

ORIGINAL

Decision 93425 AUG 18 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RICHARD A. BARD,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE)
 AND TELEGRAPH CO.,)
)
 Defendant.)

Case 10720
(Filed February 22, 1979)

Richard A. Bard, for himself, complainant.
Margaret deB. Brown, Attorney at Law, for
 The Pacific Telephone and Telegraph
 Company, defendant.

OPINION ON REHEARING

In this complaint, filed February 22, 1979, Richard A. Bard (complainant) requests that the Commission determine that the service provided by The Pacific Telephone and Telegraph Company (Pacific), in Mendocino County and the Ukiah area, is less than 50% effective and that defective equipment causes misrings and other problems. Complainant asks that Pacific be directed to initiate a refund of up to 50% of all revenues received from subscribers with a 462, 468, and 485 prefix. The complaint states that rates for the foregoing prefixes should be reduced by 50% until new facilities are constructed and installed and that an accelerated building plan should be instituted. Finally, the complaint states that trouble calls in the Ukiah and Santa Rosa exchanges should be handled by Pacific personnel in Ukiah rather than having the call routed through Pacific's Sacramento office.

The complaint alleges that Pacific has failed to furnish and maintain adequate central office switching gear in the Ukiah and Mendocino county areas which causes service inconveniences and poor service to subscribers with 462, 468, and 485 prefixes. It states that for over a year prior to filing this complaint, complainant was plagued with inadvertent and unnecessary misrings, wrong numbers, misdials, and other annoying interruptions. It is alleged that the inconveniences and interruptions were caused by extensive switching problems within Pacific's Ukiah central office facility. The complaint cites the following as examples of the service problems encountered:

- "1. 11/22/78 American Cancer Society person, trying 462-2971, from 462-7642, reached complainants 462-2671.
- "2. 2/2/79 a caller trying Joe's [sic] Fish Mkt. (462-2871) reached complainant - (a frequent occurrence [sic]).
- "3. Numerous other calls have been received for the Ukiah City Hall (462-2971) and the Rustic Shears Hair Stylist 462-2677, and others.
- "4. Complainant's Phone Rings, the answerer only to find a Dial tone."

It is also alleged that when persons outside the 707 area code call complainant they receive a recorded message advising that complainant's telephone has been disconnected. Finally, it is alleged that attempts to reach Pacific's repair facilities often prove futile or the call is automatically switched to Sacramento with resultant delays in repairs.

In its answer Pacific states that complainant is entitled no relief and asks that the complaint be dismissed. The answer admits that complainant was a subscriber in Ukiah beginning March 25, 1978 with assigned nonpublished number 462-2671. It states that in August 1978 complainant advised Pacific he was receiving calls intended for others. Investigation of this complaint disclosed a faulty connector in the Ukiah central office which was repaired immediately. The answer also states that complainant's number is within one digit of the number for the Ukiah City Hall (462-2971). Franks Fish Market (462-2871), and a hair stylist (462-2677). It states that misdialing of these numbers is not the fault of Pacific. It states that Pacific was unaware that complainant was occasionally receiving only a dial tone when answering his telephone or that persons outside the 707 area code were having difficulty reaching complainant.

Pacific admits that a faulty 611 (Pacific trouble number) trunk was discovered after a trouble call by complainant on December 29, 1978. It states the trunk was repaired on December 31, 1978. It states that 611 calls for Ukiah have been answered in Sacramento since 1976 and that the same repair commitments are given from Sacramento that would be given from Ukiah since repair personnel are on duty in Ukiah at all times.

For affirmative defenses, Pacific alleges that:

1. It has made every attempt to satisfy complainant and that it provides him with good service.
2. When complainant reports a problem he often refuses or fails to provide complete information making it difficult for Pacific to make a complete investigation.
3. The complaint challenges the reasonableness of Pacific tariffs and does not contain the 25 signatures required by Public Utilities (PU) Code Section 1702.
4. The request for a reduction of rates to subscribers with 462, 468, and 485 prefixes is prohibited by PU Code Section 453.

5. Complainant has not alleged nor have investigations uncovered any cases of trouble for which complainant or anyone else with a 462, 468, and 485 prefix would be entitled to relief under Pacific's applicable tariffs.
6. The request for refund of revenues collected from subscribers with a 462, 468, and 485 prefix would be illegal retroactive rate-making.
7. Complainant's problems involve misrings, toll calls, or 611 calls, none of which are covered in Tariff Rule 16 of Schedule Cal. PUC No. 36-T.

A duly noticed hearing was held July 24, 1979 at San Francisco before Administrative Law Judge (ALJ) Banks. When complainant failed to appear, Pacific moved that the complaint be dismissed for failure to prosecute. By Decision (D.) 90785 dated September 12, 1978 the matter was dismissed.

On August 12, 1980 complainant filed an application for rehearing of D.90785 alleging he did not receive notice of the July 24, 1979 hearing. By D.92227 dated September 3, 1980, D.90785 was rescinded and the matter calendared for rehearing November 3, 1980.

At the hearing November 3, 1980, complainant stated he wished to amend the complaint and have the matter rescheduled. Pacific objected stating that the matter had been dismissed once for complainant's failure to appear and that for the second time witnesses had traveled to San Francisco to deal with the allegations in the complaint. It was then agreed that each party would present their case after which complainant would determine whether he wished to amend the complaint.

Complainant testified that the complaint concerned unlisted telephone service while he resided in Ukiah. He stated that going back to the beginning of his service he was "annoyed by an incredible number of interruptions to my environs by ringing telephones for many reasons." He stated that it was his opinion that the wrong numbers and misdials were caused by mechanical failures or lack of proper operating equipment. He stated that persons outside the 707 area code reported they were unable to reach him and on several occasions encountered a recording advising that his phone was disconnected. Finally, he stated that Pacific's procedure for handling service and trouble calls was inadequate since it requires Pacific to communicate with its Sacramento office.

On cross-examination, complainant acknowledged that the particular numbers complained of were all within one digit of his assigned telephone number. He also acknowledged that Pacific suggested his telephone number be changed to correct the problem. He stated he rejected Pacific's suggestion because he did not believe it was his duty to change his number. He further stated he rejected this suggestion because he was in the process of several job searches with persons who had his unlisted number. He was also of the opinion that nothing would be accomplished with a new number.

Testifying for Pacific was Fred C. Klingbeil, Ukiah service center manager, and Lester Earl Morford, Jr., Santa Rosa district manager, switching operations.

Klingbeil testified that he had reviewed the complaint and was familiar with complainant's allegations having discussed them with him personally on several occasions. Klingbeil introduced four exhibits to show defendant's record of complainant's service. Exhibit 1 is a copy of complainant's line card for his service for the period complained of. It is a log of the trouble calls

prepared from trouble tickets. It shows the date and time a trouble call is received, the type of trouble reported, the action taken to locate and correct the trouble, and when the report is closed. The witness stated that trouble reports are now handled by computer rather than the report logs used in Exhibit 1. Exhibit 2 is a copy of the trouble tickets relating to complainant's service. Exhibit 3 is Pacific's chronological listing from April, 1978 through April, 1979 of the trouble history associated with complainant's service at number 462-2671. This exhibit shows complainant made 29 trouble reports from April 1978 to April 1979. In four instances a problem was found. The four problems discovered were: (1) on August 29, 1978 a defective switch in the central office, (2) on December 27, 1978 a defective trimline handset which was replaced, (3) on January 8, 1979 a wet house terminal due to rain, and (4) on December 31, 1979 a defective 611 trunk was found. Exhibit 4 is the log of trouble reports per 100 stations in Mendocino County for the months of April 1978 through April 1979. This exhibit shows that for this period the monthly average trouble reports per 100 stations was 6.27. The low during the complaint period was 3.93 for November 1978 and the high was 7.37 for April 1978. Klingbeil stated that this is considerably lower than the reporting service level required by General Order 133.^{1/}

Klingbeil stated that on January 8, 1979 he accompanied a repair person to complainant's residence to investigate a trouble call. At that time he suggested to complainant that his number be changed because several businesses had a number within one digit of complainant's and he believed this proximity was the cause of the many misdialings and consequent wrong numbers. He stated that the Ukiah Repair Service Bureau answers repair calls Monday through Saturday, 8:00 a.m. to 5:00 p.m.

^{1/} General Order Series 133 requires the utility to report customer trouble reports to the Commission when the reports exceed 8 per 100 stations.

and that the centralized bureau in Sacramento handles repair calls at all other hours. He also stated that Pacific covers all emergencies 24 hours per day, seven days a week. Finally, he stated that trouble reports are now handled by computer in Sacramento. In this regard he explained that when a trouble call is received in Ukiah it is relayed to the computer in Sacramento and the report is received back in Ukiah within 20 microseconds. On cross-examination Klingbeil admitted that it would be possible for defendant's employees to call complainant. He emphasized, however, that dialing complainant's number would be possible for anyone with access to a dialing instrument.

Morford testified that at the time the subject complaint was filed, 373 out of a possible 792 offices were equipped with the type of equipment used in the Ukiah office. He stated that the installation of more modern equipment would not eliminate complainant's problems since misdials are human errors. Morford introduced Exhibit 5 to show Pacific's construction activity for modernization of its Mendocino and Ukiah facilities. Items of improvement include an electronic switching system to replace the old step-by-step equipment and outside cable to provide more lines in the service area. Exhibit 6 is a list of preventive maintenance jobs completed on a regular basis.

Morford also explained how problems like complainant's are checked and reported to the Commission when required by General Order Series 133. He stated that Pacific will continue to apply preventive and corrective maintenance procedures and that based on the internal measurements that are prescribed, the Ukiah central office has been a high performance office.

At the conclusion of its presentation, Pacific stated it was prepared to submit the case unless complainant wished to adjourn and amend the complaint. Complainant stated he wished to be given the opportunity to amend the complaint. The matter was then continued with the understanding that any discovery by complainant would be communicated to Pacific's counsel 30 days in advance of any hearing date.

On January 22, 1981 complainant was advised that any amendment to the complaint must be filed by March 1, 1981 or the matter would be resolved on the existing record. On January 30, 1981 complainant forwarded interrogatories to Pacific stating he wished to incorporate Pacific's answers in his amended complaint. On February 20, 1981 Pacific advised complainant by letter that on that date it received the interrogatories mailed January 30, 1981. Pacific suggested in its February 20 letter that complainant prepare and submit a summary of the grievances as a basis for settlement discussions or as an amendment to the complaint. It was suggested that if the summary was to be an amendment to the complaint, Pacific would answer it within 30 days after which further interrogatories could be served and answered. It was determined that Pacific should answer the January 30, 1981 interrogatories after which the complaint could be amended. On February 23, 1981 complainant was advised that since his course of action depended on Pacific's answers to the interrogatories, the time to amend the complaint would be extended to April 1, 1981.

Complainant served the amended complaint dated April 26, 1981 on Pacific. In addition to restating the allegations contained in the original complaint, the amended complaint: (1) took exception to the way Pacific assigns numbers to subscribers, (2) stated that the method of assigning numbers was a deliberate, intentional, and punitive act designed to frustrate complainant for his outspoken

criticism of Pacific, and (3) cited the poor condition of a public telephone booth in Petaluma as an example of the quality of service.^{2/}

In its answer filed June 3, 1981, Pacific requested that the case be submitted without further hearing and that the relief requested be denied. It denies that the method used to assign numbers is punitive and stated that it does not and could not assign telephone numbers to protect residential subscribers from close numerical proximity to business numbers. It states that the numbers available for assignment are often severely limited making it impossible to prevent business numbers from being assigned in close proximity to residential or nonpublished numbers. With respect to the condition of the public telephone booth in Petaluma, Pacific admitted that it has some problems with the cleanliness and repair of coin telephone facilities. It states that this is because of the wide distribution, exposure, and subsequent abuse by the public. It states that once a problem with a coin facility is known, prompt action to clean and/or repair it is taken.

Discussion

This complaint covers complainant's service while he resided in Ukiah from April 1978 through April 1979. During that time complainant made some 30 trouble calls. The record shows that in each instance the trouble was investigated by Pacific immediately. On four occasions a problem was detected, investigated, and corrected. In only one instance was any switching equipment involved and it was corrected immediately. As shown in Exhibit 4, the number of trouble reports per 100 stations for the Ukiah exchange is less than the number established by this Commission to determine the quality of service. We conclude that service during the time period complained of was adequate.

^{2/} The amended complaint was filed with the ALJ and while not in compliance with the Commission's Rules of Practice and Procedure was accepted as a lawful filing.

As to the excessive number of unnecessary misrings, wrong numbers, and misdials, it appears that these problems are caused more by human error than by defective equipment. Complainant's assigned number, 462-2671, is within one digit of the number assigned the Ukiah City Hall (462-2971), Franks Fish Market (462-2871), and the Rustic Shears Hair Stylists (462-2677). Mistakes are often made in writing down, reading, remembering, and dialing telephone numbers. We believe it is reasonable to assume that many people attempting to reach these parties dialed complainant's number in error.

We do not agree with the allegation that Pacific's equipment in its Ukiah exchange is aged and ineffective causing the unnecessary misrings, misdials, and resultant wrong numbers. At the time this complaint was filed, 373 of Pacific's offices were equipped with this type of equipment. There is no evidence that such equipment is defective. Further, while new switching gear is scheduled to be installed in the Ukiah exchange, there is no assurance that the problem complained of will be eliminated since misdials and wrong numbers are primarily due to human error.

With the determination that Pacific service in its Ukiah exchange and the Mendocino area is adequate, it is not necessary to discuss other issues.

Findings of Fact

1. Complainant received service from Pacific while residing in Ukiah at nonpublished number 462-2671.
2. From April 1978 through April 1979 complainant placed some 30 trouble calls to Pacific's Ukiah business office.
3. On four occasions after complainant's trouble call, Pacific located a problem and corrected it.

4. The average number of telephone trouble reports per 100 station during the time complained of for the Ukiah exchange is less than that established by this Commission to gauge quality of service.

5. While receiving telephone service in Ukiah, complainant received calls caused by inadvertent misdialing.

6. The nonpublished number (462-2671) assigned to complainant was within one digit of the number assigned Franks Fish Market (462-2871), the Ukiah City Hall (462-2971), and the Rustic Shears Hair Stylists (462-2677).

7. Complainant's wrong number calls, misrings, and misdials were caused by human error number rather than equipment failure.

8. Pacific has plans to improve its Ukiah plant with new electronic switching equipment replacing the present step-by-step equipment.

9. Pacific provides preventive and corrective maintenance procedures for its Ukiah central office and the Mendocino area.

10. Pacific provided adequate service in its Ukiah exchange and the Mendocino area during the time complained of.

Conclusion of Law

The relief requested should be denied.

ORDER on Rehearing

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IT IS ORDERED that the relief requested in C.10720 is denied.

This order becomes effective 30 days from today.

Dated AUG 18 1981, at San Francisco, California.

John E. Byrne
President

Michael D. ...

Thomas W. ...

Alastair ...

Prudence C. ...
Commissioners