

Decision 97-06-025 June 11, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Wallace B. Roberts,

Complainant,

vs.

Pacific Bell Company, a corporation,

Defendant.

Case 96-08-002
(Filed August 1, 1996)

ORIGINAL

O P I N I O N

Background

On August 1, 1996, Wallace B. Roberts filed this complaint against Pacific Bell alleging that Pacific Bell had, on behalf of Operator Assistance Network, billed him for a call from Michigan in the amount of \$3.29. Mr. Roberts disavowed the call. In his efforts to have the charge removed from his bill, Mr. Roberts discovered that in order for Pacific Bell to remove the charge, it would be required by its tariffs to provide Mr. Roberts' billing address to the carrier, Operator Assistance Network. Although Pacific Bell removed the charge from Mr. Roberts' bill, he sought to go forward with this complaint to obtain an order of the Commission forbidding Pacific Bell from supplying his billing address, residence address, or service address to anyone, absent his express approval.¹

On October 29, 1996, Pacific Bell filed a motion to dismiss the complaint stating that the Commission lacked subject matter jurisdiction over the complaint, that Pacific

¹ Mr. Roberts also sought two other forms of relief that were subsequently withdrawn at oral argument.

Bell had not violated any Commission law, rule, or order, and the complaint was frivolous and an abuse of process.

On March 7, 1997, oral argument on the motion to dismiss was held before the assigned Administrative Law Judge.

Discussion

The Commission regards the protection of customer privacy to be an important requirement for all providers of telecommunications service in California. (See, e.g., AT&T Communications of California, D. 96-04-058, mimeo. at 8; Rulemaking on the Commission's Own Motion to Establish a Simplified Registration Process for Non-Dominant Telecommunications Firms, D.96-09-098, mimeo. at 11 and Rule 15.) The California State Legislature has also passed laws recognizing customers' right to privacy and restricting the availability of customer information. (Public Utilities (PU) Code §§ 2891 et. seq.)

Given our current configuration of local exchange companies and interexchange carriers, however, the provision of some customer information among telecommunications firms that are cooperating to provide service to the customer is essential to fostering a competitive telecommunications market. In recognition of this fact, the Legislature exempted "information transmitted between telephone or telegraph corporations pursuant to the furnishing of telephone service . . ." (PU Code § 2891(d)(8).) In sum, the Legislature concluded that customers' privacy interests must give way to the business needs of the interacting telecommunications industry.

The provision of telephone service includes information necessary to bill the customer. Here, the customer disavowed responsibility for the disputed call through Pacific Bell, the billing intermediary. The firm that believed that Mr. Roberts was responsible for the call, Operator Assistance Network, when presented with his refusal to pay for such call by Pacific Bell, would have no means of billing Mr. Roberts directly absent Pacific Bell providing his billing address. Because telephone service may be provided under circumstances that preclude the provider from obtaining billing information prior to providing the service, e.g., pay phones and "dial-around" services,

the provider must have access to the local exchange company's billing information or the provider will be left without recourse for all disputed calls. Thus, while Mr. Roberts convincingly states that he did not place the call in question, the Legislature has effectively determined that Operator Assistance Network is entitled to an opportunity to seek payment from him.

Based on the above analysis, Pacific Bell's motion to dismiss this complaint should be granted because Pacific Bell has not violated any Commission law, order, or policy.

Conclusions of Law

1. PU Code § 2891 exempts the provision of information among telephone companies for the purpose of furnishing telephone service from the restriction on availability of information.
2. The provision of telephone service necessarily includes information needed to bill for the call.
3. Pacific Bell violated no Commission law, order, or policy regarding customer privacy when it provided Mr. Roberts' billing information to Operator Assistance Network.
4. Pacific Bell's motion to dismiss should be granted.

O R D E R

Therefore, **IT IS ORDERED** that Case 96-08-002 is dismissed and the docket closed.

This order becomes effective 30 days from today.

Dated June 11, 1997, at San Francisco, California.

P. GREGORY CONLON
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners