

ALJ/nb

ORIGINAL

Decision No. 92506 DEC 16 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
DORIS LACY,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Case No. 10832
(Filed February 6, 1980)

O P I N I O N

The complaint includes three causes of action. The first cause is a rambling censure of this Commission with allegations that: (1) the Commission has failed to appoint an attorney to represent the people of California; has failed to provide the public with adequate information on Commission procedure; has failed to provide an adequate Consumer Affairs staff; accepts information received from The Pacific Telephone and Telegraph Company as correct; and has made it almost impossible for litigants to prove damages of \$75 or less; (2) requiring 14 copies of complaints and that complaints be typed ~~are~~ unreasonable; (3) complainants are not informed of discovery rights and procedures; and (4) hearings before the Commission cannot be fair or impartial, since the Commission represents both the utilities and their customers. Finally, it is alleged that the Commission has failed to inform the public of the latter's right to connect customer-provided equipment, as well as recent rulings of interest to the public, such as the award of attorney fees, reparation rights, etc.

The second cause of action concerns an allegation that defendant has harassed complainant because the latter had her own privately owned instruments connected to defendant's telephone line.

It is alleged that complainant requested an unlisted telephone number. Shortly thereafter, during a telephone conversation on October 29, 1979, defendant's employee demanded the registration numbers of the extra telephone sets on complainant's line. Complainant thereupon challenged the right of defendant to have this information and requested the telephone company rules and regulations on this procedure. These were mailed, at least in part, on November 1, 1979. Complainant alleges that she advised defendant's representative during her telephone conversation that she was going to be on vacation and would contact the telephone company when she returned.

She returned from her vacation in December 1979 and discovered that her telephone service had been disconnected. She also found a letter in her mailbox dated November 12, 1979, advising that her telephone service would be suspended if she failed to either remove her private telephones from the line, or provide defendant with the registration numbers on the extra instruments. Complainant alleges that she was not advised that her phone might be disconnected in October and therefore received no notice, since she was on vacation during November. Complainant further alleges that her telephone service was suspended without notice to her or due process of law, and that it constituted part of an effort by the defendant to harass and annoy her.

The third cause of action argues that complainant's telephone service was disconnected for nonpayment after all money due had been received by defendant. Complainant alleges that a \$40 money order was purchased and mailed to defendant on January 5, 1980, along with a letter which requested an adjustment on her telephone bill. Her telephone service was disconnected on January 7, 1980. On January 10, 1980, she called the Commission and was advised that her telephone was disconnected because of nonpayment. Complainant alleges that she mailed another \$60.77 cashier's check to

defendant and requested an adjustment on the bill. Complainant alleges that she contacted defendant's office again on January 21, 1980 to advise that her telephone was still disconnected although \$100 had been paid. Complainant further alleges that a telephone company employee called her back on January 21, 1980 to advise that the \$40 had been received but was not credited to the correct telephone number; also, that the best way to get her telephone service back was to abandon her complaint and purchase her extra instruments from the telephone company. Complainant alleges that she refused to cooperate and her telephone was disconnected completely on January 21, 1980. From January 7 through January 21 people could call her, but she could not call others. After January 21 the service was completely cut off and no one could call in or out.

Complainant prays for punitive damages, an injunction against future disconnection without due process, reparation of charges, reimbursement for all her costs, a \$500 attorney fee, and that the Public Utilities Commission investigate all claims and advise the public of their rights regarding customer-owned equipment.

The answer was filed on March 13, 1980. It alleges that complainant's telephone service was disconnected on October 16, 1979 for nonpayment. Complainant paid all charges on October 23, 1979 and service was reestablished with a new unlisted number as requested. Defendant's representatives routinely tested the new service to determine if it was working properly and detected extra telephone sets on the line. A supervisor called complainant on October 29, 1979 to advise that extra instruments had been identified on her telephone line and to request that identification numbers be provided. Complainant first denied having the extra sets and then challenged defendant's right to obtain the information requested. Complainant did not mention that she would be on vacation, or away from her office.

A letter dated November 1, 1979 was mailed to complainant, with the tariff sheets that require registration numbers on privately

owned sets to be furnished the telephone company. A second letter was mailed to complainant on November 12, 1979. Both letters requested that the registration numbers be provided and both had enclosures warning that service could be discontinued for failure to provide the information. Defendant's representatives tried to contact complainant at home and work during the first three weeks in November, without success and complainant's office did not indicate that she was on vacation or out of town. Complainant's telephone service was temporarily suspended on November 30, 1979, after complainant failed to answer or to take any action. The discontinuance was authorized by Schedule Cal. P.U.C. 135-T, First Revised Sheet 7-A, which has since been revised.

The answer denies and alleges as follows regarding the third cause of action. Complainant called defendant's local office on December 4, 1979 and was advised that her service had been suspended due to her failure to provide the requested information. Complainant agreed to provide the registration numbers on her private sets, and her service was restored on December 4, the date of her call. Complainant sent another letter dated December 10, 1979 to challenge her November bill and advise that she could not find the registration numbers. Complainant requested that defendant send someone to record the numbers either before 8:15 a.m. or after 5:15 p.m. Defendant's district manager called complainant on December 21, 1979 and explained how she could find the registration numbers. He requested that the local office be notified by January 4 and advised that providing the information was complainant's responsibility. Defendant's manager sent a letter to complainant on the date of the telephone conversation which included the information provided over the telephone.

The answer further alleges that defendant discovered an error in complainant's billing during November amounting to a \$17 credit. This amount was credited to complainant's December bill. On December 28, 1979 defendant mailed a denial notice to complainant

informing her that her service would be disconnected if she did not pay her December bill in the amount of \$60.77. No payment was received in the time specified and complainant's service was partially suspended on January 7, 1980. She could receive incoming calls but could not make outgoing calls.

The answer alleges that complainant mailed a \$40 money order which was received on January 10, 1980. No payment card was included and the telephone number was not on the money order. Defendant's cashier was unable to obtain complainant's unlisted number. The correct number was later obtained by a supervisor. Complainant alleged that a letter was enclosed with the money order. Defendant denies receiving the letter. Complainant wrote to the Commission on January 7, 1980 to ask how to file a formal complaint against defendant. Complainant also wrote to defendant on January 8, 1980 enclosing a check for \$60.77, the entire December bill. The letter was mailed on January 10 and was not seen by the addressee (defendant's Merced service manager) until January 16, 1980. The service manager called complainant on January 21, 1980 and advised that sufficient money was on deposit to justify reinstalling complainant's service, if he was authorized to apply the deposit to the required \$13 restoral charge and a \$25 security deposit. It is alleged that complainant refused to authorize the application of her overpayment towards a deposit and restoral charge and also did not provide the registration numbers on the telephone sets or agree to disconnect them. Her service was, therefore, disconnected on January 22, 1980. Defendant mailed a check for \$25.77 to complainant on January 28, 1980, which was the credit balance in the account. Defendant restored complainant's service on January 29, 1980 without requiring a deposit or payment of a restoral fee. Defendant stated that it is willing to give complainant a credit of \$3.18 for time out of service and to visit her to obtain the numbers on her extra telephone sets.

The Commission mailed a letter to complainant on April 16, 1980 to advise that the Commission cannot award damages, costs or attorney fees, and to further advise that any hearing scheduled would be in San Francisco. Complainant replied on April 20, 1980 and insisted that the hearing be in Merced. Defendant wrote a letter on July 9, 1980, which advised that defendant is willing to reimburse complainant for time out of service, to obtain the registration numbers on complainant's extra telephones at a time convenient to both parties, and to refrain from billing for the extension lines. Defendant's letter suggests that the matter be dismissed on the understanding that defendant will provide all of the relief that complainant would be likely to obtain if a hearing was held. The amount in controversy is approximately \$60 and complainant's service has been restored.

While this matter was pending on the public agenda, the Commission directed the Division of Administrative Law Judges to write to complainant asking what relief, in addition to that specified in defendant's letter of July 9, 1980, complainant would expect to obtain if a hearing were held. A letter dated November 26, 1980, was, accordingly, sent to complainant asking the question indicated and requesting that complainant be specific in replying to defendant's

letter of July 9, 1980. In her reply letter of December 10, 1980, complainant continues her demand for a hearing but does not state what relief she expects a hearing would provide beyond that offered by defendant and ordered below. Under the circumstances a hearing would serve no purpose.

Complainant's first cause of action only requires a brief response. It is a list of complaints without legal citation or basis in fact. Legislative and Commission action would be required to make the changes favored by complainant, who has not presented any alternates to the present system.

Finally, complainant petitions for attorney fees, regular damages, punitive damages, and a restraining order. Section 453(b) of the Public Utilities Code is quoted as a basis for the award of attorney fees. This section concerns an action based on prejudice due to race, religion, or creed, which is not pleaded in this proceeding. The section provides that a civil suit must be brought for the award of attorney fees. It is not applicable to this situation. The Commission also does not award damages or costs (Schumacher v PT&T Co. (1965) 64 CPUC 295). This is an inappropriate case for the issuance of a cease and desist order. The facts alleged in support of such relief are too vague and general and the relief requested over broad.

Findings of Fact

1. Complainant's telephone service was disconnected on October 16, 1979 for nonpayment of charges.
2. Service was installed on October 23, 1979 after payment was received and an unlisted number was provided, as requested by complainant.
3. When the new service was tested extra instruments were detected on the line.
4. Defendant requested the serial numbers on the extra telephone instruments and complainant advised she could not find the registration or serial numbers on her telephones.
5. Complainant left on vacation without formally advising defendant, and after sending two written notices, the latter suspended her telephone service on November 30, 1979 for failure to provide the extra serial numbers.
6. Complainant called defendant on December 4, 1979 and agreed to provide the serial numbers on the extra instruments. Her service was restored on December 4, the date of her call.
7. Complainant's service was suspended on January 7, 1980 for failure to pay her December telephone bill. She could receive calls but could not call others.
8. Complainant provided a partial payment on January 10, 1980, which was not credited due to a failure to include her unlisted telephone number.
9. Complainant mailed another money order as payment in full on January 10, 1980 which was not received by the addressee until January 16, when she received credit for the payments.
10. Complainant refused to authorize defendant's service manager to apply a portion of the deposit to restoral and security charges.
11. Complainant also refused to supply the serial numbers on her extra telephone instruments.

12. Complainant's telephone service was disconnected completely (no in or out calls) on January 22, 1980.

13. Defendant restored complainant's service on January 29, 1980.

14. Defendant mailed a check for \$25.77 to complainant on January 28, 1980, which was the credit balance in complainant's account.

15. Defendant will reimburse complainant for time out of service, will obtain the telephone registration numbers at a time convenient to both parties, and will not bill complainant for the extension lines.

16. A public hearing would serve no purpose in this proceeding.

Conclusions of Law

1. Complainant's telephone service was disconnected due to a failure to pay charges due and to furnish registration numbers on extra telephone instruments on defendant's telephone line.

2. Defendant has not illegally disconnected complainant's telephone service and has not denied complainant due process of law.

3. Defendant has not discriminated against or harassed complainant and there has been no falsification of records, or confiscation of complainant's payments for telephone service.

O R D E R

IT IS ORDERED that:

1. Defendant shall reimburse complainant for time out of service, shall obtain the registration numbers on complainant's extra telephones at a time convenient to both parties, and shall not bill complainant for the extension lines.

2. All other relief requested in the complaint is denied.

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

Dated DEC 16 1980, at San Francisco, California.

John E. Byron
President

Richard A. Howell
Clair T. DeLoach

Commissioners

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

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