

ORIGINAL

Decision No. 93044 MAY 19 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MICHAEL DAVID SCOTT,
Complainant,

vs.

PACIFIC TELEPHONE CO.,
Defendant.

(ECP)
Case No. 10944
(Filed January 30, 1981)

Michael David Scott, for himself, complainant.
Charles F. Berlenbach, for defendant.

OPINION AND ORDER

Complainant Michael David Scott seeks an order requiring defendant, The Pacific Telephone and Telegraph Company, to immediately restore his business telephone service, to make a credit adjustment to his account of \$300, and to pay him \$5,000 for damages.

This matter was heard in accordance with the Expedited Complaint Procedure on April 2, 1981 in Los Angeles by Administrative Law Judge N. R. Johnson pursuant to Rule 13.2 of the Commission's Rules of Practice and Procedure, and the matter was submitted. Testimony was presented on behalf of complainant by himself and on behalf of defendant by one of its managers, Dolores Wood.

The evidence shows that:

1. Commencing about August 1979, complainant did not receive his telephone bills. Defendant assured him that duplicate bills would be sent but in spite of numerous telephone reminders, it was January 1980 before complainant actually received his bill statement.

2. Defendant states that the correctly addressed bills were returned by the U.S. Post Office, but it is unable to explain the basis for such action by the post office. In reply, complainant states that the individual in charge of the post office boxes indicated that the post office might have inadvertently and mistakenly returned one bill to sender, but certainly not five or six.

3. The balance outstanding on complainant's account at that time was \$932.21, including a delinquent balance of \$837.75. Because of the magnitude of the balance, a three-month payback period was agreed upon by complainant and defendant. This was superseded by a subsequent four-month payback period.

4. As of September 29, 1980 the balance outstanding on account 273-3500 was \$349.38 and the unpaid charges for a former account, 652-6512, was \$62.22. Complainant was notified on that date that unless full payment of the total of these two balances of \$411.60 was received by defendant by October 14, 1980, complainant's service would be subject to disconnection. Defendant further states complainant was advised at that time that if service was then disconnected, he would have to pay an additional restoral charge of \$17 and make a deposit to establish credit of \$40.

5. Service was temporarily disconnected on October 15, 1980 and permanently disconnected on October 24, 1980. The number is still available to complainant upon payment of the above-detailed charges.

6. Complainant was out of service for 11 days in March 1980 and 10 days in May 1980. Defendant made appropriate billing adjustments to complainant's account.

7. Complainant was informed that he could obtain call forwarding if he relocated his office from Beverly Hills to Burbank.

8. Complainant ordered call forwarding and such an arrangement was reflected in his account billing and verified by his answering service. After receiving such verification, he moved his office to Burbank only to discover that the central office for 273 numbers was not then equipped to provide call forwarding.

9. Alternate arrangements to provide call forwarding, such as foreign exchange service, would cost complainant approximately \$100 a month.

10. To reoccupy his original office, complainant would have had to pay \$800 a month rent as contrasted to the \$450 a month he paid when he moved out of his office.

11. Complainant simultaneously had accounts with two answering services, neither of which were receiving his incoming calls due to improper installation.

12. Complainant was finally able to rent a desk in a travel agency. However, the loss of business caused by his telephone being out of service for 21 days, coupled with his moving and relocation costs, imposed a financial burden he was unable to overcome and forced him to temporarily close his limousine service.

13. Defendant adjusted complainant's account a total of \$166.77 consisting of one month's exchange service charge for the telephone being out of service, as previously stated, plus two installation charges incurred in the moves related to relocation of complainant's office.

Discussion

The initial problem resulting from complainant's not receiving his telephone bills appears to have originated at the U.S. Post Office. No explanation why the bills were returned to defendant by the post office was offered at the hearing, nor is there sufficient evidence upon which to make a determination of the cause. It would appear that both complainant and defendant took reasonable measures to resolve the problem but, in spite of such efforts, it took approximately five months before complainant again began receiving his bills.

It is obvious from the record in this matter that not only was complainant out of service for 21 days in early 1980, but he was given erroneous information about the availability of call-forwarding service that resulted in unnecessary expense and aggravation to him. It is equally obvious that defendant attempted to mitigate these adverse circumstances by adjustments to complainant's account to the extent provided in its tariffs. The amount requested by defendant to reestablish complainant's telephone service is \$428.48 consisting of a balance due of \$319.26 for account 273-3500, a balance due of \$62.22 for former account 652-6512, a reconnection charge of \$17, and a deposit to establish credit of \$40. Such amounts are correctly computed in accordance with defendant's tariffs.

However, this \$428.48 amount appears to be several times complainant's average bill and might pose a difficult burden for complainant to meet. On the other hand, complainant has twice failed to meet scheduled time payments designed to reduce the past-due balance to zero over a three- or four-month period. A similar repayment plan imposed at this time might be equally difficult for complainant to meet. Therefore, to ease complainant's burden somewhat and still ensure defendant's receipt of the full amount, the order that follows will provide for the restoration of service upon the receipt of the amount outstanding for account 273-3500 of \$319.26 and a payment of \$10 a month until the remaining \$109.22 is paid in full.

With respect to complainant's request for an award of \$5,000 for damages, this Commission has consistently held that the awarding of legal damages as such is outside the jurisdiction of this Commission (Vila v Tahoe Southside & Water Utility (1965) 233 CA 2d 469, 479).

IT IS ORDERED that:

1. The relief requested is denied.
2. Upon receipt of \$319.26 from complainant for the outstanding balance on account 273-3500, defendant shall restore telephone service at that number for complainant.

3. After the establishment of service as provided in Ordering Paragraph 2, defendant shall bill and complainant shall pay \$10 a month in addition to the current bill for ten months and an additional amount of \$9.22 for the eleventh month, for a total of \$109.22, so that by that time the total current outstanding balance of complainant's accounts of \$428.48 is paid in full.

This order becomes effective 30 days from today.

Dated MAY 19 1981 at San Francisco, California.

John E. Guyon
President

William D. ...

Thomas ...
Victor ...

Prudence C. Green
Commissioners