

Decision No. ✓**ORIGINAL**

Decision No. 3087

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Montebello Chamber of Commerce,

Complainant,

Vs.

Case No. 881.

Whittier Home Telephone and Telegraph  
Company,

Defendant.

A. Moore, for the Complainant.

A. Wardman, for the Defendant.

J. G. Mott and C. F. Mason, for The Pacific  
Telephone and Telegraph Company.

CORDON, Commissioner.

O P I N I O N

This is a complaint in which the Montebello Chamber of Commerce alleges that Whittier Home Telephone and Telegraph Company has provided telephone connection with the town of Whittier for certain patrons within the town of Montebello, but refuses to provide a similar service for others in Montebello, and asks that the Railroad Commission order the company to discontinue the alleged discrimination by providing service to all applicants within the town and in the territory served by it.

Whittier Home Telephone and Telegraph Company, defendant in this case, operates a system of telephone lines in this and adjacent territory with central exchange switchboards in the towns of Whittier and Downey. For long distance service, connections are had with the toll systems of The Pacific Telephone and Telegraph Company and the United States Long Distance Telephone and Telegraph Company. In the town of Montebello, it now has eight patrons whom it serves over subscribers' lines extending from its Whittier ex-

change and who have the privilege of connecting with all other patrons of that exchange without payment of toll charges. For this service flat monthly rates are charged. What the complainants now desire is that the defendant be required to provide similar service to all others in Montebello who may desire it.

Prior to the entrance of defendant into Montebello with its lines, which was prior to the effective date of the Public Utilities Act conferring jurisdiction upon the Railroad Commission, The Pacific Telephone and Telegraph Company had been and still is serving patrons in this territory over subscribers' lines extending from its exchange in the City of Los Angeles. An agreement was later entered into between the two companies, under the terms of which The Pacific Telephone and Telegraph Company was obligated to discontinue its then local business in Whittier and Whittier Home Telephone and Telegraph Company was obligated to make no further extensions in Montebello. Patrons of The Pacific Company at Montebello desiring to talk with patrons of Whittier Company at Whittier may do so only over The Pacific Company's toll lines by the payment of toll charges.

A hearing of the complaint was held on January 27th and objection was entered by The Pacific Telephone and Telegraph Company on the grounds that it is adequately serving the territory and is ready and willing to supply service to all who may require it, and that if the people of Montebello desire it to do so it is willing to establish a central office exchange in the town. The burden of the testimony offered was to the effect that service from the defendant is desired chiefly for the reason that such service would enable the users to talk to Whittier and the sections now connected with the Whittier switchboard without the payment of toll charges. Aside from this consideration, however, it is apparent that the further extension of service by defendant would result in further duplication of plant and a consequent double burden in

rates upon the public of this community. The defendant has frankly admitted that to the extent of its present patrons who are also patrons of The Pacific Telephone and Telegraph Company it is now in competition with that company. At page 139 of the transcript appears the following testimony by the Manager of the defendant company:

"Mr. Wardman: ' . . . I might state the reason for that is this: the Whittier Company has no desire to realize the troubles of duplication. We don't favor duplication; we don't approve of it. We believe, as the Commission stated, that it is an injury in the long run to those people. However, we have looked at this proposition in this way, that we are in here and that it is not exactly a competitive proposition. Still it is to a certain extent a duplication.'

"Commissioner Gordon: 'There are four cases where they have both phones.'

"A. 'Yes sir, that is the fact.' "

It is also admitted by the defendant that this community is now being adequately served by The Pacific Company.

It appears that so far as this defendant is concerned it does not desire to install additional service in Montebello other than could be provided by the use of lines already constructed, but it is apparent that to permit it to install telephones for applicants who may be located along its present lines and decline to serve other applicants who may not happen to be so favorably located would be to permit it to take the fat and reject the lean, a discrimination in fact which may not be justified, and which would sooner or later lead to further complaint.

The complainant in its presentation of the case has referred to a decision of this Commission rendered on December 28, 1914, after this defendant had sought the authority of the Commission to exercise certain franchise rights in this and other territory. In referring to the exercise of rights and privileges in the town of Montebello, the Commission's opinion reads as follows:

"Applicant is now serving a part of the town of Montebello, but it has not had a franchise permitting it so to do. It has now obtained such a franchise and

we are asked to authorize the exercise of the rights and privileges thereunder. The Pacific Telephone and Telegraph Company objects to applicant being allowed to extend its service to new subscribers or new territory within the town of Montebello - in other words, to increase its business in this territory. The Pacific Telephone and Telegraph Company now serves the major portion of this town with its telephone service, applicant only having a few phones in use. Applicant was willing that its business be confined to present subscribers and it was stated that it was not its intention to compete with The Pacific Telephone and Telegraph Company in the town of Montebello, and that its principal purpose was to legalize its present business in that town by obtaining the franchise and the permission of this Commission to exercise rights and privileges thereunder."

The order accordingly contains the following provision:

"This order is made upon the condition that the rights and privileges under said franchise shall be exercised in the town of Montebello only to the extent of permitting Whittier Home Telephone and Telegraph Company to continue to serve its present subscribers in said town with a telephone service."

There was not sufficient evidence presented at the hearing of this complaint to warrant a reversal or modification of the order here referred to and I shall accordingly recommend an order as follows.

#### ORDER

Complaint having been made by the Montebello Chamber of Commerce against Whittier Home Telephone and Telegraph Company, a corporation, alleging discrimination in the matter of providing telephone service within the town of Montebello, and a hearing having been had, and the Commission being fully advised,-

IT IS HEREBY ORDERED by the Railroad Commission of the State of California that, for the reasons set out in the foregoing opinion, the complaint herein be and it is hereby dismissed without prejudice.

The foregoing opinion and order are hereby approved

and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 7<sup>th</sup> day of February, 1916.

W. H. Loveland  
W. G. Gordon  
Edwin O. Edgerton  
Frank R. De Haven

Commissioners.