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Decision 97-03-040 March 18, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Barry M. Harman,  
Complainant,  
vs.  
Pacific Bell (U 100 C),  
Defendant.

(ECP)  
Case 96-07-008  
(Filed July 11, 1996)

**ORIGINAL**

Barry Harman, for himself, complainant.  
Adrian Tyler, for Pacific Bell, defendant.

O P I N I O N

Summary

Complainant Barry M. Harman's problems arose when he purchased a residence from Windham. Windham's telephone service remained active at the residence. Pacific Bell (Pacific) refused to terminate the service at Harman's request, since at the recorder's office Windham was shown as the owner of the residence, and Pacific could not terminate a service without the subscriber's request or cause. Harman then refused to pay some of his bills unless the Windham service was terminated, leading to the delinquent billing problems.

Harman alleges overcharges, improper operating procedures for reconnecting services, and unfair billing practices by Pacific, but fails to support the allegations with evidence.

Since complainant failed to prove that Pacific violated its tariffs or acted improperly, the complaint is denied.

Background

Complainant Harman filed this complaint under the regular complaint case procedure. He later requested that it be processed

under the Expedited Complaint Procedure, and the case was so redesignated.

Harman argues that he has paid all of his bills from Pacific in full. His problems arose due to the phone service of Windham remaining active after Harman bought the residence and moved in. Windham was the prior resident. This resulted in Harman being billed for service that was not his. Harman argues that Pacific should have disconnected that service at his request. The bills on that service have caused him to be delinquent and have his services disconnected. Harman also argues that Pacific has overbilled him for years. He requests that Pacific not restore Windham's number at his residence, not assert restoration or other charges due to its errors, cease and desist from collection efforts through January billings, correct negative credit reports, and credit his accounts with the \$1,509.49 from funds received.

Pacific answers that when Harman moved into his residence there was an existing phone service in Windham's name. Pacific refused to disconnect Windham's service at Harman's request, since Windham was listed as the owner of the property at the recorder's office. Windham, not Harman, was held responsible for the bills on that service.

Pacific further states that in attempting to have his service restored, Harman did not follow the necessary procedures. He twice sent cashier's checks to local offices without instructions for new service. In the first instance, the check was returned to him. The second time it was forwarded to the business office, and when Harman called that office to request new service, the check was applied to restore his services. Pacific maintains that complainant has inappropriately impounded \$1,543.07 at the Commission for alleged overbillings on six of his accounts, and that this amount is properly due Pacific for those overdue accounts.

Hearing

A duly noticed evidentiary hearing was held in Los Angeles on October 28, 1996. Harman presented his declaration and testimony, and the declaration of K.M. Rose, who did not appear. Rose's declaration states that in trying to assist Harman in restoring his phone services, Pacific gave her private and unsolicited information regarding his bills and payments.

Pacific presented the testimony of senior paralegal Pat Moser and customer service representative Nancy Formiller. Moser testified that Harman's problem arose because he refused to pay his bills while Windham's service remained active. Pacific could not terminate Windham's service without cause or his consent. The service was finally terminated when Pacific was unable to contact Windham about nonpayment of his bills. Harman was not held responsible for Windham's bills, although the bills may have been sent to Harman's address when Pacific had no other address for Windham.

Formiller also testified that Harman told her that he did not pay his bills due to the Windham service remaining active. Regarding Harman's claim that Pacific owed him substantial refunds ordered by the Commission, and that those refunds would have reduced his charges, those refunds were issued on relevant accounts pursuant to a Commission decision limiting late-payment charges and ordering refunds for past overcharges. These refunds amounted to only a few dollars per account.

Harman was told of the amount necessary to restore his services, and ultimately deposited an amount in excess of that amount, with the excess to be applied to his various accounts at Pacific's discretion. Regarding the need for Harman to call the proper Pacific business office in order to restore service, Formiller explained that the customer must indicate what type of services are needed, and be aware of the charges related to them.

With as many services as Harman had, it is particularly important to insure each service is what he desires according to Formiller.

Discussion

Harman makes many accusations, but presents no evidence for us to weigh in considering their validity. First, there is no evidence that Harman was held responsible for Windham's bills. That service could not be terminated without cause, since the actual ownership of the Harman's residence remains in dispute and is being litigated in court. Pacific acted on the available evidence at the recorder's office showing that the owner was Windham. With this documentation, Pacific properly refused to terminate Windham's service at Harman's request.

Harman questions Pacific's operating procedures regarding restoring his services. He thinks they should accept a check at any office and restore service, but as Pacific points out, the customer must call the business office to indicate exactly the type of service he requests. A check with no attached information would likely lead to further misunderstandings and problems. A customer cannot reasonably expect to decide on his own to deliver checks to any office, without explanation, and have service restored exactly as he wishes, without any personal contact. We dismiss his arguments that Pacific's operations in this area are inappropriate. Even Harman acknowledges that his services are complex.

Similarly, Harman argues that paying his bills, net 10 days, should be accepted. Here too, the customer cannot expect a company serving many customers to make special exceptions for him. To do so would violate Pacific's tariffs which provide conditions for payment of bills and termination of service.

Harman is upset that Pacific may have given information on his accounts without asking for his password to insure that Harman is who he says he is. Pacific may have erred in this, but it is unclear whether this happened before or after he secured a password. In any event, no apparent harm resulted. However, Pacific

should insure that confidentiality be protected for those customers with passwords.

Harman expresses concern that service for his minor children living with his ex-wife was not restored when his other services were restored, even though a court order requires him to provide that service. Formiller responds that Harman never mentioned that service in discussing restoring his services with her.

Harman's allegations of overcharges are unsupported by any evidence in the record. He also argues that Pacific should not have disconnected his services since he has paid all his bills for the past 15 years. Lacking any substantiation of tariff violations, we must deny this request.

Harman also requests that Pacific not restore Windham's service; we agree that under the present circumstances Windham's service should not be restored at Harman's residence.

Harman also asks that Pacific waive all reconnection charges due to its errors, but fails to substantiate the alleged errors with any evidence. We will not order Pacific to waive these charges.

Finally, Harman asks that Pacific cease collection efforts and clear any negative credit record resulting from his service problems. We will not order Pacific to do this. This is a matter between the parties, and Harman has not shown that Pacific has violated its tariffs.

We conclude that Harman's problems with Pacific are primarily the result of his refusing to pay bills for his own services and not because the Windham service was not disconnected at his request. In restoring service, Harman expected Pacific to tailor its operations to meet his own expectations.

Harman has not proven any of his allegations, and has not shown that Pacific has operated in violation of its tariffs. For that reason, we will deny the complaint.

As Pacific notes, Harman has deposited sums at the Commission in this matter. The amount currently on deposit from January 30, 1996 through November 26, 1996 totals \$2,012.18.<sup>1</sup> We will order that amount to be disbursed to Pacific.

Since this case is designated as an Expedited Complaint Procedure, no separate Findings of Fact or Conclusions of Law are stated.

O R D E R

1. The complaint of Barry Harman is denied.
2. The amount of \$2,012.18 deposited by complainant at the Commission shall be disbursed to Pacific Bell by the Fiscal Office.
3. This proceeding is closed.

This order is effective 30 days from today.

Dated March 18, 1997, Francisco, California.

P. GREGORY CONLON  
President  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
RICHARD A. BILAS  
Commissioners

<sup>1</sup> An increase from the \$1,543.07 noted previously.