

ORIGINAL

Decision No. 28847

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

CITY OF LONG BEACH, a municipal corporation,
Complainant,

vs.

Case No. 4202.

SOUTHERN CALIFORNIA TELEPHONE COMPANY, a corporation, and ASSOCIATED TELEPHONE COMPANY, LTD., a corporation,

Defendants.

Joseph B. Lamb, Deputy City Attorney, for Complainant. Lawler and Felix, by Jack W. Hardy, and James G. Marshall for Southern California Telephone Company, Defendant. C. F. Mason and Ernest Irwin for Associated Telephone Company, Ltd., Defendant. Mrs. Lulu B. Laurendeau, Mr. Huston Hertz, Mr. Carl Comingoer and Mr. A. C. Yingling, in behalf of Complainant. Mrs. Rex Murry, Mrs. W. H. Martz, Mrs. B. E. Jones, Mr. Harry C. Clark, Mr. A. L. Ackerman, Mrs. George Hight, Mrs. J. Telford, Mr. W. H. Drake, Mrs. S. Nagel, Mrs. B. G. Wadleigh, Mrs. M. C. Tolle, Mr. R. G. Huffine, Mr. C. J. Soyster, Mr. E. J. Martin, and Mr. J. C. Ostling, Protestants. Mr. E. Paslak, in propria persona.

WAKEFIELD, COMMISSIONER:

O P I N I O N

In this complaint, the City of Long Beach asks the Railroad Commission to make an order that a certain area shown on a map attached to the complaint and marked Exhibit "A," now a part of the Southern California Telephone Company's Compton-Hynes-Gardena exchange area, be transferred to and be included in the Long Beach exchange area of the Associated Telephone Company, Ltd.

Associated Telephone Company, Ltd. in its answer made no specific tender of satisfaction but suggested a conference among interested parties. Southern California Telephone Company in its

answer offered to stipulate to a change in the Long Beach and Compton-Hynes-Gardena common exchange boundary as shown on a map marked Exhibit "3" and attached to said answer.

A hearing upon these issues was held in Long Beach on May 18, 1937, at which time and place full opportunity was afforded all interested persons to appear and to be heard, and the matter was submitted for decision. Before the hearing, the Commission mailed notices to those subscribers whose charges for service might be increased if the City of Long Beach should be granted its request as presented.

The City of Long Beach in its complaint requested that all incorporated territory of the City situated in the North Long Beach section be included in the Long Beach exchange area. Some evidence at the hearing referred to territory east of the city limits of Long Beach, designated hereafter as Sections "H" and "J," and an amended complaint has been filed requesting that said territory be included within the limits of the Long Beach exchange.

At the hearing Mr. Joseph B. Lamb, Deputy City Attorney, for complainant stated that as a result of a conference among representatives of the two telephone companies and of the City it was agreed to relocate the common boundary of the Compton-Hynes-Gardena and Long Beach exchanges as shown on a map filed at the hearing as Exhibit No. 1. Mr. James G. Marshall for defendant Southern California Telephone Company accepted the boundary change subject to three conditions:

First, that the change is determined to be in the best interest of the subscribers and not as an admission or precedent that exchange and city boundaries should be coincident; Second, that there will be no deviations created; and Third, that the property involved will be purchased by the Associated Telephone Company, Ltd., at a price representing its present value, to be agreed upon by both parties.

Mr. Ernest Irwin for Associated Telephone Company, Ltd., agreed to the terms of the stipulation as discussed by Mr. Marshall.

Mr. O. R. Cline, City Gas and Electric Inspector of Long Beach, testified that he had received many verbal and written complaints concerning the telephone service arrangements and service

charges in the territory under discussion. Copies of such letters were filed as Exhibit No. 4. The witness stated that one hundred and seventy Long Beach telephones had been installed in the contested area since 1929.

It was agreed at the hearing that Southern California Telephone Company would forward to the Commission and to the City of Long Beach data relative to the number of services in the various sections of the area proposed to be transferred, segregated by exchanges. This data clearly shown on a map is now of record. On this map, various sections are defined so that the communication interests of the various groups of subscribers may be known.

In the part of the city located west of Long Beach Boulevard, which the utilities have agreed to transfer, there are seven Long Beach services and one Compton service. No objection to the transfer of this section is of record. This area includes all of Section "B" and part of Section "A" as designated on the map Exhibit "A" to the complaint, but is all included in the area designated as Section "A" on the other map exhibits.

The utilities and the City are in agreement as to the transfer of that portion of Section "C" located between Long Beach Boulevard and the Flood Control Channel and below the stipulated line. Mrs. Lulu B. Laurendeau, Principal of Starr King School, and Mr. A. C. Yingling favored the transfer of this section. No objection to the transfer of this area is of record.

In the section between the Flood Control Channel and Michigan Avenue and south of the stipulated line, Section "D," it is of record that there are seven Compton and one hundred and seventeen Long Beach telephones. Mr. C. J. Soyster, located in this section, has both Hynes and Long Beach telephones and desires to retain them. He objects to the withdrawal of Compton-Hynes Extended Service from the section if the transfer is made.

Section "F" is entirely within the base rate area of Hynes. Vigorous protests against the transfer of that section were voiced by five subscribers. No subscribers testified in favor of the change. All of the present subscribers in this area have Hynes service. There are no Long Beach subscribers except in the case of two who have dual service. There is a total of 26 Hynes subscribers.

Section "G," wholly within the corporate limits of Long Beach, is situated directly south of Section "F." The City of Long Beach desires to have this section included in the Long Beach exchange area. Mrs. B. E. Wadleigh and Mr. E. J. Martin protested the transfer. No subscriber expressed a wish to have the area transferred, but at the present time it contains fourteen Long Beach services as against only eight Hynes services.

Section "H," located east of New York Avenue, is entirely outside of the City of Long Beach. No subscribers testified in favor of or against the inclusion of the section within the Long Beach exchange area. It is of record, however, that there are eight Hynes services, no Long Beach services, and two Bellflower foreign exchange services in this section.

In Section "J," located entirely outside of the City of Long Beach but within the area proposed to be transferred, there are eight Hynes and five Long Beach services. No subscribers gave testimony in favor of or against the inclusion of this section in the Long Beach exchange area.

The utilities having agreed to the relocation of the common boundary of the Compton-Hynes-Gardena and Long Beach Exchanges, and the City of Long Beach having accepted this proposed boundary, the controlling factor to be considered is the communication interests of the subscribers. This may be determined from the record. The evidence does not show that Sections "F," "H," and "J" should be transferred. Clearly, those portions of Sections "A," "C," and "D" which are within the stipulated area should be transferred from the Compton-Hynes-Gardena

Exchange to the Long Beach Exchange. This area is described as follows:

A line beginning at the intersection of the present common boundary of the Compton-Hynes-Gardena and Long Beach exchange areas and the center line of Michigan Avenue; thence northerly along said center line of Michigan Avenue to the southerly line of the Southern California Edison Company's high tension power line right of way; thence westerly along said southerly line of the Southern California Edison Company's right of way to the east bank of the Los Angeles River Flood Control Channel; thence southerly along said east bank of said channel to a point located approximately 175 feet north of the center line of Artesia Street, said point being located on an easterly extension of the center line of an alley between Artesia Street and Marker Street; thence westerly along a line located approximately 175 feet north of said center line of Artesia Street, said line being an easterly extension of the center line of an alley between Artesia Street and Marker Street, to the center line of said alley; thence westerly along said center line of said alley to the east property line of the Starr King School; thence continuing northerly, westerly and southerly along the property line of said school to a point located approximately 175 feet north of said center line of Artesia Street, said point being located on a westerly extension of the center line of said alley between Artesia Street and Marker Street; thence westerly along a line located parallel to and approximately 175 feet north of said center line of Artesia Street to a point approximately 425 feet west of the center line of Long Beach Boulevard, said point being located at the intersection of the line approximately 175 feet north of said center line of Artesia Street and the westerly boundary of the City of Long Beach, said city limits being the westerly boundary of the Long Beach Boulevard District annexation as of June 18, 1929; thence southerly along said western boundary of the City of Long Beach to the south line of Artesia Street; thence westerly and southerly along the western boundary of the City of Long Beach to the south line of Bort Street, said City limits being the westerly boundary of the Long Beach Boulevard District annexation as of June 18, 1929; thence easterly along said south line of Bort Street, said south line being also the boundary of the City of Long Beach and an easterly extension of same, to the intersection of the said south line and the present common boundary of the Compton-Hynes-Gardena and Long Beach exchange areas; thence northerly and easterly along said present common boundary of the Compton-Hynes-Gardena and Long Beach exchange areas to the point of beginning.

As the communication interests of subscribers located in Section "G" appear to be definitely toward Long Beach, I believe that section should be transferred from the Compton-Hynes-Gardena Exchange to the Long Beach Exchange. This area is bounded as follows:

Beginning at the intersection of a line along the west side of New York Avenue, which is also the City Limits of Long Beach, and the center line of Artesia Street; thence westerly along said center line of Artesia Street to the center line of the Union Pacific right of way which also is the present common boundary of the Compton-Hynes-Gardena and Long Beach exchange areas; thence southerly, westerly and southerly along said present common exchange boundary to its intersection with the Long Beach City Limits at the north side of South Street; thence easterly, northerly and easterly along the Long Beach City Limits to the west side of New York Avenue; thence northerly along said west side of New York Avenue to the point of beginning.

Representatives of defendant telephone companies discussed the furnishing of a new service in a limited area near the stipulated boundary line; namely, Foreign Exchange Business Suburban Service. As no evidence was presented that there was any requirement for such service, its establishment will not be ordered herein. If this or any other kinds, types, or grades of service are required in the future, the matter may be brought to the attention of the Commission without the necessity of a formal proceeding.

I submit the following form of Order:

ORDER

Complaint having been filed by the City of Long Beach, a municipal corporation, against Southern California Telephone Company and Associated Telephone Company, Ltd., answers having been filed therein, a public hearing having been held, and the matter having been submitted for decision;

The Railroad Commission of the State of California hereby finds as a fact that the common boundary of the Compton-Hynes-Gardena and Long Beach Exchanges should be modified as particularly described in the Opinion preceding this Order; that the rates and charges for telephone service in the area herein ordered to be transferred to the Long Beach Exchange should be in accordance with the rate Schedules of Associated Telephone Company, Ltd., now on file with the Commission; and that no deviations from filed tariffs should be created hereby; and basing its Order on the above findings of fact

and such other findings of fact or conclusions as appear in the Opinion which precedes this Order;

IT IS HEREBY ORDERED that upon the effective date of this order and subject to the provisions of this order, Southern California Telephone Company may sell to Associated Telephone Company, Ltd., and said Associated Telephone Company, Ltd., may acquire and operate the telephone properties situate in the area described in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that Southern California Telephone Company shall:

- (1) File with the Railroad Commission on or before fifteen (15) days before the effective date thereof, which shall be within sixty (60) days from and after the date of this Order, a map showing the Compton-Hynes-Gardena exchange area modified to exclude therefrom that certain territory particularly described in the Opinion which precedes this Order.
- (2) File with the Railroad Commission on or before fifteen (15) days prior to the effective date of (1) above, such modified rate schedules, rules and regulations as may be required by the modification of its Compton-Hynes-Gardena exchange area boundary.
- (3) Create no deviations from rate schedules filed with the Railroad Commission with the modification of the Compton-Hynes-Gardena exchange boundary described in (1) above.

IT IS HEREBY FURTHER ORDERED that Associated Telephone Company, Ltd., shall:

- (1) File with the Railroad Commission on or before fifteen (15) days before the effective date thereof, which shall be within sixty (60) days from and after the date of this Order, a map showing the Long Beach exchange area modified to include therein that certain territory particularly described in the Opinion which precedes this Order.
- (2) File with the Railroad Commission on or before fifteen (15)

days prior to the effective date of (1) above, such modified rate schedules, rules and regulations as may be required by the modification of its Long Beach exchange area boundary.

- (3) Create no deviations from rate schedules filed with the Railroad Commission with the modification of the Long Beach exchange boundary herein ordered.
- (4) File with the Railroad Commission within sixty (60) days after it acquires the aforesaid properties, a copy of the bill of sale or other instrument under which it acquires and holds title to said properties, and a copy of each journal entry by which it records the purchase of said properties on its records.

IT IS HEREBY FURTHER ORDERED that the price at which the aforesaid properties will be transferred shall not be deemed to determine the value of said properties, for any purpose other than the transfer herein authorized, or to determine the value of any other properties of defendants.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date hereof.

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 14th day of June, 1937.

Arthur M. ...
Leon Whittell
Frank ...
Ray & Rice
Commissioners.