

ORIGINAL

Decision No. 63294

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AFFILIATED CONSUMERS, INC.,  
a corporation,

Complainant,

vs.

Case No. 7138

GENERAL TELEPHONE COMPANY OF  
CALIFORNIA, a corporation,

Defendant.

Fred Wellenkamp and Albert J. Swimmer, for Affiliated  
Consumers, Inc., complainant.

Donald J. Duckett and Albert M. Hart, for General  
Telephone Company of California, defendant.

Eugene S. Jones, for the Commission staff.

O P I N I O N

Complaint

On June 19, 1961, complainant Affiliated Consumers, Inc., filed its complaint against defendant General Telephone Company of California, alleging as follows:

1. Complainant is a new corporation formed for the operation of a retail department store.
2. During the month of October 1960, complainant requested the installation of telephone service by defendant. Defendant's agent, Mr. C. A. Dewey, stated to complainant that because defendant did not have push button telephones on hand an old switchboard would have to be installed and that at such time as the instruments became available the old switchboard and

its accompanying system would be removed and the new telephone system would be installed without cost to complainant.

3. Defendant installed an obsolete, outmoded and entirely unsatisfactory switchboard in complainant's premises.

4. Complainant used the telephone system until the latter part of April 1961, at which time it became almost impossible for complainant adequately to operate its telephones.

5. During the latter part of April 1961, complainant called defendant's office in Santa Maria and again spoke to defendant's agent, C. A. Dewey, who informed complainant that push button type telephones had been available at the time the original installation was made in complainant's store and that if complainant desired to have new equipment installed a second installation charge would be levied.

6. Complainant does not believe it should pay the installation charges billed to it until such time as defendant installs modern up-to-date and adequate equipment without further charge to complainant.

7. In the defendant's billing received by complainant during the month of April 1961, defendant has included toll charges for telephone calls allegedly made by complainant during the months of December, 1960, and January, February, March and April, 1961.

8. Previous billings have been received and paid promptly by complainant for toll calls covering the aforesaid months. Complainant has no means of ascertaining the validity of charges for toll services which are now being made by defendant for months prior to the actual billing.

Complainant requests the following orders:

1. That defendant be required to install an adequate, modern and up-to-date telephone system in complainant's store without additional installation charges.
2. That defendant be required to substantiate the billing by defendant dated April 19, 1961, for toll charges for calls allegedly made during the months of December, 1960, and January, February, March and April, 1961, and defendant be required to justify such a late billing before complainant is required to pay the same, and that, in the event defendant is unable to justify its billing as aforesaid, complainant not be required to pay the same.

Answer

Defendant filed its answer on July 10, 1961, admitting:

1. The allegations of paragraphs 1, 6 and 7 above of the complaint.
2. That during the month of October 1960, complainant requested the installation of telephone service by defendant.
3. That Mr. Dewey informed complainant that if complainant desired to have new equipment installed an installation charge would be levied.

Defendant denied all the other allegations of the complaint and alleges that it installed telephone service as requested by complainant. Defendant requests that the complaint be dismissed.

Public Hearing

Public hearing in this matter was held before Examiner Wilson E. Cline at Santa Maria on August 29, 1961. At the close of the hearing the parties stipulated (1) that complainant should pay all unpaid amounts billed to it by defendant and make application to defendant for the installation of the desired telephone system; (2) that defendant would install such system upon the payment to it of the necessary additional charges pursuant to its tariffs on

file with this Commission; and (3) that should this Commission in this case grant complainant any relief which requires any adjustment of the amounts so paid by complainant to defendant, then the appropriate refunds will promptly be made by defendant to complainant. The matter was thereupon taken under submission.

Findings and Conclusions

Upon a review of the evidence in this proceeding the Commission finds and concludes as follows:

1. The telephone system and switchboard which were installed at complainant's place of business were installed at the request of complainant's duly authorized agent on a permanent basis after negotiation with defendant's commercial representative and after consideration of the costs of installation and service charges of various types of equipment.

2. The evidence fails to show that any billing for installation of telephone equipment or for telephone service has been made other than in accordance with the defendant's tariffs duly filed with this Commission, except an overcharge for installation of equipment not actually installed in the amount of \$54 to \$70 for which, according to the admission of complainant's witness, an adjustment may already have been made by defendant.

3. The switchboard telephone system which was installed at complainant's premises, although older and less expensive than the more modern push button system, is adequate for those of defendant's customers who desire to use it. Such equipment is still supplied for use by the public pursuant to defendant's tariffs on file with this Commission, and is maintained and kept in good operating condition by defendant.

4. Defendant maintains records<sup>1/</sup> from which the correctness of toll charges may be ascertained. Some of the delay in billing complainant for toll calls resulted from the charging of toll calls by complainant and its tenants to a telephone number other than the one under which said toll calls actually were billed by defendant.

5. Complainant has been inconvenienced and has suffered loss through its failure to collect, from the tenants of its premises, charges for certain of the toll calls included in the bill from defendant dated April 19, 1961, but there is no showing that such loss would have occurred had complainant and its tenants maintained such records of their toll calls as would enable them properly to identify and allocate the charges for such calls.

6. There is insufficient evidence in the record in this proceeding to justify granting any of the relief requested by complainant, and its complaint should be dismissed.

Notwithstanding the dismissal of the complaint, the Commission will require defendant to furnish a detailed and complete supplementary report setting forth its applicable tariffs for service, the charges it made to complainant for installation of the telephone equipment at complainant's premises at 204 North Blesser Road, Santa Maria, California, and the adjustments, if any, which have been made to such charges. The Commission will determine whether such charges are in accordance with defendant's filed tariffs. Defendant will also be required to include in said report detailed information respecting toll charges subsequent to the bill

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<sup>1/</sup> Records of all the toll charges through March 14, 1961, and certain toll charges through March 29, 1961, included in the bill dated April 19, 1961, were introduced in evidence as Exhibit No. 1, and a copy of the bill dated April 19, 1961, was introduced in evidence as a part of Exhibit No. 2.

dated May 19, 1961, to enable the Commission to ascertain whether defendant is billing for such toll calls in accordance with its tariffs and whether on a current or on a delayed basis.

A determination whether the Commission should institute an investigation on its own motion will be made after a consideration of said report.

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED as follows:

1. Defendant shall prepare and file a supplemental report, as indicated in the Findings and Conclusions above, to assist the Commission in determining whether defendant's charges to complainant have been in accordance with its tariffs and whether billing for toll calls, subsequent to May 19, 1961, is on a current or delayed basis. Defendant shall file four copies of such report with the Commission and furnish one copy of such report to the complainant herein within sixty days after the effective date of this order.

2. The complaint herein is dismissed.

Dated at San Francisco, California, this 20th day of FEBRUARY, 1962.

Ernest A. Rye  
President  
Eric E. [illegible]  
E. [illegible]  
Fredrick B. Holoboff

George G. Grover  
Commissioner \_\_\_\_\_, being  
necessarily absent, did not participate  
in the disposition of this proceeding.

\_\_\_\_\_  
Commissioners