

ORIGINAL

Decision No. 45322

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CLAUDIA LOUISE WALLER WALKER, Complainant,	}
vs.	
GRANADA HOTEL and THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, Defendants.	

Case No. 5184

Claudia L. W. Walker, in propria persona;
Arthur T. George and Dudley A. Zinke, by
Dudley A. Zinke, for The Pacific Telephone
and Telegraph Company; Albert Picard, for
Granada Hotel.

O P I N I O N

Complainant Claudia Louise Waller Walker alleges, in substance, that she has paid the Granada Hotel, 1000 Sutter Street, San Francisco, approximately \$76.15 in excess of prevailing rates for local, East Bay, and intrastate long distance telephone calls made by her while a guest at the hotel; that "no individual or corporation has the right to sell a public utility service at a rate higher than that prevailing as an average rate"; and that "since the Pacific Telephone & Telegraph Company is the source obviously benefitted by any service given over the hotel switchboard, that that company should set a rate to the Granada Hotel to offset the service of the latter, rather than arrange that the Granada Hotel shall pass that cost on to the customer." Complainant requests that the Commission issue an order, similar in effect to an existing rule with respect to interstate telephone messages subject to the jurisdiction of the Federal Communications Commission, that "hotels shall not charge guests in excess of the prevailing 5¢ rate for local calls, 10¢ rate for east

bay calls, and actual rate for long distance intrastate calls." She further requests that defendants reimburse or credit her for the alleged excessive payments.

The telephone company, by its answer, denies the material allegations of the complaint, summarizes existing tariff provisions applying to the types of telephone service mentioned in complainant's pleading, and avers that complainant is not a subscriber to its service and that no charges have been billed to or collected from complainant by the company. The company further avers that the Granada Hotel subscribes to private branch exchange service for the use of the hotel and its guests; that there is no arrangement between the company and the hotel to pass the costs of such service on to the guests of the hotel, and that the company is providing intrastate telephone service to the hotel at rates in accordance with tariffs filed with this Commission, which rates, the company alleges, have been authorized by this Commission as fair and reasonable. The company asks that the complaint be dismissed.

The hotel, by its answer, in substance, also denies the material allegations set forth in the complaint and further denies that any hotel sells a public utility service. The hotel avers that on outgoing telephone calls made by its guests through its switchboard, it charges for services rendered by it in connection with such calls certain sums in addition to the charges assessed to it by the telephone company; that such charges by the hotel to its guests are for services rendered to the guests at their request and do not relate to any public utility service subject to the jurisdiction of this Commission and are not specified in applicable tariffs of the telephone company; that the telephone company has made no provision

for furnishing such services to the public; that, in any event, the hotel's charges on account of such services are just, reasonable, and not in excess of the cost to the hotel of providing such services. The hotel further avers that this Commission lacks jurisdiction to enter any order prayed for by complainant and requests that the complaint be dismissed.

A public hearing was held herein at San Francisco on October 18, 1950, before Examiner Gregory, and the case was submitted subject to the filing of briefs should the parties so desire. Complainant filed a statement in the nature of argument, to which defendants elected to make no reply.

The evidence shows that complainant and her mother occupied Rooms 406 and 407 at the Granada Hotel from February, 1948, to February, 1950. The record shows that between March 22, 1948, and July 12, 1949, complainant paid to the hotel the sum of \$150.48, billed as local and long distance telephone calls, and that, after filing her complaint with the Commission on February 20, 1950, she withheld payment of the sum of \$76.15 on her hotel bill. She asserts that said sum represents charges to her by the hotel in excess of charges under prevailing tariff rates and that the hotel did not present statements to her showing the actual numbers called. Nine of the hotel bills for various periods between April 25, 1948, and January 11, 1950, offered by complainant as typical, show charges for room rent and for local and long distance telephone calls. One of these statements shows a credit of \$3.60 for telephone calls erroneously charged to complainant by the hotel.

Complainant testified that on numerous occasions while a resident of the hotel she requested an itemized statement showing actual telephone numbers called by her, but that the hotel management

refused to give her such a statement. The owner of the hotel testified, however, that while no itemized telephone statements were given to guests, nevertheless, on each occasion when complainant asked to see the detail of the monthly charges, the supporting records were shown to her.

The record shows that in 1949 The Pacific Telephone and Telegraph Company billed the Granada Hotel for telephone service and facilities in the sum of \$6,159.95. Collections during that period by the hotel from guests for telephone service amounted to \$4,090.44. This service included receiving incoming telephone calls and other messages for guests at the switchboard, completing outgoing calls, handling house calls, and paging guests not in their rooms. The hotel employs a secretary who devotes most of her time to the switchboard. A union telephone operator is also employed 2½ days per week at the switchboard and 2½ days doing clerical work. The combined salary expense for these two employees, allocated to switchboard operation, amounted in 1949 to \$3,240.

The telephone service and facilities provided by The Pacific Telephone and Telegraph Company at the Granada Hotel, and the rates applicable to local, East Bay, and intrastate long distance telephone calls as reflected in the company's tariff schedules on file with this Commission, were described by an official of the company. The hotel is provided hotel private branch exchange message rate service for use of the hotel and its guests, the charges for which are billed to the hotel as the subscriber. Facilities consist of one position of nonmultiple cord type switchboard, 12 trunk lines, 194 private branch exchange stations located in hotel guest rooms, 10 private branch exchange stations not in guest rooms, miscellaneous

equipment, and additional listings. The total fixed monthly charge is \$208.10.^{1/}

The current rate for each message from the hotel P.B.X. system to other telephones in the San Francisco Zone is 5 cents. Rates from the hotel service to telephones in the East Bay Zone are two or three message units for an initial period of three minutes, the particular rate applicable being dependent upon the location of the called station, with additional message units for overtime calls. Charges for intrastate long distance calls are in accordance with tariff schedules for message toll telephone service on file with this Commission. There are also three public telephones located in and near the hotel lobby for use of hotel guests and others. The rate for each zone message in San Francisco, from the public telephones is 5 cents. The rates for messages to the East Bay Zone are 10 cents and 15 cents for an initial period of three minutes, the particular rate applicable being dependent upon the location of the called station.

The evidence shows that the telephone company has never had an arrangement or agreement with the Granada Hotel regarding charges which the hotel may make to its guests for local or intrastate toll messages, nor has the company conferred any authority upon the Granada Hotel to act as its agent. On August 17, 1949, a hotel guest directory listing under the name of Claudia Walker, showing the address and telephone number of the hotel, was inserted at the hotel's request. The charge of 25 cents per month for such

^{1/} In addition, residence individual line or party line service is provided to eight subscribers in guest rooms at the Granada Hotel at regular tariff rates for the service involved.

listing is included in the billing to the hotel for its telephone service. Some of the hotel bills presented to Miss Walker subsequent to August, 1949, bear a charge of 25 cents for "phone" or "phone list", in addition to the charges for room rent and telephone calls. The record establishes, however, that complainant was not a subscriber to telephone service at the Granada Hotel either when she filed her complaint or at the time of the hearing.

Complainant contends, in her written statement filed after conclusion of the hearing, that hotel telephone service generally, including the cost of operating a switchboard, should be paid for by hotel room rent and not billed to the guest as an additional charge. In her case, she asserts, she was not billed for "telephone service" but for "telephone calls". She takes the position that charges by the hotel for such calls should not exceed applicable rates and charges as reflected in tariff schedules of the telephone company on file with this Commission, and she cites a rule to that effect enforced by the Federal Communications Commission with respect to interstate messages. Complainant also makes the point that no charges for telephone service were posted in her rooms and that therefore the hotel could not lawfully bill her for such service. As mentioned earlier, the defendants elected not to reply to complainant's statement of her contentions.

Complainant's request for reimbursement or credit for the sum of \$76.15 must be denied. Even if it could be established that said sum represented the amount by which the hotel telephone charges assessed exceeded prevailing tariff rates for the calls made, which does not appear from this record, we would still not be able to grant to complainant the monetary relief she asks, since we find nothing

in the Public Utilities Act which permits such action by this Commission under the facts disclosed by this record. Nor is this the tribunal before which to litigate the liability of a hotel for failure to post charges for services or items furnished to guests, as contemplated by the provisions of Section 1863 of the Civil Code.

We have concluded that upon the basis of this record complainant is not entitled to the relief she seeks and that therefore her complaint must be dismissed.

O R D E R

Public hearing having been held in the instant proceeding, evidence and argument having been received and considered, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED that the complaint herein be and it hereby is dismissed.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 30th day of January, 1951.

R. B. [Signature]
Justice J. [Signature]
Harold [Signature]
[Signature]
Commissioners.