

ORIGINAL

Decision No. 60612

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

UTILITY USER'S ASSISTANCE LEAGUE,
a nonprofit citizens association,

Petitioner,

vs.

Case No. 6333

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, CALIFORNIA WATER AND TELE-
PHONE COMPANY, GENERAL TELEPHONE
COMPANY OF CALIFORNIA, SUNLAND-
TUJUNGA TELEPHONE COMPANY.

Defendants.

Edward L. Blincoe, for complainant.

Arthur T. George and Pillsbury, Madison & Sutro,
by Charles B. Renfrew and Francis N. Marshall,
for The Pacific Telephone and Telegraph Com-
pany; Bacigalupi, Elkus & Salinger, by
Claude N. Rosenberg, for California Water and
Telephone Company; H. Ralph Snyder, Jr., for
General Telephone Company of California;
Warren A. Palmer, and Orrick, Dahlquist,
Herrington & Sutcliffe, for Sunland-Tujunga
Telephone Company, defendants.

Melvin E. Mezek, for the Commission staff.

O P I N I O N

On August 10, 1959, Utility User's Assistance League filed this complaint against the four telephone utilities operating in the Los Angeles extended area. Complainant filed an amendment on September 23, 1959. Public hearings were held at Los Angeles before Examiner James F. Haley on December 8 and 9, 1959, and before Commissioner C. Lyn Fox and Examiner Haley on March 23, 24 and 25, 1960. The matter was submitted on the last of these dates subject to receipt of a late-filed exhibit which the Commission received on May 10, 1960.

Nature of the Complaint

The allegations and contentions of the complaint, as amended, are contained in nine numbered paragraphs. These paragraphs are inartificially drawn and the Commission, in its efforts to be of assistance to complainant, has determined that their gist is as follows:

- I That defendants should be required to render itemized billing of multimessage unit calls and should be required to provide a distinctive signal to warn callers when they are dialing toll or multimessage unit calls.
- II That defendants should not be permitted to recover federal income taxes and advertising costs through the rates charged telephone subscribers.
- III That all telephone subscribers in the Los Angeles extended area should be able to call all other subscribers in that area without multiple message unit charges; that they should be charged similar rates for similar services; that party line subscribers should be afforded the option of either flat or message rate service; and that no mileage rates should apply to subscribers located outside base rate areas.
- IV That by means of bill inserts defendants should give direct notice to their respective individual subscribers of all future hearings affecting their rates, services, practices and procedures.
- V That the Commission should deny future requests by defendants to issue securities under conditions giving stockholders or other preferential purchase rights, and that the Commission should revoke any such issues made in the past.
- VI That the action of The Pacific Telephone and Telegraph Company in removing the telephone of Francis L. Harmon for nonpayment of disputed message unit charges was improper, injurious and inequitable.
- VII That the rates charged Mr. Edward L. Blincoe by The Pacific Telephone and Telegraph Company are discriminatory in that he pays a mileage charge for the distance he resides beyond the base rate area of his exchange and in that he has only eight exchanges included in his local calling area, whereas some telephones in the Los Angeles extended area have thirty-five exchanges so included.

VIII That the Los Angeles area is currently providing most of the profits for The Pacific Telephone and Telegraph Company's operations and that this alleged situation is discriminatory.

IX That allowing telephone utilities to charge federal income taxes on profits to subscribers is misleading to such subscribers.

Defendants' Answers

In their answers defendants generally deny the allegations of the complainant. Three of the answers contend that the complaint, as amended, fails to state a cause of action under the Public Utilities Code. Each defendant requests that the complaint be dismissed.

Propriety of the Complaint

The Commission has been extremely liberal, not only in entertaining the complaint as filed, but also in the wide latitude of conduct permitted complainant in bringing up any facet of public utility telephone operations wherein there might conceivably lie some basis of justifiable customer grievance against defendants. The complaint, as amended, is certainly not without defect and does not fully comply with the requirements of either the Public Utilities Code or the Commission's Rules of Procedure. Nevertheless, the Commission has proceeded on the assumption that Utility User's Assistance League is a bona fide consumers' organization motivated by real dissatisfaction of its membership with certain aspects of telephone service in the Los Angeles extended area. The Commission has been constrained, therefore, from dismissing this complaint by its earnest desire to pinpoint and rectify any possible genuine subscriber grievances with the assistance of the testimony of the telephone users brought forward by the complainant.

Even allowing the greatest possible latitude, however, the contentions and allegations contained in paragraphs II through V and VII through IX cannot be considered because, with respect to such

paragraphs, complainant has failed to state a cause of action under the Public Utilities Code which provides, in part, that a complaint must set forth:

"... any act or thing done or omitted to be done by any public utility, including any rule or charge heretofore established or fixed by or for any public utility, in violation or claimed to be in violation, of any provision of law or of any order or rule of the commission."

Further, paragraphs II through V and VII through IX fail to comply with Rule 10 of the Revised Rules of Procedure which require complainant to:

"... set forth fully and clearly the specific act complained of, in ordinary and concise language, and shall be so drawn as to advise the parties and the Commission completely of the facts constituting the grounds of complaint, the injury complained of and the exact relief which is desired."

Multimessage Unit Calls

In paragraphs I and VI complainant contends, in effect, that defendants should be required to set forth in their monthly bills to subscribers fully itemized information, such as the number called and charges relating to each multimessage unit (mmu) call made, rather than merely bulk billing each customer for the total number of message units he uses each month.

Three of the four defendant utilities bulk bill message units. Sunland-Tujunga Telephone Company (Sunland) provides fully itemized and detailed billing on all mmu calls as a normal and routine billing procedure. At the present time, the other defendants, The Pacific Telephone and Telegraph Company (Pacific), California Water and Telephone Company (California Water), and General Telephone Company of California (General) all bulk bill mmu calls as a normal procedure. All three, however, through their directories and by means of other appropriate notification, have advised their subscribers that itemized billing may be obtained by placing such calls through

the operator on a station toll basis rather than dialing them as mmu calls. This procedure permits the customer to obtain itemized billing of calls so placed, but the cost to him is greater because the charges in short-haul station toll calls are built upon 5-cent increments rather than the 4½-cent increments upon which mmu charges are based. This difference in rate levels gives recognition to the substantial economies in plant and expenses that result from the bulk billing of mmu calls. The evidence shows that one of the defendants, Pacific, saves \$6,100,000 annually in the expenses related to its California operations by bulk billing multmessage unit calls.

Among the defendants, General now provides optional itemized billing of mmu calls at an additional rate. Under General's filed tariffs, the customer pays a nonrecurring installation charge of \$1.50 upon establishment of such optional service and pays a charge of one cent per message with a minimum charge of 50 cents per month. This service appears to meet satisfactorily the requirements of those among General's subscribers who desire such service.

On July 14, 1960, subsequent to submission of this complaint, Pacific filed Advice Letter No. 7711 with the Commission, establishing a new tariff schedule offering, as soon as equipment can be secured and installed, optional detailed billing of mmu calls to its subscribers in the Los Angeles and San Francisco-East Bay extended areas. This schedule provides for optional detailed billing at the same rates such service is offered by General and provides for a two-month minimum period for the service. Pacific estimates the annual cost of providing optional detailed billing to be \$871,400 and expects one percent of its subscribers to avail

themselves of this service, producing an estimated annual revenue of \$186,000. It is expected that the necessary equipment installation for providing this service will be completed by the middle of 1961. This optional arrangement will satisfy the needs of Pacific subscribers who require such service and still permit the vast majority of Pacific subscribers who neither desire nor require itemized billing to continue to reap the benefits of the lower rates flowing to them from the economies Pacific realizes through bulk billed message unit service.

California Water advised the Commission on July 11, 1960, that, commencing about May 1, 1961, it will provide detailed billing of mmu calls to its subscribers in the Los Angeles extended area. According to the advice received by the Commission, the equipment additions needed for this program will require additional building space which will not be available until the completion, about May 1, 1961, of construction now in progress. California Water states that prior to commencement of detailed billing, it will make appropriate tariff filings.

The Commission finds that the present arrangements of Sunland and General and the prospective arrangements of Pacific and California Water for providing detailed billing of mmu calls adequately meet the requirements of telephone users throughout the Los Angeles extended area.

Warning Tone on Toll and MMU Calls

Complainant contends that defendants should be compelled to protect their subscribers from unintentionally or unwittingly dialing toll or mmu calls by arranging that additional digits must be dialed to complete such calls or, in the alternative, that a warning tone or other device be employed to alert customers prior to the completion of such calls and the incurrence of charges therefor.

The Commission finds that an arbitrary requirement of dialing extra digits to complete toll and mmu calls would be burdensome to the user and unreasonably degrade telephone service.

Likewise, the use of a tone or other warning device as suggested by complainant, would appear to have little or no merit.

Disputed Bill of Francis L. Harmon

Paragraph VI of the complaint makes specific mention of the disputed multmessage unit charges billed to Francis L. Harmon by Pacific, nonpayment of which resulted in the disconnection of his telephone service under CRestview 5-5674. Mr. Harmon testified that he refused to pay the bill because Pacific would not itemize message unit charges amounting to \$1.03. There is no evidence to indicate that these charges were not proper. Mr. Harmon, in accordance with the instructions appearing on the back of his telephone bills, could have forestalled disconnection by depositing the amount of the disputed charges with the Commission. Pacific appears to have acted in accordance with the provisions of its filed tariffs. Accordingly, the Commission finds no merit in complainant's contention that Pacific's action was improper, injurious and inequitable.

Testimony of Public Witnesses

Complainant brought forward 22 witnesses, each of whom was, or had been a subscriber to Pacific, California Water or General telephone service. While the telephone service problems of these people varied, the preponderant expression of dissatisfaction by these witnesses concerned level of rates and bulk billing of mmu charges. The defendants concerned have provided the Commission with pertinent billing information concerning these subscribers. The Commission finds that defendants, where warranted, have made appropriate adjustments to the bills in question.

The Commission further finds that the complaint should be dismissed.

All motions not heretofore ruled upon or not ruled upon elsewhere in this opinion and order are hereby denied.

O R D E R

Public hearings having been held, the matter having been submitted and now being ready for decision,

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

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

Dated at San Francisco, California, this 23rd day of August, 1960.

Greene R. Page
President

Marshall D. Cook
E. J. Taylor

Commissioners

Peter E. Mitchell
Commissioner S. Theodore R. Jenner, being
necessarily absent, did not participate
in the disposition of this proceeding.