

ORIGINAL

Decision 93310 JUL 22 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PETER M. BANNON, )  
 Complainant, )  
 vs. )  
 PACIFIC TELEPHONE AND )  
 TELEGRAPH CO., )  
 Defendant. )

(ECP)  
 Case 10943  
 (Filed January 28, 1981)

Stephen D. Tulanian, Attorney at Law, and  
 Peter M. Bannon, for complainant.  
Marion J. Stanton, Attorney at Law, and  
 L. R. Brunley, for The Pacific Telephone  
 and Telegraph Company, defendant.

O P I N I O N

The complaint of Peter M. Bannon (Bannon) seeks an order of this Commission "not to be billed for services not received or to be harassed" by The Pacific Telephone and Telegraph Company (Pacific). From the attachments to the complaint, it appears that Bannon is asserting various kinds of telephone service problems and, in particular, complains of being charged for one-minute toll calls. Bannon's attorney Mr. Tulanian, at hearing on March 27, stated that the relief sought was that Pacific be directed not to bill Bannon for calls of one minute duration or less.

Initial hearing in this matter was held on March 27, 1981, before Administrative Law Judge (ALJ) Ermet Macario. During the noon recess, the parties agreed to settle the dispute. The matter was submitted with the understanding that Bannon would file a request

with the Commission seeking withdrawal of his complaint. In addition, the submission to the Commission would specify the agreed disposition of the \$460.64 deposited by Bannon with the Commission.

The ALJ subsequently was informed that agreement could not be reached by the parties. Accordingly, on April 23, 1981, the ALJ set aside submission of the matter and scheduled further hearing for May 11, 1981, in San Francisco. In addition, the ALJ's ruling changed the procedure to the Expedited Complaint Procedure, as provided for in Rule 13.2 of the Commission's Rules of Practice and Procedure. Further hearing was held on May 11, and the matter was submitted subject to receipt of Pacific's late-filed Exhibit 3 on May 21, 1981.

Bannon testified that his telephone service was installed at its present location in Suisun sometime in 1978. He stated that he is in the transportation business. His telephone service is used to communicate with the shipping public throughout the area and with four major transcontinental carriers.

Bannon testified that he has experienced telephone problems since 1978 on his outgoing calls, including inability to have the call go through, nothing on the line, cut-off during conversation, have to re-dial, and unable to hear the other party. He stated that there would sometimes be two or three entries in sequence on his telephone bill representing calls to the same number. He estimated that 99% of his calls are from three to five minutes duration and sometimes as long as 15 to 20 minutes.

Bannon testified that in 1979 a representative from Pacific told him he would not have to pay for one-minute calls with the result that from 1979 until early 1980 he was not charged for his one-minute calls. Early in 1980 someone from Pacific's

office said that he could no longer deduct the one-minute phone calls from his bill. After Pacific told Bannon that he could no longer deduct one-minute toll calls from his bill, a meeting was held with several Pacific representatives. At that meeting Pacific suggested that Bannon keep a log of unsatisfactory calls. Bannon's conclusion was that he did not have time to do that; he was just too busy.

In cross-examination Bannon complained that he frequently called the operator to tell her that his conversation had been cut off, to ask the operator to place the call again, and to give him credit for the call which was cut off. Bannon again stated that his bills frequently showed several one-minute phone calls in sequence to the same number. In further cross, Bannon stated he deducted from his bills all one-minute telephone calls not just those which were followed by another call to the same number. Bannon stated that all one-minute toll calls shown on Exhibit 2, his February 1981, telephone bill, were underlined and payment withheld, but admitted that many of the calls so marked were probably correctly billed. Bannon had no opinion on what proportion of the one-minute toll calls in Exhibit 2 were unsatisfactory calls.

Mrs. Bannon took the stand and read a number of entries in a trouble log that was kept in their office for a portion of the month of April 1981. At the request of the ALJ, Pacific agreed to review Mrs. Bannon's trouble log and analyze and explain the difficulties shown there, if possible. Late-filed Exhibit 3 was reserved for this purpose.

Exhibit 3 was filed by Pacific on May 21, 1981. Pacific's analysis shows a total of 15 trouble reports noted in the Bannon log and recorded by Pacific. Pacific's report indicates that many of the logged troubles were not reported to Pacific (or at least Pacific was unable to find any record of the trouble reports). Of the 15 trouble

reports, Pacific was unable to locate a trouble cause in 10 cases but did find and correct a trouble in five cases (most involved a defective dial). Three of the 15 reports involved calls to "800" number and thus could not have resulted in a charge to Bannon.

Of the remainder, it is possible, but not likely, that each could have resulted in a charge to Bannon.

Pacific's witness, Mrs. Delois A. Casassa, marketing office supervisor in Napa, presented Exhibit 4 which is an update of Exhibit A attached to Pacific's answer dated March 5, 1981. The exhibit shows that for the period September 1979 through March 1981, Pacific made adjustments to Bannon's billing in the amount of \$824.63. Exhibit 5 represents the chronology of events after Casassa became involved with the Bannon problem beginning July 1, 1979, through February 13, 1981. The initial event in this exhibit is a letter dated October 2, 1979, from Pacific to Bannon summarizing adjustments for the period November 1978 through June 1979, in the amount of \$165.11. Some of the more noteworthy events listed show the following:

November 1, 1979, Jim Roman, a switching manager, was called in to make various equipment tests;

November 30, 1979, Mrs. Bannon was called and advised of the results of the tests made by Jim Roman and of various dollar adjustments to the Bannon's billing;

February 6, 1980, Pacific advised Mrs. Bannon that they would no longer adjust all one-minute calls on a regular basis;

February 14, 1980, is a list of checks of outside plant;

May 27, 1980, Pacific and Mrs. Bannon agreed to have Pacific establish a live monitor in the central office to attempt to trace call troubles (live monitoring was put into effect June 9 through June 20); and

August 18, 1980, Pacific and the Bannons met to review the results of Pacific's efforts.

Exhibit 6 was testified to by Casassa. Among other things, it shows that for the period September through May the average proportion of one-minute toll calls was 24%. In June, 25% of their originating toll calls were of one minute or less duration. The monitoring test that was conducted June 9 through June 20, observed 586 calls of which 87 or 24% were of one minute or less duration. Of these 586 calls, 10 were noted as having poor transmission, this being 1.7% of the total number of calls placed. Casassa testified that Pacific had adjusted an average of 127 one-minute calls per month for the period July 1979 through March 1980. She estimated that the direct cost of service representatives writing credit vouchers for these adjustments over the nine-month period was approximately \$2,400.

Jim Roman is a Pacific switching manager responsible for certain electronic switching systems (ESS), including the Cordelia ESS which serves the Bannons. Roman introduced Exhibit 8, a routinely kept customer trouble report summary. The reports cover the period February 1980 through January 1981, and show that for the Cordelia office service area customer trouble reports were consistently below the standards required by General Order 133. Specifically, the trouble report rate ranged from 6.46 down to 3.41 per 100 telephones per month. Roman also introduced Exhibit 9 which is a trouble log form that he gave to Bannon to record call troubles he encountered. It was Roman's intention that he would then obtain the log and use the information to attempt to track down elusive troubles. It was Roman's opinion that the local central office had been thoroughly checked and was performing satisfactorily. The same is true of the local outside plant serving the Bannons since cable assignments had been changed and local equipment had been changed so

that there was no trouble in those facilities. It was Roman's opinion that whatever difficulties the Bannons were encountering are primarily in the Direct Distance Dialing network. It was his opinion that the service being provided the Bannons is not perfect but of excellent quality. He suggested the possibility that because of the very high volume of toll use by the Bannons and because of their heavy reliance on the telephone for their business, they are more sensitive than most customers to service difficulties.

Discussion

Bannon testified that he has had unsatisfactory toll service since his telephone service was established in 1978, with the result that he was billed for numerous toll calls which did not provide reasonable two-way communications.

It is generally agreed that a possible indication of a billed but unsatisfactory toll call is the appearance on Bannon's bill of a one-minute toll call followed shortly by a second billed call to the same number. The assumption is that the first call did not permit satisfactory communication, the caller hung up his receiver, re-dialed, and got a good circuit. Of course, a report to the operator should result in no billing for the first call. Exhibits 2 and 7 are complete bills for Bannon for February and March 1981, respectively. The February bill lists a total of 576 toll calls of which 135 were of one minute or less duration; in March the total was 552, with 150 one-minute calls. Inspection of these two bills shows approximately four cases of the sequence described above, i.e., a one-minute call followed by a second call to the same number. It cannot be known whether these few cases were bona fide repeat calls or re-dials after an unsatisfactory call. Exhibit 6 shows that of

all Bannon's toll calls from September 1980 through May 1981, 24% were one-minute calls. Clearly, one-minute calls are a normal part of Bannon's toll usage and not evidence of poor toll service.

With Bannon's approval Pacific monitored his calls from June 9 through 20, 1980. Ten of a total of 586 calls were rated as "poor transmission", or 98.3% satisfactory. This is well above the "dial service" reporting level of 97% and standard level of 98% specified in the Commission's General Order 133. (for telephone service).

From September 1979 through March 1981, Pacific made adjustments to Bannon's bill in the amount of \$824.63. The record is clear that Pacific had made extensive efforts to correct any possible defects in Bannon's system, including changing his cable pairs, replacing and repairing premises equipment, and testing his serving central office.

Considering the high volume of toll calls ranging from about 500 to 900 per month and the admitted less than perfect Direct Distance Dialing network, it is to be expected that occasional calls would go awry. In such incidents a call to the operator will eliminate billing for unsatisfactory calls.

Finding of Fact

1. Bannon is receiving a reasonable level of toll service.
2. It is unreasonable to order Pacific to not bill Bannon for all calls of one minute or less duration.
3. The evidence is insufficient to warrant disbursement of all or a portion of Bannon's deposit to Bannon.

Conclusions of Law

1. The complaint should be denied.
2. The total of \$460.64 deposited by Bannon with the Commission should be disbursed to Pacific.

O R D E R

IT IS ORDERED that:

1. Peter M. Bannon's deposit of \$460.64 made in connection with this complaint shall be disbursed to The Pacific Telephone and Telegraph Company.

2. The complaint is denied.

This order becomes effective 30 days from today.

Dated JUL 22 1981, at San Francisco, California.

John E. Conroy  
President  
Richard D. ...  
...  
...  
...  
Commissioners