

ALJ/JAR/wav

Mailed 7/2/98

Decision 98-07-008 July 2, 1998

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Jacqueline Garrett, Elijah Hogan III, De Garrett,
Robert Garrett, dba Neat & Clean By Jacqueline,

Complainants,

v.

GTE California Incorporated,

Defendant.

Case 92-07-018
(Filed July 10, 1992)

Jacqueline Garrett, Elijah Hogan III, De Garrett, and Robert Garrett, dba
Neat & Clean By Jacqueline, for themselves, complainants.
Michael Golabek, Attorney at Law, for GTE California Incorporated,
defendant.

O P I N I O N

Summary

This decision dismisses the complaint with prejudice, and directs the Commission's Fiscal Office to release impounded funds to GTE California Incorporated (GTEC or defendant).

Background

In July 1992, Jacqueline Garrett, Elijah Hogan III, De Garrett, and Robert Garrett, doing business as Neat & Clean By Jacqueline (complainants), filed a complaint against GTEC alleging several causes of action involving two business

and four residential telephone lines.¹ In general, complainants asserted that GTEC had : (1) failed to correct certain service problems affecting several of the lines; (2) not advised them of the company's policy regarding billing and collection; and (3) permitted several of its employees to harass them. Complicating the matter is the apparent fact that GTEC discovered and demanded payment for complainants' uncollected previous telephone accounts dating from 1986.

Specifically, complainants' allegations fall into three categories: service difficulties, billing and collection disputes, and harassment by company employees. The various service difficulties² affected Business Account #1. The billing and collection disputes involved all six telephone accounts. The allegations included numerous billing discrepancies, misidentification in the company's records of one line as a coin phone, improper disconnection of service and inconsistent applications of GTEC's collection policies. Complainants asserted that GTEC only partially credited or did not credit at all identified billing errors for Business Accounts #1 and #2. They alleged that with respect to each of the accounts different collection policies were applied. For example, complainants contended that although defendant notified them that it would no longer accept personal checks in payment on any of their accounts, defendant accepted personal checks for the two business accounts in 1992.

¹ The complaint identifies accounts: (1) 805/498-6779 [Business Account #1]; (2) 805/339-0914 [Business Account #2]; (3) 805/499-4565 [Residential Account #1]; (4) 805/498-4013 [Residential Account #2]; (5) 805/499-5770 [Residential Account #3]; and (6) 805/376-2214, [Residential Account #4], respectively.

² Examples included: "cross-talk, excessive and continuing static, false rings, no ring and false busy signals with incoming calls, no ring for incoming calls, disconnects during conversations, etc." Complaint at 3.

The majority of complainants' remaining allegations were that five named employees of defendant harassed, intimidated and misled complainants in order to "substantiate GTEC's errors and extract monies not due GTEC and avoid crediting accounts properly." Complaint at 6. To reduce the level of contact between defendants' employees and themselves, complainants agreed to pay their monthly telephone bills to the Commission for disbursement following the resolution of the case.

Complainants ask the Commission for copies of all the laws and tariffs applicable to GTEC and the other telephone utilities, particularly those dealing with collection practices. They also seek an order from the Commission: (1) returning the impounded funds to them; (2) requiring GTEC to refund monies paid by one of the complainants in contravention of a payment agreement reached with a collection agency; (3) requiring GTEC to provide written documentation of all investigations and attempts to correct complainants' severe service problems; (4) requiring written apologies to complainants from GTEC's president and one of its employees; and (5) requiring GTEC to censure and/or terminate for harassment and intimidation five named employees.

GTEC denied either that it had failed to correct any of the service problems of Business Account #1 or that its employees had harassed or intimidated complainants. GTEC maintained that it had informed complainants of the company's billing and collection policies orally and in writing, and issued all credits properly due and owing. Finally, defendant asserted that it has only demanded that complainants pay in full costs incurred by them.

Approximately a month before the initial evidentiary hearing, one of the complainants, distraught, alleged that GTEC had sent her a stack of old bills having nothing to do with this matter and a disconnect notice. The assigned Administrative Law Judge (ALJ) directed GTEC to monitor complainants'

telephone payments through the Commission's Fiscal Office in order to remove the necessity of GTEC having direct contact with complainants until the evidentiary hearing.

The hearing was held on two days: on October 13, 1992 in San Francisco, and on May 10, 1993³ in Los Angeles. Complainants offered eighteen exhibits into evidence. Defendants submitted the remainder. In all, seventy-five exhibits, consisting primarily of correspondence, billing statements, and company reports, were admitted. Ms. Dionne (De) Garrett and Mrs. Jacqueline Garrett testified on behalf of the complainants. Three witnesses testified on behalf of GTEC.⁴ Complainants were offered an opportunity to submit by June 1, 1993, written responses to the exhibits and testimony proffered by defendant. Complainants did not submit any responses. Defendant filed a post-hearing brief on the matter on July 14, 1993. A decision was not rendered.

In July 1997, Complainant Dionne Garrett notified the Commission that she had never seen defendant's post-hearing brief and requested a copy of it. On March 2, 1998, by ALJ Ruling, this proceeding was re-opened until March 16, 1998 in order to receive Ms. Garrett's responsive statement to GTEC's post-hearing brief. No statement has been received.

This is a complaint case not challenging the reasonableness of rates or charges, and so this decision is issued in an adjudicatory proceeding as defined in Public Utilities (PU) Code § 1757.1.

³ May 10, 1993 was the earliest date that would accommodate all the parties' schedules; nevertheless, complainants advised on that date that Ms. Dionne Garrett had been hospitalized and was unable to attend the hearing.

⁴ GTEC employees Ms. Elsa Bello, Mr. James B. Parsons and Mr. Edward Duffy.

Discussion

The evidence presented at the two days of hearings indicates that a number of interrelated telephone accounts were being used at the 603 Valley Oak residence in Thousand Oaks, California. Testimony and substantiating documentation revealed that the varied telephone accounts at the same service address had an extensive record of late payments, disconnections for nonpayment and checks returned for insufficient funds. Defendant's detailed matching call record charts and special repair investigation reports at the service address belied complainants allegations of calling card thefts and repeated GTEC equipment failures. GTEC witness Parsons testified that service problems of the type described by complainants ordinarily would surface at other addresses within a residential development. He stated that there had been no service complaints elsewhere within complainants' area. (Transcript at 233, lines 26-28 through 234, line 8.) Neither the testimony presented nor the exhibits admitted support complainants' allegations of severe unattended service problems and/or that GTEC refused to investigate and report on service difficulties.

Complainants' contentions about GTEC's billing and collection policies were not supported by the record. The company's billing and collection policies appeared to have been presented to complainants orally and in writing. (Tr. 148-149, 151; GTEC Post-Hearing Brief at 8.) Numerous exhibits indicated that when complainants provided defendants with specific calls and charges which they challenged, defendant would issue credits. GTEC also stated that it would re-issue a documented refund credit check that complainants maintain was never received. GTEC presented as exhibits several matching telephone number

comparisons involving the six telephone accounts⁵ in dispute in this proceeding. The exhibits demonstrated that the factual situations were complex and the telephone numbers as well as the customers were interchangeable. The evidence indicated that GTEC acted consistent with Rules 6,⁶ 10,⁷ and 11⁸ of its tariffs in the billing and collection practices that it followed with complainants.

Finally, there was no proof that GTEC's employees harassed and intimidated complainants. What was clear was that there had been a substantial number of communications between GTEC's employees and complainants over many years. The communications frequently involved overdue accounts, payment arrangements and billing deadlines. As time went on, and the discussions included more intermingled telephone accounts and payment schedules, emotions escalated. When complainants alleged harassment from a collection agency charged with collecting the overdue phone bills, GTEC pulled the account back so that its own customer service staff could attend to the account. GTEC maintained that it did not re-assign complainants' case to other customers service representatives when it became aware of complainants' assertions about the staff handling their accounts because the extensive account

⁵ GTEC also presented evidence regarding two other telephone accounts (#805/376-2784 and #805/498-6603), also located at the 603 Valley Oak service address, which were not subjects of this complaint.

⁶ GTEC's Tariff Rule No. 6 provides that "the Utility may require a deposit" as it deems necessary or desirable for unpaid prior delinquencies.

⁷ GTEC's Tariff Rule No. 10 details the provisions for the rendering and payment of bills. Rule 10 C establishes that: "[t]he customer is responsible for payment of all rates and charges for services furnished and billed in accordance with the provisions of the filed tariff schedules including applicable charges for calls originated and calls accepted at the customer's telephone(s)

⁸ GTEC's Tariff Rule No. 11 details the provisions for the discontinuance of service.

history involved required the attention of employees familiar with the accounts. The record indicated that relations between complainants and GTEC's employees were further strained by the substantial inconsistencies in complainants' statements and actions throughout the time period in question. The evidence showed that in the course of collecting monies owed to GTEC, defendant's employees did not exceed lawful measures and neither harassed nor intimidated complainants.

Accordingly, this complaint is dismissed with prejudice. The Commission's Fiscal Office is directed to release to GTEC all funds impounded in this matter.

Findings of Fact

1. The Commission holds \$4,844.81 in impounded funds in this proceeding.
2. There was no evidence to support the assertion that complainants experienced severe service problems.
3. In this matter, GTEC followed the billing and collection policies established by law, and notified complainants orally and in writing of those policies.
4. GTEC's employees did not harass and intimidate complainants.

Conclusions of Law

1. This is a complaint case not challenging the reasonableness of rates or charges, and so this decision is issued in an adjudicatory proceeding as defined in PU Code § 1757.1.
2. This complaint should be dismissed with prejudice.
3. The impounded funds held by the Commission should be released to GTEC.
4. In the interest of finalizing this case, the order should become effective on the date that it is signed.

O R D E R

IT IS ORDERED that:

1. Case (C.) 92-07-018 shall be dismissed with prejudice
2. The Commission's Fiscal Office shall release to GTE California Incorporated \$4,844.81 which was impounded in this proceeding.
3. C.92-07-018 is closed.

This order is effective today.

Dated July 2, 1998, at San Francisco, California.

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