

Decision 98-06-010 June 4, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Reba Edwards,

Complainant,

vs.

Pacific Bell,

Defendant.

(ECP)

Case 97-08-060

(Filed August 25, 1997)

ORIGINAL

Reba Edwards, for herself, complainant.

Douglas Phason, for Pacific Bell, defendant.

O P I N I O N

Background

On August 25, 1997, Reba Edwards (complainant) filed this complaint against Pacific Bell alleging that Pacific Bell was providing inadequate service and that its employees had exhibited a pattern of disrespectful and harassing behavior. Ms. Edwards sought an end to the alleged harassment, restoration of service, and a refund of the cost of her yellow pages advertising (\$4,000).

On September 30, 1997, Pacific Bell filed its answer to the complaint in which it essentially denied the allegations and raised seven affirmative defenses, including the Commission's lack of jurisdiction over yellow pages advertising and the Commission's lack of authority to award damages.

On October 21, 1997, the assigned Administrative Law Judge (ALJ) issued a ruling finding that the Commission lacked jurisdiction over yellow pages

advertising and lacks authority to award damages. Accordingly, the ruling held that complainant's request for a refund of those charges as a remedy was beyond the authority of the Commission. The ruling also found that the Commission had ample authority to order reparations, that is, refunds of the utility charge for service which was a viable remedy for the complainant. The ruling also found that this complaint would be heard under the Commission's expedited complaint process.

In accord with an earlier ruling, the assigned ALJ held an evidentiary hearing in this expedited complaint on November 6, 1997. Both parties attended and presented evidence which was summarized in a November 10, 1997 ALJ ruling. At the conclusion of the hearing, the complainant accepted Pacific Bell's offer to have a third-party review the equipment and service. Despite an agreement to cooperate, the parties were unable to locate a willing vendor that met the required standards. Pacific Bell did have its internal security department review the Pacific Bell's records regarding the allegations in the complaint and it found no support for the allegations.

On February 18, 1998, complainant sent a letter to the ALJ in which she alleged that Pacific Bell had not met the requirements of the October 21 and November 10, 1997 rulings, and the "Pacific Bell has had my [complainant's] home broken into and replaced the original documents with a different version of the ruling." Complainant sought further hearings.

On March 23, 1998, Pacific Bell responded that "we have taken reasonable measures to remedy your [complainant's] service complaints. Therefore, we strongly oppose any further hearing in this matter."

Summary of Testimony Presented

Ms. Edwards' Complaint

Ms. Edwards presented evidence that customers calling her place of business, a hair salon, often could not complete the calls. The customers received a ringing signal but no answer, despite their repeated calls during normal business hours. Several of these customers felt it necessary to drive to Ms. Edwards' shop to make an appointment. Ms. Edwards contended that due to the difficulty in reaching her by telephone, she believes that she has lost customers.

Ms. Edwards stated that these problems have been longstanding and that she has complained to Pacific Bell repeatedly but they have not been able to provide her adequate service. She recounted the history of a series of meetings with Pacific Bell employees which began back in 1992, and included several in 1994, as well as letters between her attorney and Pacific Bell's attorney.

Ms. Edwards expressed profound frustration with Pacific Bell's inability to remedy what she sees as deficiencies in service.

Pacific Bell's Presentation

Pacific Bell stated that it has received approximately 190 reports of repair problems from complainant. Problems with Pacific Bell equipment were found in less than one half of one percent (.50%) of these reports. Pacific Bell stated that any necessary repairs were promptly made. In the vast majority of the reports, Pacific Bell tested the equipment and found it to be functioning properly. Pacific Bell stated that it has replaced all equipment in Ms. Edwards' business and that it has conducted numerous diagnostic tests of its central office equipment. It has brought to Ms. Edwards' attention instances where her equipment and services has been the cause of the problem. Pacific Bell also stated that it had credited Mrs. Edward's account for \$350.16.

Pacific Bell could not recommend any further tests.

Discussion

The record in this case reveals a highly dissatisfied customer who has alleged that she is receiving inadequate and unreliable telephone service. The record also reveals that Pacific Bell has taken all reasonable steps to remedy this situation insofar as Pacific Bell's system is concerned. Nevertheless, according to the complainant, the problems persist.

Pacific Bell emphatically states that it has tested, repaired, and retested all its facilities that provide service to the complainant, and that it cannot identify any possible explanation for these service failures on Pacific Bell's system. Complainant has not offered any evidence, other than allegations of general incompetence, that Pacific Bell has refused to test or repair any of its equipment or facilities. Accordingly, the record in this case contains insufficient evidence to support a finding that Pacific Bell's system is the cause of complainant's service deficiencies. Having failed to meet the burden of proof, the complaint should be dismissed.

ORDER

Therefore, IT IS ORDERED that Case 97-08-060 is dismissed with prejudice and this docket is closed.

This order is effective today.

Dated June 4, 1998, at San Francisco, California.

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