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**ORIGINAL**

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The Rev. LEE W. ROBINSON, individually and as Pastor for the PANORAMA GOSPEL TABERNACLE and as a Board Member for the Southern District, CALIFORNIA EVANGALISTIC ASSOCIATION, Inc., and as a member of the PANORAMA-PACOIMA MINISTERIAL ASSOCIATION; and the Rev. WALDO L. ELLICKSON, individually and as Pastor for the CROWN AND CROSS LUTHERAN CHURCH AND AS Committee Chairman for the MONTEBELLO - EAST LOS ANGELES MINISTERIAL ASSOCIATION, and EDWARD L. BLINCOE, individually and as President, UTILITY USER'S LEAGUE OF CALIFORNIA and more than 25 individual consumers or prospective consumers of Telephone Utility Service,

Complainants,

vs.

THE CALIFORNIA WATER AND TELEPHONE COMPANY, a utility corporation, and THE GENERAL TELEPHONE COMPANY, a utility corporation, and THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, a utility corporation, and the SUNLAND-TUJUNGA TELEPHONE COMPANY, a utility corporation,

Defendants.

CASE NUMBER 7533

PETITION FOR RECLASSIFI-

CATION OF TARIFFS ON

TELEPHONE CHARGES FOR

ELEEMOYSEMARY ORGANIZATIONS,

and

TO ESTABLISH INTEGRATED

TOLL FREE ZONES FOR THE

LOS ANGELES METROPOLITAN

AREA.

ORDER OF DISMISSAL

Complainants are two ministers and the president of "Utility User's League of California." The complaint bears 26 additional signatures of "consumers and prospective consumers of Telephone service in the LOS ANGELES METROPOLITAN AREA \* \* \*." Four telephone utilities are named as defendants.



The complaint contains three causes of action. The first cause alleges that defendants' tariffs classify churches as business organizations, contrary to fact, the use of telephones by most churches being as "eleemosynary groups." Such classification is alleged to be contrary to and in violation of the intent of Public Utilities Code secs. 453 and 523(b) and (c). The classification is alleged to work substantial hardship on churches whose funds come largely from donations, and substantially reduces activities approved and encouraged by public policy.

The second cause of action alleges that churches, whose activities are largely eleemosynary, are required to pay business rates for telephone service similar to profit making institutions, and that to require them to do so is unfair and unreasonable and in violation of section 451. That section provides that public utility charges shall be just and reasonable.

Under section 523 a "common carrier may give free or reduced rate transportation \* \* \* to: \* \* \* (b) Ministers of religions, \* \* \* (c) \* \* \* persons exclusively engaged in charitable or eleemosynary work \* \* \*" (Emphasis added.) A telephone corporation is a "public utility", but is not a "common carrier" within the meaning of the Public Utilities Act. The section is permissive only, and does not apply to telephone corporations. Section 532 prohibits public utilities other than common carriers from charging other than tariff rates. Section 453 prohibits discrimination, as well as any unreasonable difference as to rates, either as between localities or as between classes of service.

Re Pacific Telephone, 48 Cal. P.U.C. 1, 49, held in part as follows:

"The San Francisco Council of Churches and the Northern Nevada Council of Churches filed a petition asking that churches be given residence instead of business classification. The Commission has reviewed this matter and concludes that the telephone service furnished to churches has more nearly the characteristics of business than residential use, and the service should be classified accordingly."

Considering the first two causes, the complaint fails to state a cause of action in that section 523 does not apply to telephone corporations; and as to Sections 451 and 453 the Commission has found that service to churches should be classified as indicated in Re Pacific Telephone, supra. Sections 453 and 532 prohibit the charging of other than tariff rates.

Allegations of the third cause may be summarized as follows:

Persons who work with and in church and eleemosynary groups are put to great expense because the telephone companies have instituted a mileage system of assessing charges. That system is not suited to the requirements of the Los Angeles Metropolitan Area, where mileage has little to do with operating costs. Complainants understand that the individual ratepayers of California are carrying an unreasonable burden of charges exceeding \$150,000,000 annually to satisfy the financial policies and requirements of Pacific Telephone Company alone. Inspection of the telephone books of the five districts of the Los Angeles Extended Area show great discrepancies in the number of telephones or prefixes which can be called without special charge from complainants' prefixes. For approximately the same monthly charge, users in some locations in the area can call as few as 300,000 other numbers, while subscribers in more favored locations can call about 1,500,000 phones without special charge. Defendants' acts in maintaining these differences are unjust, unreasonable, and discriminatory as between localities and classes of service, and in violation of Code sections 451 and 453.

Relief sought by the complaint is as follows:

1. That defendants be ordered to establish a series of integrated zones for the Los Angeles Metropolitan Area, with costs to individual ratepayers based on a rate base established for each zone separately, or for all zones in the Area jointly.
2. That within each integrated zone all telephones therein may call all other telephones therein without special toll or multiple message unit charge.
3. That each zone be reasonably equal to the others in station availability, rates, and service.
4. That subscribers in any zone may, for a reasonable additional charge, receive extended service into any other or all zones or exchanges.

The relief sought, as well as the substance of most of the allegations of the present complaint, are similar to the allegations of paragraphs III and VII of the complaint in Case No. 6333, which was a complaint by Utility Users Assistance League, by Edward L. Blincoe, President, against the same four telephone corporations named as defendants in the present complaint. Case No. 6333 was dismissed after five days of public hearing. It was held that paragraphs III and VII, as well as certain other paragraphs of the complaint therein, failed to state a cause of action and failed to comply with the Commission's procedural rules.

(Utility Users v. Pacific Telephone et al., 58 Cal. P.U.C. 22.)

The decision dismissing Case 6333 stated in part as follows:

"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."

Thereafter Case 7076 was filed. Complainants were Utility Users League, by Edward L. Blincoc, President, and more than 25 individual telephone users. Defendants therein were two of the four telephone corporations named as defendants in the present complaint. The complaint in Case 7076 was dismissed for non-compliance with Code section 1702 and the Commission's procedural rules. (Utility Users v. Pacific Telephone et al., Decision No. 62442, Case No. 7076.) Among other things, the complaint in Case 7076 sought the same relief and contained allegations similar to allegations in prior Case 6333, supra, although limited to San Fernando Valley rather than the Los Angeles extended area. As stated, Case 7076 was dismissed for the same reasons Case 6333 had been dismissed.

The third cause of the present complaint also seeks substantially the same relief and contains allegations similar to certain of the allegations of the complaint in Case 7076, although again related to the Los Angeles Metropolitan Area, as in earlier Case 6333.

After Case 7076 was dismissed, Case 7394 was filed, complainants being The Utility User's League of California and over 25 individual ratepayers, by Edward L. Blincoc, President of the League. Defendants are two of the four telephone corporations named as defendants in the present complaint. In part the complaint in Case 7394 alleges unreasonable differences between localities

and classes of service, and seeks a uniform zone system in the San Fernando Valley. Case 7394 is pending and undecided.

For the reasons set forth in Decision No. 60612, dismissing Case No. 6333 (58 Cal. P.U.C. 22), and in Decision No. 62442, dismissing Case No. 7076, the complaint in present Case No. 7533 is dismissed for failure to state a cause of action.

Dated at San Francisco, California, this 19<sup>th</sup> day of March, 1963.

[Signature] President  
[Signature]  
[Signature]  
[Signature]  
 Commissioners

I concur in the dismissal of the complaint, but not on the ground of "failure to state a cause of action". The same issues have been raised by the same persons in Case 7409, the Commission's general investigation of The Pacific Telephone and Telegraph Company. That case was instituted before the present complaint was filed, and furthermore it provides a more convenient vehicle for consideration of those issues.

George G. Grover

I concur in President Grover's comments. Fredrick B. Haloloff