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JUN 11 1997

Decision 97-06-048 June 11, 1997

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Richard Beagle,

Complainant,

vs.

Pacific Bell (U 1001 C),

Defendant.

(ECP)  
Case 97-04-042  
(Filed April 16, 1997)

**ORIGINAL**

Richard Beagle, for himself, complainant.  
Douglas Phason, for Pacific Bell, defendant.

**OPINION**

Complainant seeks reconnection of his telephone and refund of more than \$3,000 in 900 calls, already paid, plus adjustment of other charges. Defendant asserts that complainant's telephone was disconnected because of an unpaid telephone bill of \$583.80, and that refund for 900 calls is barred by the statute of limitations. Public hearing was held May 12, 1997.

Complainant testified that his telephone was disconnected on March 17, 1997 for nonpayment of \$583.80, of which he claims approximately \$505 had been paid in full. Complainant says that at most he owes \$91 and he deposited \$46 plus a coupon worth \$45 with the Commission. Complainant referred to a number of charges on his telephone bills which he believed were erroneous charges. In regard to the 900 calls, complainant said that they were all incurred prior to 1994.

Defendant testified that each charge complainant claimed was erroneous was investigated by defendant and credit was given. In the past due bill of \$583.80, there

are no charges for 900 or 976 numbers and there are no charges for items which complainant claims relief.

Our review of the evidence, which in this case is substantial, shows that complainant has not been charged for 900 and 976 numbers in the \$583.80 past due bill. The statute of limitations bars pre-1994 claims. Defendant had sent complainant a disconnect notice in early January 1997 threatening disconnect if \$126.46 was not paid. At that time complainant had made no payments since July 1996 and complainant owed approximately \$505. Complainant, in January 1997, paid \$126.46 by check with the notation "endorsement acknowledges payment in full." Defendant endorsed and cashed the check.

The relief requested by complainant is denied. Not only is the notation on a check "paid in full" insufficient to satisfy an obligation (Civil Code § 1526; Johnson v. PT&T (1969) 69 CPUC 290) but complainant incurred telephone charges after January 1997 which were not paid. The claim for a refund of pre-1994 charges is barred by the three-year statute of limitations (Public Utilities Code §§ 735 and 736). Complainant is responsible for the payment of all charges applicable to his service. Complainant failed to show any improper charge for which he was not given credit.

#### O R D E R

IT IS ORDERED that:

1. The relief requested in the complaint is denied.
2. All money on deposit with the Commission in this docket shall be returned to complainant.

3. This docket is closed.

This order is effective 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