

ORIGINAL

Decision 93258 JUL 7 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Andrew T. Barnes
Eleanor Barnes,

Complainants,

vs.

Pacific Telephone and
Telegraph Company,

Defendant.

(ECP)
Case 10961
(Filed February 27, 1981)

Andrew T. Barnes and Eleanor Barnes, for themselves, complainants.
Dee Henderson, for The Pacific Telephone and Telegraph Company, defendant.

O P I N I O N

This case was conducted under the Commission's Expedited Complaint Procedure, Rule 13.1 of the Rules of Practice and Procedure. Hearing was held before Administrative Law Judge (ALJ) Macario on May 7, 1981 in San Francisco.

Mrs. Barnes testified that she became concerned with the high telephone bills they received in February 1980. As a result she started calling The Pacific Telephone and Telegraph Company (Pacific) repair department. The only response from the repair department was that possibly the atmosphere was moist which was resulting in cable problems. She stated that later in March 1980 she sent a complete bill as well as a check for \$107.61 to the Public Utilities Commission, Los Angeles office. There is no record in our Fiscal Office that this check was ever received by the Commission, and it is unclear how it got to Pacific. Eventually she discovered that Pacific had cashed that check and credited it to Mr. and Mrs. Barnes' (complainants) account. Mrs. Barnes further testified that

she paid a total of \$258.90 to Pacific on February 11, 1981 for service through February 2, 1981 (Exhibit 1). Mrs. Barnes also introduced Exhibit 2, a copy of a portion of a September 10, 1980 toll bill. Mrs. Barnes referred to the second call listed on Exhibit 2, which is noted to be a conference call placed July 31, 1980, for a duration of 14 minutes, with a charge of \$16.50. She testified that she had wanted person-to-person service on that call and did not receive it and that therefore no payment is due for that call.

Mary L. Poyntier, a Pacific business office supervisor, next took the stand. She introduced Exhibit 3 which is a copy of complainants' March 2, 1980 bill that they mailed to Pacific. In May 1980, Mrs. Barnes and Poyntier reviewed complainants' billing records. Poyntier also introduced Exhibits 4 and 5 which are copies of portions of complainants' June 10, August 2 and 10, 1980 billing details. Complainants met again with Poyntier several times during October and December 1980. On December 10, 1980 they reviewed each call on billings for the months of April through November for telephone number 664-8352 and for the months of April through September 13, for telephone number 778-7378 (the latter number was disconnected at the customer's request on September 13, 1980).

In these meetings it appears that the principal concern expressed by complainants was that a number of calls did not show the time of day at which the calls were placed. It was explained by Poyntier that these calls were operator-handled calls with the call information logged on a mark-sense ticket and that in such cases the time of day of the call was not normally placed on the customer bill. Poyntier introduced Exhibit 6 which is an operator record of a conference

call that took place on July 31, 1980. The exhibit shows a conference duration of 14 minutes and a charge of \$16.50. In order to explain the billing to complainants, Poyntier subsequently obtained the backup mark-sense tickets for the calls, which did not show the time of day at which they were placed. Since complainants had filed their formal complaint on February 27, 1981 she withheld further contacts with them.

On March 10, 1981, with \$556.20 unpaid balance, telephone number 664-8352 was permanently disconnected. Telephone number 778-7378 previously disconnected at customer request has a current balance due of \$96.16.

Pacific's witness James Roman is based in Sacramento and is responsible for a number of electronic switching service (ESS) central offices including the number 1 ESS in Petaluma and the number 2 ESS in Cotati, each of which served one of complainants' telephone lines. Roman introduced Exhibit 7 which shows the results of an equipment test. The test showed an unbalanced line condition on 664-8352 and a defective pair was changed out to correct this defect. In all other respects the central office equipment tested satisfactorily.

Summary and Conclusion

The fact that Pacific cashed complainants' check, dated March 30, 1980, made payable to the Commission, was an improper act. However, had evidence been produced to show that money was not due Pacific, we would have been empowered to order the return of that amount to complainants. No such evidence appeared.

The evidence presented provides no basis for adjustment in the billings to complainants. Complainants presented no probative evidence to substantiate inaccurate billings. In fact, it is difficult to determine the basis for the complainants, other than the fact that Pacific cashed complainants' check which was made payable to the Commission. The only specific call questioned was the conference

call. Complainants asserted that Mrs. Barnes requested a person-to-person call; Pacific's evidence shows that it was, in fact, a conference call. No relief should be accorded.

The complaint also asks for compensation for trips to town to Petaluma and to the City of San Francisco as well, because of injustices complainants suffered from Pacific. It is clear we have no authority to make awards for damages. Damages of this nature may be sought in civil court.

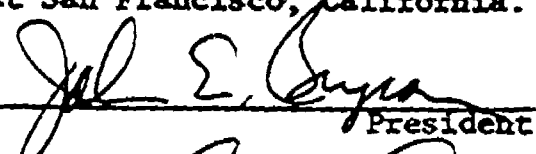
The complaint should be denied.

O R D E R


IT IS ORDERED that this complaint is denied.

This order becomes effective 30 days from today.

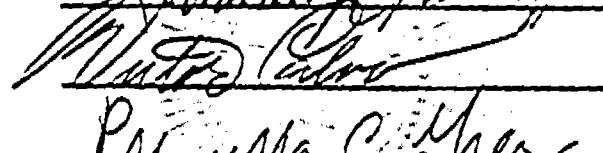
Dated JUL 7 1981, at San Francisco, California.



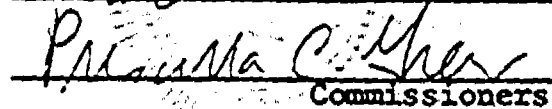
President



Leonard J. Pan



Walter Cabre



Patricia C. Chen
Commissioners

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