

Decision No. \_\_\_\_\_.

ORIGINAL

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA.

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CITY OF BURLINGAME,

Complainant,

vs.

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY,

Defendant.

Case No. 869.

BY THE COMMISSION.

OPINION ON PETITION FOR REHEARING.

The petition of the City of Burlingame for rehearing questions Decision No. 4248 made on April 16, 1917, herein, in so far only as the decision refers to the question of reparation.

Petitioner urges that the defendant's telephone subscribers north of Oak Grove Avenue in the City of Burlingame should have been awarded reparation in the amount of the mileage charges which they paid to the defendant during the period from July 7, 1915 to June 30, 1916.

The reasons why such reparation was not allowed are fully set forth in said Decision No. 4248, and nothing new is presented by the petition for rehearing.

The petition for rehearing states that said Decision No. 4248 denied to the City of Burlingame the right to fix telephone rates within the city limits. Petitioner is mistaken with reference to the Commission's holding on this point. The Commission held that, assuming that the City of Burlingame had the power to establish rates for telephone service in certain

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cases prior to the amendment of Section 23 of Article XII of the Constitution in November, 1914, and the re-enactment of the Public Utilities Act, effective August 8, 1915, such power was not lawfully exercised for the reason that the resolution adopted by the City of Burlingame undertook to provide a rate for the local exchange telephone service which the defendant was rendering in the City of Burlingame, which service included not merely messages between various customers in the City of Burlingame (all of which messages were transmitted through the San Mateo exchange) but also messages between customers in the City of Burlingame and customers in San Mateo, Hillsborough and other points in the defendant's San Mateo exchange. No effort was made to provide a rate for telephone service confined within the limits of the City of Burlingame. Granting, for the sake of the argument, that the City of Burlingame had the power on July 7, 1915 to fix the rates for telephone service for the territory over which the City had jurisdiction, it is entirely clear that this power was not exercised in a lawful and effective manner. Reference is hereby made to said Decision No. 4248 for other reasons why petitioner is not entitled to reparation.

We are of the opinion that no good reason appears for granting a rehearing and that the petition for rehearing should be denied.

O R D E R .

CITY OF BURLINGAME, complainant. in the above entitled proceeding, having filed herein a petition for rehearing, and careful consideration having been given to the same, and no good reason appearing why a rehearing should be held,

IT IS HEREBY ORDERED that said petition for rehearing be and the same is hereby denied.

Dated at San Francisco, California, this <sup>8<sup>th</sup></sup>~~7<sup>th</sup>~~ day  
of May, 1917.

Max Thelen  
W. H. Laid  
W. Gordon  
Edwin C. Edgerton  
James R. Perkins  
Commissioners.