

ORIGINAL

Decision No. 55209

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BURT M. McCORMICK, dba
 Proxy Telephone Service Company,
 Complainant,
 vs.
 PACIFIC TELEPHONE AND TELEGRAPH
 COMPANY, a corporation,
 Defendant.

Case No. 5886

Case No. 5888

Burt M. McCormick, in propria persona.

Pillsbury, Madison and Sutro, by Charles B. Renfrew
and Dexter C. Tight, for defendant.

Telephone Answering System of California, Inc., by
Lew Lauria and Dermot R. Long, intervenor.

James F. Haley, for the Commission staff.

O P I N I O N

In Case No. 5886, filed on January 23, 1957, the complainant requests an order to revise defendant's Schedule Cal. P.U.C. No. 100-T to provide for the installation of concentrator-identifier equipment to enable him to serve Lorain subscribers to individual business answering lines, or an order to require the defendant to install individual business answering lines with Lorain prefixes by means of direct circuit connections to the complainant's bureau in the Ludlow central office area.

In Case No. 5888, filed on January 29, 1957, the complainant requests an order that secretarial lines, referred to in the complaint, be installed and that the defendant be required to

either install concentrator-identifier equipment to enable the complainant to accept and have completed orders for secretarial lines from the Lorain central office area, or to make available the necessary circuit facilities to complete the orders on a direct line basis. In addition, complainant requests an order to have the defendant refund the monthly charges for an additional position of telephone answering equipment which has been of no value to the complainant because of the defendant's failure to install secretarial lines from the Lorain central office area.

The defendant, in its answer to each case, set forth affirmative defenses based on pertinent tariff provisions.

On April 3 and 4, 1957, a public hearing on the two complaints was held in Los Angeles before Examiner Kent C. Rogers. At the commencement of the first day of hearing, at the request of the defendant, the two matters were consolidated for hearing and decision. Thereafter evidence was presented by the complainant and defendant, each party presented argument in support of his or its respective position, and the matters were submitted. Telephone Answering System of California, Inc., was given authority to appear as an intervener in support of the defendant's position. It presented no evidence and did not participate in examination of the witnesses.

The following definitions will help in understanding the problems involved:

(1) Business answering lines:

Lines which are furnished to subscribers other than the telephone answering bureau for direct termination on telephone answering equipment for answering purposes only and are restricted from outgoing calls.

(2) Secretarial lines:

Extensions from primary services which terminate on telephone answering equipment and are designed to permit answering calls that come in on the primary station.

(3) Identifier unit:

A component of a concentrator-identifier system, which component is located on the premises of a telephone answering bureau. The furnishing of a concentrator, together with an identifier and the interconnecting circuits, comprises the concentrator-identifier system. The identifier consists of equipment mounted in a cabinet by means of which lines from the concentrator are terminated, identified, and then relayed to the telephone answering switchboard for answering purposes.

(4) Concentrator:

The other component of the concentrator-identifier system. It consists of equipment located in the central office, which is the central office of the area designed to be served by the concentrator. It terminates lines from the subscriber's primary station, as well as answering lines, and by means of interconnecting circuits conveys the message to the identifier.

The complainant testified in his own behalf and cross-examined the defendant's witnesses. He also subpoenaed certain of defendant's records and examined the company officer who produced the records. His presentation consisted to a large extent of arguments on the effect or application of defendant's tariffs. As a result, he has very little evidentiary matter in the record.

Case No. 5886

The gist of the complaint in Case No. 5886 is that Ludlow and Lorain are central office districts in the Ludlow-Lorain District

Area No. 6 of the defendant's Los Angeles Exchange; that complainant's answering bureau is in the Ludlow central office area; that he had subscribers with primary stations in the Lorain area who moved out of the Lorain area but desired to maintain their Lorain telephone numbers; that he has attempted to have the defendant install individual business answering lines or concentrator-identifier equipment between the Ludlow and Lorain central office area to enable him to answer calls for such removing subscribers but the defendant has refused.

The complainant testified that he has had subscribers in the Lorain area with Lorain prefixes to their telephone numbers with secretarial lines terminating in complainant's answering bureau in the Ludlow area; that some of these subscribers moved out of the Ludlow-Lorain District Area No. 6 and desired to retain their Lorain prefix for business purposes; that complainant has attempted to have the defendant provide service through individual business answering lines or concentrator-identifiers from the Lorain central office to his answering bureau in the Ludlow area so that patrons moving out of District No. 6 can retain their telephone identities; and that the defendant refuses to provide a service whereby the Lorain prefixes of his patrons can be retained.

This refusal, the complainant contends, is discriminatory for the reason that answering bureaus in exchanges or district areas contiguous to District Area No. 6 can provide business answering line service with Lorain prefixes and he is for that reason placed at an unfair disadvantage compared to such other bureaus.

On October 2, 1956, prior to the filing of First Revised Sheet 7F of Schedule Cal. P.U.C. No. 100-T, the complainant wrote a letter to the defendant's sales supervisor requesting that defendant's

tariff be amended to permit the type of service herein requested (Exhibit No. 3). The request was denied (Exhibit No. 4).

The complainant further testified that he knows of six instances in which individual business answering lines have been installed between two central offices in the same district area and specified them as being in the Mutual and Trinity central offices of the Los Angeles Exchange.

The defendant stipulated that there is a demand for telephone answering services such as provided by the complainant.

The general commercial engineer of the defendant's Southern California area testified in its behalf and in response to questions by the complainant.

Telephone answering services and facilities are furnished pursuant to defendant's Schedule Cal. P.U.C. No. 100-T. Its Rules and Regulations filed in its Schedule Cal. P.U.C. No. 36-T are also applicable (Exhibits Nos. 5 and 6). Second Revised Sheet No. 10 of Schedule Cal. P.U.C. No. 36-T, paragraph 2.(A)1 provides as follows:

"Exchange service is available through facilities owned and maintained according to the Company's standards and in the multi-office exchanges, is operated from the central office designated by the Company."

First Revised Sheet 7-F of Schedule Cal. P.U.C. No. 100-T, paragraph 2.e.(3) provides in part:

"The concentrator unit will be located (1)---or (2), in the case of an exchange a zone divided into district areas, in a central office building normally serving subscribers' primary services in a district area designated by the subscriber other than the district area in which the identifier unit is located."

The tariff provision is self-explanatory and prohibits the use of concentrator-identifier equipment between points in District Area No. 6 (See Exhibit No. 1). There is nothing in the tariff which prohibits the use of business answering lines between central office areas in the same district area. The defendant, using Tariff 36-T, 2.(A)1

and Tariff 100-T, First Revised Sheet 7-F, 2.e.(3), as authorities, has refused to provide complainant with a concentrator in the Lorain area and the identifier in the Ludlow area, or business answering lines, having a Lorain prefix, to his answering bureau in Ludlow. The reasons are given as follows:

District Area No. 6 is a multi-office exchange and the defendant has designated that exchange telephone service furnished in the Lorain central office area be out of the Lorain central office, and that furnished in the Ludlow central office area be out of the Ludlow central office. In planning for facilities to provide telephone service to its customers, the defendant attempted to determine the most economical way of providing adequate and satisfactory service. The long term planning contemplated that all exchange service be handled as above set out. To do otherwise would be uneconomical in that it would necessitate the use of interoffice pairs to provide a service, the features of which would be no different in any respect than the service that would be obtained in the normal manner for which the company had engineered. If a concentrator were installed in the Lorain central office, with the identifier in the Ludlow area, the concentrator-identifier could be used for the termination of answering lines, as well as secretarial lines. Under Schedule 100-T the company will furnish secretarial lines from the Lorain central office to complainant's board in the Ludlow area by using an interoffice facility between the central offices for \$3.75 per month, the same charge that would apply for a subscriber to secretarial line service in the Ludlow central office area. There is no rate advantage dependent on whether or not the customer is located in the Lorain or Ludlow area. The same situation, insofar as rates are concerned, applies to business

answering lines. Because of these facts the company does not plan to offer concentrator-identifier equipment with both components in District Area No. 6 for either secretarial line or business answering line service. If the defendant offered the services requested by complainant, it would be required to offer such services in all other multi-office districts. The defendant knows of no general requirement for the type of service requested by the complainant. The defendant has considered the installation of concentrator-identifier equipment to provide secretarial lines between the Lorain and Ludlow central office but has not considered it economically feasible because of the fact that a cable will be completed this year which will enable the company to take care of all facility requirements.

With reference to the testimony of the complainant that within District Area No. 1, comprising the Mutual and Trinity central office areas, subscribers to individual business answering line service were given the identical arrangement refused complainant, the defendant's witness stated that he was not personally familiar with the services but the situation in the Mutual-Trinity area is historical in that the company had random assignments from either central office within the areas; that this was done at the election of the defendant because in its opinion it was the proper and economical thing to do under the circumstances; and that this was done under Tariff No. 36-T. The witness further stated that the defendant designates the central office from which the subscriber is to be served, and because of the historical situation in the downtown area of Los Angeles and the central office and outside plant arrangements in that area, in the opinion of the company, it was in

the public interest at the time to do as it did.

Conclusion

In order to provide efficient and economical telephone service in a multi-office exchange, it is fundamental that the utility have a basic engineering plan which contemplates that each central office will normally provide exchange service to the stations located within a given central office area. During transition periods when essential plant rearrangements are being made or when a given central office is filled to capacity, it may be necessary for some stations in one central office area to be served from another central office for reasons of economical plant growth or for purposes of providing service at an earlier date than would otherwise be possible.

The complainant alleges that the company has been discriminatory in not providing, at his request, Lorain exchange service in the Ludlow central office area, citing examples in District No. 1, where the company has provided business answering line service from one central office to an answering service located in the other central office area of that district. The company in providing this service in District No. 1 is acting in accordance with the provisions of its Tariff No. 36T, 2.(A)1. There is no evidence in this record to indicate that this service is being provided in District No. 1, for reasons other than economical development of plant or establishment of service at an earlier date than would have otherwise been possible. The complainant failed to show that the company could economically provide Lorain business answering line service in Ludlow. In fact, the record clearly shows that unnecessary use of critically short interoffice trunks would be required to provide this service.

The Commission is of the opinion, therefore, that the defendant has not unreasonably discriminated against the complainant in refusing to furnish him, either by direct line or by concentrator-identifier equipment, business answering line service between the Ludlow and Lorain central office areas of District No. 6 of the Los Angeles Exchange. The complainant has made no showing that defendant's Tariff Schedule 100-T is unjust and unfair or that there is any public demand for the revision thereof.

Case 5888

The record herein shows that all of complainant's requests for secretarial lines have either been filled or have been withdrawn and that he has no pending unfilled requests for such service. The first portion of the prayer in Case No. 5888 will, therefore, be dismissed.

In the same case complainant seeks an order requiring defendant to refund monthly charges for an additional position of telephone answering equipment which has been of no value to complainant because of defendant's failure to install secretarial lines. The defendant moved to strike this portion of the prayer at the commencement of the hearing on the ground that the complaint contains no allegation that defendant's charges for such service were unreasonable, excessive or discriminatory. This motion was taken under submission by the examiner for reference to the Commission. The motion is granted. The prayer asks for a money judgment for damages arising out of failure to provide service in accordance with the filed tariffs and such an award is beyond our jurisdiction in the absence of an allegation and proof that the charges were unreasonable, excessive or discriminatory.

O R D E R


Complaints as above set forth having been filed, public hearings having been held thereon, the Commission having made the foregoing findings, and based upon said findings,


IT IS ORDERED:

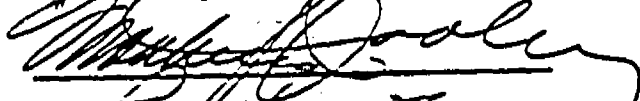
That the relief requested in Cases Nos. 5886 and 5888 is denied.

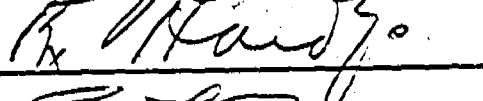
The effective date of this order shall be twenty days after completion of such service.

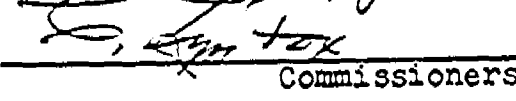
Dated at San Francisco, California, this 2nd day of JULY, 1957.



President








Commissioners