of the customer, defendant's tariff Rule 26 provides for a credit adjustment. The evidence does not support any such adjustment for either complainant's residential or business service.

We turn now to complainant's contention that she is being billed for calls she has not made. The evidence does not substantiate complainant's claim that the disclaimed calls were not made from her telephone. The numerous service investigations made by defendant disclosed no equipment problems which would have caused multi-message unit or toll calls not dialed from complainant's telephone to be billed to her. The investigation undertaken to contact the called numbers that were disclaimed to determine if the called parties recognize the customer at the billed number yielded mixed results. Such investigations

are difficult at best and as a matter of policy seldom resorted to. In that regard, in its answer to the complaint, defendant admitted that adjustments, without further investigation, in the amount of \$124.42 have been made to complainant's telephone bills for calls which complainant disclaimed having made. It is regrettable that complainant, while contending she is billed for calls she has not made, refuses to keep a record or log of the calls made from her telephone. Instead she expects to be able to routinely receive the listings, which are not a tariff offering or a part of her service, and to reject or disclaim each listing she does not recognize weeks or months after the date of that call.

With respect to complainant's contention that defendant's problems with its equipment have resulted in her business service being permanently disconnected and her account turned over to a Santa Monica credit agency for collection, a number of observations are in order. Complainant's theory here presumably is that malfunctions of defendant's equipment caused her to be billed for calls she did not make. This led to her refusal to pay the telephone bills, which in turn led to her service being disconnected and her delinquent account being turned over to a collection agency.

Her complaint in this regard was not only untimely, but she was unable to prove her contention has any validity. It seems incredulous to us that complainant, with her interest in telephone service and her ability to bring the attention of defendant's management to her problems, was unaware of the disputed bill provision printed on her telephone bills.

Findings of Fact

1. Neither complainant's business telephone service nor her residential telephone service has been shown to have been sufficiently deficient to warrant any adjustment pursuant to Rule 26 of defendant's tariffs.

2. The disclaimed telephone calls have not been shown to have been made from other than complainant's telephone.

3. Complainant's business telephone service was discontinued for nonpayment of bills.

Conclusion of Law

The Commission concludes complainant is not entitled to relief.

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 NOV 20 1979, at San Francisco, California.

Commissioner Richard D. Gravelle, being necessarily absent, did not participate in the disposition of this proceeding.

John E. Bayon
President

Vernon L. Stinger

Alvin T. ...

Lawrence J. ...
Commissioners