

Decision 00-09-026 September 7, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Reba Edwards,

Complainant,

vs.

Pacific Bell,

Defendant.

Case 99-09-042
(Filed September 22, 1999)

Reba Edwards, complainant.

Stephanie C. Krapf, Attorney at law, for Pacific Bell, defendant.

Rosalina White, for Commission's Public Advisor's Office.

O P I N I O N

Summary

We deny the formal complaint of Reba Edwards (Edwards). Complainant has failed to satisfy her burden of proving that defendant Pacific Bell (PacBell) violated any tariff provision, or any statute, rule, regulation, or order administered by this Commission.

Background

Edwards alleges that PacBell has violated provisions of its tariffs relating to billing and payment, and has engaged in conduct of a criminal nature relating to her person and property. As the latter allegations concern matters not within

our constitutional and statutory jurisdiction, this decision addresses only those allegations which pertain to tariff violations.

A prehearing conference (PHC) was held December 17, 1999, to define the issues. The assigned Commissioner thereafter issued a Scoping Memo and Ruling specifying that the only issue the Commission would consider in this proceeding is whether PacBell improperly billed or collected charges under its tariffs for Edwards' residential or business service from or after Edwards' May 1999 billing period.

PacBell filed a motion to dismiss the proceeding, or alternatively for summary judgment. The assigned Administrative Law Judge (ALJ) denied the motion because triable issues of fact are presented by the complaint and answer.¹

A one-day evidentiary hearing (EH) was held on January 28, 2000. Following the EH, the ALJ set a deadline for filing of one round of briefs. This deadline was later extended several times at Edwards' request. PacBell timely filed its brief, but Edwards filed none. She advised the ALJ that she did not intend to do so, and verbally requested an indefinite stay until she could retain an attorney to represent her. Inasmuch as she had been admonished on several previous occasions to obtain such representation promptly (*see, e.g.*, Transcript (Tr.) p. 123), the ALJ denied this request, and the proceeding was submitted April 10, 2000.

Edwards has two PacBell lines, a residential line (to which we will refer as 7301) and a business line (to which we will refer as 1242). Her long distance

¹ After the PHC, Edwards filed a Petition for Automatic Reassignment pursuant to Rule 63.2, requesting reassignment of her complaint to a different Commissioner and ALJ. On January 30, 2000, the Chief ALJ, in consultation with the President of the Commission, denied this request.

carrier is AT&T, and she is billed separately by that carrier for her long distance service. Apparently AT&T has suspended her long distance service for nonpayment of her bills, but her AT&T bills are not the subject of this proceeding. Although it is somewhat difficult to determine the precise nature of her complaint against PacBell, she appears to allege that PacBell included incorrect charges on bills for 7301 commencing in her May 1999 bill, wrongfully suspended service on 7301 on that basis, and wrongfully suspended service on 1242.

Edwards is billed for her residential service on the 20th day of each month. Her problems apparently began when a charge in the amount of \$484.84 for 7301 carried forward from her April 1999 bill and remained unpaid at the time the May 20 billing was rendered. Although she made partial payments on May 24 (after receiving her May 20 bill including new charges) and June 7, her residence account remained in arrears.

The past due amount that appeared on her July statement was \$421.85, and the total charges on that statement were \$693.73. When she made a payment of \$421.85 on August 20, July charges of \$271.88 remained outstanding. On September 7, Edwards received a disconnection notice for \$271.88 past due for 7301. PacBell received no payment from Edwards by September 17, the date specified in the notice in accordance with the applicable tariff, and on September 21 PacBell suspended service on 7301 until receiving payment on September 24.

With regard to 1242, Edwards claims that PacBell wrongfully suspended service on January 1, 2000, for two or three days. Although it is clear that an amount of \$272.88 was past due on that account as of December 23, when she received a seven-day notice of suspension, PacBell denies that service was ever

suspended on that account in any event. We have no convincing reason to doubt PacBell's claim.

Part of the reason for the confusion that seems to surround these events is that Edwards does not appear to have a systematic method for separating her payments for the two accounts. This is reflected in Exhibit 12, consisting of copies of her checks, several of which are not clearly identified as to the account to which they are to be applied. In addition, Exhibit 12 demonstrates that the timing of Edwards' payments was not consistent, and that the amounts of her checks did not necessarily correspond to the amounts shown on the bills. This left PacBell in the position of having to guess which of the accounts to credit, possibly resulting in an arrearage on the other. Even with the assistance of the Commission's Public Advisor, Edwards could not, or would not, reconstruct the history of her accounts in an effort to correct the discrepancies. As a consequence, she was unable to satisfy her burden of proving any tariff violation by PacBell.

With regard to the single incident of suspension of service that PacBell confirmed, there is substantial evidence to show that PacBell complied with all applicable tariff requirements. In each instance of alleged wrongdoing, Edwards received considerably more than the seven days' minimum notice required by the tariff.

In light of the foregoing facts, we find that Edwards has not satisfied her burden of proof. The complaint will be dismissed.

Appeal

Edwards filed a timely appeal of the presiding officer's decision (POD). No response was filed by PacBell.

Edwards' appeal provides another account of her billing and payment history, as well as recent service disconnections, but again it is not clear which of her two telephone lines is involved. This account is no more intelligible than that which she has given previously, and in any event it includes new matter that is not a part of the record and cannot be considered.

The other grounds asserted for appeal are that the transcript is "tainted," and that because of the scoping (i.e., after the PHC), she was unfairly hindered from presenting her case. She feels that, even though the Commission does not have jurisdiction over certain allegedly wrongful acts by PacBell, we should nevertheless have considered her evidence of these acts in order to understand her complaint.

Edwards outlined her proposed testimony about these acts at the PHC. She claims that, after the decision was issued in an earlier complaint case, PacBell broke into her house, altered her bills and other papers, and "violated" her. (Tr. pp. 21-23.) The ALJ advised her that the Commission lacks jurisdiction to address this type of wrongdoing, and that she would have to seek help from the police or file a complaint in civil court. (Tr. Pp. 23-24.) She also claimed that someone altered documents in the Commission's formal files and made identical alterations to her own documents in her home. (Tr. pp. 26-29.) She claimed that PacBell employees entered her house to look for her papers and kicked her dog, who had to have surgery as a consequence, and that she encountered a PacBell employee in her driveway after he had taken papers out of her apartment. (Tr. pp. 32-33.) Again, the ALJ advised her that she should seek assistance with these problems elsewhere, because they are beyond the scope of our jurisdiction. (Tr. p. 35.)

Edwards has had her day in the hearing room. She has been advised of the extent of our jurisdiction. The hearing was transcribed by a State-licensed

Certified Shorthand Reporter, and the transcript was prepared by the Commission's Reporting Service; there is no reason to believe that it is "tainted" in any way.

There is nothing unlawful or erroneous about the POD. The appeal is denied.

Findings of Fact

1. Complainant has not proven by substantial evidence that PacBell violated any tariff provision applicable to her service.

2. PacBell has provided substantial evidence to show that Edwards' residential and business services were correctly billed from and after May 1999.

3. PacBell has proven by substantial evidence that the only documented suspension of Edwards' telephone services was accomplished in accordance with applicable tariff provisions.

Conclusions of Law

1. Complainant has not satisfied her burden of proving that PacBell violated any applicable tariff, or any statute, rule, or regulation administered by, or order of, this Commission.

2. C.99-09-042 should be denied, and the case closed, effective immediately.

3. Complainant's appeal of the POD should be denied.

O R D E R

IT IS ORDERED that:

1. Case (C.) 99-09-042 is denied.
2. Complainant's appeal of the presiding officer's decision is denied.
3. C.99-09-042 is closed.

This order is effective today.

Dated September 7, 2000, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
CARL W. WOOD
Commissioners