

Decision No. 41174

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILLIAM E. SANDS,

Complainant,

vs.

Case No. 4920

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.)

William E. Sands, in propria persona. Felix T. Smith,
Arthur T. George and James C. Marshall by Leslie C.
Tupper, for The Pacific Telephone and Telegraph Company.

O P I N I O N

William E. Sands complains that, during the period from October 11, 1946, to November 10, 1946, defendant, The Pacific Telephone and Telegraph Company, in testing the message register associated with complainant's telephone, Vandike 8640, charged complainant with test calls in the amount of five dollars and ninety-six cents (\$5.96). He asks that this Commission order the said defendant to cancel said charge.

The Pacific Telephone and Telegraph Company denies that the charge of \$5.96 includes any charge for test calls and avers that its bill rendered complainant, for service under Vandike 8640, during the period from October 11, 1946, to November 10, 1946, was correctly computed in accordance with the provisions of defendant's

lawful tariffs and is properly due defendant. It prays that the complaint be dismissed.

A public hearing was held in Los Angeles before Examiner Chiesa. Evidence having been adduced the matter was submitted for decision.

The evidence in this proceeding shows, and we find, that during the period from October 11, 1946, to November 10, 1946, complainant was furnished, in Room 600 at 704 South Spring Street, Los Angeles, business individual line message rate hand set station service under telephone number Vandike 8640 at the rate of five dollars (\$5.00) per month, including eighty-five (85) exchange messages, each additional exchange message three and one-half cents (\$.035); that this rate is in accordance with the provisions of defendant's published tariffs currently on file with this Commission; that associated with the dial central office facilities serving complainant in defendant's Vandike office is a message register identified by No. 3518, which is electrically activated when the complainant, or others, complete chargeable exchange messages from the telephone on the premises at 704 South Spring Street, identified by telephone number Vandike 8640; that this message register is utilized to record the message usage for exchange messages from telephone number Vandike 8640 for the purpose of determining the charges for message usage due defendant; that message register No. 3518 was tested on October 31, 1946, by a representative of defendant, utilizing special test equipment in the Vandike office, during which message register No. 3518 was caused to register one hundred and five (105) test registrations and was

found to be functioning properly; that on October 31, defendant's representative also tested and inspected the meter connections and tested the line and station equipment associated with Vandike 8640 and found all to be in satisfactory operating condition.

We also find that the bill rendered complainant, dated November 11, 1946, for service under Vandike 8640 during the period October 11 to November 10, inclusive, included a charge of five dollars and ninety-six cents (\$5.96) for two hundred and thirty-three (233) message units; that these message units were correctly determined by deducting the total registrations recorded by message register No. 3518 on October 11, 1946, in amount of one thousand three hundred and sixty-nine (1,369) from the total recorded November 11, 1946, in amount of one thousand seven hundred and five (1,705), a difference of three hundred and thirty-six (336), and from this difference deducting the one hundred and five (105) test registrations recorded on October 31, giving a net usage of two hundred and thirty-one (231), to which was added two (2) message units for a ticketed message from Vandike 8640 handled by an operator during this billing period, making a total of two hundred and thirty-three (233) message units; that the charge of five dollars and ninety-six cents (\$5.96) for these message units was correctly determined by deducting from the two hundred and thirty-three (233) message units the allowance of eighty-five (85) exchange messages included in the basic monthly rate and applying the message rate of three and one-half cents (\$.035) to each of the remaining one hundred and forty-eight (148) message units resulting in an amount of five dollars and eighteen cents (\$5.18)

to which was added the federal tax of fifteen per cent (15%) or seventy-eight cents (\$.78) making the total charge five dollars and ninety-six cents (\$5.96).

Defendant contends that, during the period in question, he completed only 43 calls; that the 233 calls charged by defendant are made up of the 43 calls he completed, 105 test calls, and 85 calls which he is allowed each month. We cannot follow complainant's reasoning because it does not account for the 85 calls in addition to the test calls. The evidence shows that 336 calls were registered, not 233.

The evidence shows that complainant shares a large open-type office with four other persons or firms independently engaged in the insurance or real estate business. Including complainant, there are five men and four women in said office and there are five telephones altogether. Although there is no evidence that any of said persons used complainant's telephone during the period in question, the record shows that complainant spent a considerable amount of time away from his place of business and, therefore, his telephone could have been used without his knowledge.

In view of the evidence showing that the message register, meter connections, and line and station equipment were functioning properly, we are constrained to favor the accuracy of the mechanical instruments which recorded the calls.

The complaint will be dismissed.

O R D E R

The case being at issue upon complaint and answer on file, having been heard and submitted for decision, and basing its decision on the findings of fact and conclusions contained in the Opinion preceding this Order, the Commission orders as follows:

That the complaint of William E. Sands, in Case No. 4920, be, and it hereby is, dismissed.

The effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 28th day of January, 1948.

R. T. Anderson

Leah A. Russell

Harold K. Kule

Wm. H. Potter
COMMISSIONERS