

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 3853

In the Matter of the Rates,
Rules, Regulations and Prac-
tices of THE PACIFIC TELEPHONE
AND TELEGRAPH COMPANY and HOME
TELEPHONE AND TELEGRAPH COMPANY,
of Los Angeles, relative to tele-
phones installed and maintained in
any public place in Los Angeles
for use by the general public.

Case No. 1006.

Pillsbury, Madison & Satro, by E. D. Pillsbury,
and James T. Shaw for The Pacific Telephone
and Telegraph Company.
Gibson, Dunn & Crutcher, by N. S. Sterry, for
Home Telephone and Telegraph Company.
E. M. Robertson, Assistant City Attorney, for
City of Los Angeles.
Alfred E. Adams for Retail Dry Goods Merchants
Association.
W. O. Sampson for Bullock's.
H. L. Stillwell for H. Jevne Company.
C. Minor for Owl Drug Company.

THELEN AND GORDON, Commissioners.

OPINION.

This is an investigation on the Railroad Commission's own initiative into the rates, rules, regulations, contracts and practices of The Pacific Telephone and Telegraph Company and Home Telephone and Telegraph Company relative to telephones installed and maintained in public places in the City of Los Angeles for the use of the general public.

This investigation was prompted by informal complaints from a number of leading mercantile establishments in the City of Los Angeles, to the effect that disputes existed between them and the two telephone companies in Los Angeles with reference to the compensation to be paid by the subscribers to the telephone companies for so-called "guarantee public pay stations." These disputes arose with reference to the disposition of un-

claimed five dollar gold pieces and of non-negotiable or counterfeit pieces of metal, herein referred to as "slugs," found in such public pay stations. There being doubt, on the allegations contained in the informal complaints, with reference both to the proper interpretation of the rates of the two telephone companies on file with the Railroad Commission and as to what these rates reasonably ought to be, the Railroad Commission instituted this inquiry on its own initiative for the purpose of ascertaining fully the facts and of thereafter making an order which should dispose of these disputes.

The telephone rates to be charged in the City of Los Angeles for the fiscal year beginning July 1, 1915, were established by Ordinance No. 32515 (New Series), approved June 18, 1915, and effective July 1, 1915. Section 19 of this ordinance reads as follows:

"Each telephone installed and maintained in any public place for the use of the general public shall be connected with the central exchange by an independent or individual circuit equipped with a coin or nickel-in-slot prepayment device provided by the telephone company, and receipts guaranteed by subscriber in the sum of five dollars and fifty cents (\$5.50) per month. The charge for each local call shall be five cents and after receipts from local switching equal the amount guaranteed, the telephone company shall retain three cents and the firm, corporation or person subscribing to this service, two cents, on each local call in excess of the number required to complete amount guaranteed."

The jurisdiction over telephone rates in the City of Los Angeles passed on August 8, 1915, from the City to the Railroad Commission, in accordance with the terms of Section 23 of Article XII of the State Constitution, as amended in November, 1914, and the revised Public Utilities Act, effective August 8, 1915. In response to a requirement from the Railroad Commission that all public utilities operating within municipalities should file with the Railroad Commission the rates which they were charging, not to exceed the rates in effect on November 3, 1914,

the Home Telephone and Telegraph Company filed a copy of said Ordinance No. 32515, New Series, of the City of Los Angeles, including Section 19 thereof, as hereinbefore quoted.

The Pacific Telephone and Telegraph Company, however, in addition to filing a copy of said ordinance, also filed separately as "Supplemental Rate Schedule No. 2A" the following rate applicable to "guarantee public pay stations":

"Occasional requests are made upon the telephone company for the installation of pay stations in locations of a public or semi-public nature, where conditions are not such as to indicate that the receipts from the pay station will be in sufficient amount to justify the installation. Pay stations may be installed upon the agent agreeing to guarantee local messages in the sum of \$5.50 per month (50 cents per month additional if desk set is furnished); the agent to receive a commission of two cents on each local message in excess of the guarantee and 10 per cent of tolls for long distance messages, messenger and 'other line' charges excepted. The commission on any one long distance message not to exceed ten cents. A charge of five cents will be made for each local message."

Supplemental Rate Schedule No. 2A was made effective July 1, 1915.

Nothing is said in the schedules filed either by The Pacific Telephone and Telegraph Company or Home Telephone and Telegraph Company with reference to five dollar gold pieces found in public pay stations. The disputes with reference to slugs have been due to the fact that Section 19 of Ordinance No. 32515, New Series, is not workable in so far as slugs are concerned. Section 19 provides, in part, that after receipts from local switching shall equal the amount guaranteed, being \$5.50 per month, "the telephone company shall retain three cents and the firm, corporation or person subscribing to this service, two cents on each local call in excess of the number required to complete the amount guaranteed." If slugs are found in the pay station in excess of 110 five cent pieces, it is impossible for the telephone company to receive three cents and the subscriber two cents on the local call represented by the slug, for the simple reason that

the money is not there. The telephone companies have claimed that the subscriber should pay them three cents for such slug; even though such three cents be taken out of the Commission to which the subscriber is entitled out of the five cent pieces in the pay station in excess of the guaranteed minimum of \$5.50. While this procedure would result in giving to the telephone company three cents for the local call, the subscriber would not get the two cents for such call specified in Section 19 of the ordinance.

As far as The Pacific Telephone and Telegraph Company is concerned, Supplemental Rate Schedule No. 2A must be regarded either as a separate filing of a rate or as The Pacific Telephone and Telegraph Company's interpretation of Section 19 of the ordinance. Supplemental Rate Schedule No. 2A omits the provisions of Section 19 of the ordinance to the effect that the telephone company shall ~~xxx~~ be paid three cents for each local call in excess of the guarantee. Supplemental Rate Schedule No. 2A, however, provides specifically that "the agent shall receive a commission of two cents on each local message in excess of the guarantee." This language means clearly that the subscriber shall receive two cents on each local message in excess of the guarantee, even though such local message be represented by a slug. In other words, a correct interpretation of Supplemental Rate Schedule No. 2A would result in the entire loss from the slugs falling on The Pacific Telephone and Telegraph Company, whereas the interpretation of Section 19 of the ordinance contended for by both telephone companies would result in the entire loss from slugs falling on the subscriber, who is not merely to lose the two cents for each local call in excess of the guarantee, which he is supposed to receive under Section 19, but also is to pay the telephone company, out of its own pocket, ^{if necessary,} three cents for each local call in excess of the guarantee, represented by a slug.

On August 5, 1915, the Board of Public Utilities of the City of Los Angeles passed a resolution providing, in part, that the slugs should be taken by the telephone companies and that the remaining currency in excess of the guarantee should be divided between the subscriber and the telephone company on the basis of two cents out of each nickel to the subscriber and three cents to the telephone company. This resolution would seem to be void both because it is in contravention of the charter provisions of the City of Los Angeles, under which provisions the City Council alone had the power to establish public utility rates, and, furthermore, because it is in contravention of Section 19 of said Ordinance No. 32515, providing in part that "no order of the Board of Public Utilities with reference to the decrease or increase of rates as herein provided shall be effective unless such order be first authorized or approved by the Council by ordinance."

With reference to unclaimed five dollar gold pieces in guarantee public pay stations, the practice of Home Telephone and Telegraph Company has been to divide them, after subtracting five cents for the call, between the telephone company and the subscriber on the basis of 60 per cent to the telephone company and 40 per cent to the subscriber. The company's counsel, however, stated at the hearing that, in his opinion, the telephone company should receive three cents for the call and the remaining \$4.97 should be given to the subscriber. This advice was given on the theory that the subscriber should stand the entire loss with reference to slugs. The representatives of The Pacific Telephone and Telegraph Company advised that it was their position that unclaimed five dollar gold pieces should follow the same course as slugs, that it was the duty of the subscriber to stand the loss as to slugs, that the subscriber would accordingly be entitled to the five dollar gold piece after deducting five cents

for the call, but that in view of the claim of the subscribers that they should not be made responsible for the slugs, The Pacific Telephone and Telegraph Company had, as a matter of fact, retained all unclaimed five dollar gold pieces found in guarantee public pay stations.

The testimony showed that the number of slugs deposited in guarantee public pay stations is relatively very small. They represent a loss of only about one per cent over the usual loss of telephone companies from uncollectible bills in the City of Los Angeles. The total number of slugs found in the four public pay stations of Home Telephone and Telegraph Company in Bullock's store during the month of September, 1916, was only seven, representing a claim of Home Telephone and Telegraph Company amounting to 21 cents.

The testimony shows that prior to the installation of guarantee public pay stations, most of which were installed subsequent to July 1, 1915, the merchants of Los Angeles largely took sending line service, for which they paid \$5.75 per month, with an additional 50 cents for a desk set; that subsequent to the passage of Ordinance No. 32515, New Series, the telephone companies actively solicited the merchants to change from the sending line service to the guarantee public pay station service; that the telephone companies were largely successful in this solicitation; that on the day of the hearing herein, Home Telephone and Telegraph Company had 747 guaranteed public pay stations in Los Angeles, which yielded in August, 1916, total average receipts of \$10.17, of which amount the average commission to the subscriber was \$1.80, leaving average receipts to the Telephone Company per station of \$8.37; that at the date of the hearing herein The Pacific Telephone and Telegraph Company had 1282 guarantee public pay stations in Los Angeles, from which the average monthly revenue was about \$9.33; that the keys to these guarantee public pay stations are in the hands of the

telephone companies and that the subscribers have no control over these stations; that even if the subscribers should employ men to watch these stations, it would not be possible for them to detect the relatively few cases in which a slug is deposited instead of a five cent piece; and that subscribers cannot secure guarantee public pay stations for their own use exclusively and that the telephone companies do not install them unless the general public may have access to them.

The telephone companies take the position that the control of the guarantee public pay stations rests with the subscriber, which position we find is not well taken. The telephone companies claim that, under Section 19 of the ordinance, they should be paid three cents for each local call in excess of the guarantee, even though it is necessary for the subscriber to pay such sum out of the Commission to which he is entitled, ~~rather~~ ~~than~~ or out of his own pocket, in the absence of a sum available for ~~the~~ commission.

The position of the subscribers was expressed by one of them as follows:

"What they now propose to do would require us to pay them, out of our commission, for all bogus coins in addition to the guarantee of \$5.50 per month. If we are to share profits proportionately over the guarantee, it would seem to us that naturally we should share losses in the same way. This we are willing to do; that is, we are willing to stand our proportion (40 per cent) of each bogus coin or token and they to stand their proportion (60 per cent of the same)."

"Their position is unjust in that it makes us responsible for something over which we have absolutely no control. All funds placed in the pay stations in so far as being under any control, whatever, is in the hands of the telephone company and the keys to the boxes are in their possession at all times."

On April 18, 1916, at the request of the telephone companies, the City Council of Los Angeles adopted Ordinance No. 34077, New Series, making it a misdemeanor for any person to have possession of or to use any contrivance, device, disk or other substance to evade the payment of the correct amount for

the use of any machine operated by depositing therein coins representing lawful money of the United States.

Mr. Fulton Lane, President of the Board of Public Utilities of Los Angeles, testified that prior to the adoption of this ordinance, the Board of Public Utilities found an average of 17 slugs per public pay station per month. The testimony herein shows that subsequent to the adoption of the Ordinance No. 34077, the number of slugs thus found has dropped to between three and four. In fact, the entire matter has become relatively insignificant. The telephone companies have taken no steps to institute any prosecutions under Ordinance No. 34077.

While, as stated, the matter has become relatively of small importance, the merchants of Los Angeles take the position that the matter is one of principle and that it is not fair, under all the circumstances, that the entire burden of such losses as may occur from slugs, be placed upon them.

Whatever rule is established should apply equally to all tokens other than five cent coins found in guarantee public pay stations, including both five dollar gold pieces and slugs.

After careful consideration we have concluded that a just and reasonable rule in so far as slugs are concerned would be to have the telephone company remove and destroy all such slugs, after which the actual currency in excess of the guarantee shall be divided between the subscriber and the telephone company on the basis of two cents out of each five cents to the subscriber and three cents to the telephone company. As far as unclaimed five dollar gold pieces are concerned, they should be counted as five cents ~~and the remaining \$4.95 should be divided between the subscriber and the telephone company on the basis of 40 per cent or \$1.98, to the subscriber and 60 per cent, or \$2.97, to the telephone company.~~ and the remaining \$4.95 should be divided between the subscriber and the telephone company on the basis of 40 per cent or \$1.98, to the subscriber and 60 per cent, or \$2.97, to the telephone company.

We submit the following form of order:

O R D E R.

Informal complaints having been filed with the Railroad Commission with reference to the disposition of tokens other than five cent pieces found in the guarantee public pay stations of The Pacific Telephone and Telegraph Company and Home Telephone and Telegraph Company, in Los Angeles, and the Railroad Commission having instituted the above entitled proceeding on its own initiative for the purpose of ascertaining the facts and making such order as thereafter might appear to be just and reasonable, and a public hearing having been held and the Railroad Commission being fully advised,

THE RAILROAD COMMISSION HEREBY FINDS AS A FACT that the rates of Home Telephone and Telegraph Company and the rates of The Pacific Telephone and Telegraph Company, in so far as they apply to said company's Los Angeles exchange, are unjust and unreasonable in so far as they differ from the rate herein established and that the rate herein established is just and reasonable. Basing its order on said finding of fact and on the further findings of fact which are contained in the opinion which precedes this order,

IT IS HEREBY ORDERED as follows:

1. Within twenty days from the date of this order, The Pacific Telephone and Telegraph Company and Home Telephone and Telegraph Company shall file with the Railroad Commission in lieu of and in substitution for Section 19 of Ordinance No. 32515 (New Series), of the City of Los Angeles and Supplemental Rate Schedule No. 2A of The Pacific Telephone and Telegraph Company, applicable to its Los Angeles exchange, the following rate for guarantee public pay stations:

"Each telephone installed and maintained in any public place for the use of the general public shall be connected with the central exchange by an independent or individual circuit, equipped with a coin or nickel-in-slot prepayment device provided by the telephone company, and receipts guaranteed by the subscriber in the sum of \$5.50 per month. The charge for each local call shall be five cents. After deducting, in currency of the United States, the guarantee of \$5.50, all non-negotiable or counterfeit currency found in the public pay stations shall first be appropriated by the telephone company, to be by it destroyed, after which the actual currency shall be divided between the subscriber and the telephone company on the basis of two cents out of each five cents to the subscriber and three cents to the telephone company. Unclaimed five dollar gold pieces shall be treated as five cents ~~and the remaining \$4.95 shall be divided between the subscriber and the telephone company on the basis of 40 per cent or \$1.98, to the subscriber and 60 per cent or \$2.97, to the telephone company.~~"

2. This order shall become effective on and after December 1, 1916, and we recommend that all pending disputes between subscribers and the telephone companies with reference to the subject matter of this rate be settled on the basis of this order.

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 6th day of ^{November} ~~October~~, 1916.

Max Shellen
John L. Loveland
John A. ...
Edwin O. ...
Thomas R. ...
Commissioners.