

ORIGINAL

Decision No. 67147

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WALTER R. WOLF, )  
 Complainant, )  
 vs. )  
 GENERAL TELEPHONE CO., a Corp., )  
 Defendant. )

Case No. 7837  
 (Filed February 5, 1964)  
 (Answered March 3, 1964)

Walter R. Wolf, complainant.  
A. M. Hart and H. Ralph Snyder, Jr., by  
H. Ralph Snyder, Jr., for defendant.  
Robert O. Lanson, for the Commission staff.

O P I N I O N

Walter R. Wolf, an individual, and a subscriber of defendant and its predecessor Associated Telephone Company, Inc., since November, 1947, seeks a refund of alleged overcharges based upon the normal difference between a two-party business telephone and a one-party residence telephone<sup>1/</sup> for the years 1959 through March, 1963, plus interest at 6 percent.

A public hearing was held before Examiner Warner on March 26, 1964, at Santa Barbara.

Complainant testified that he had applied for residence service at an apartment at 232 West Mason Street, Santa Barbara, in November, 1947; he was told that no single-party residence service was available, but that if he would certify that his residence telephone was necessary for business purposes a business

1/ Incorrectly referred to in both the complaint and answer as two-party.

telephone would be installed; two-party business telephone service was so installed; early in 1949 complainant, having built a house at 26 Rametto Road, Montecito, ordered his service at Mason Street canceled; he then went to Chicago for approximately a month, pending completion of his house and acquisition of furniture and drapes; upon his return telephone service was installed at the house; he did not know that he was being charged a business rate for his residence telephone until March, 1963, when he was solicited for a classified directory listing on his downtown business office in Santa Barbara and was then asked if he wished classified directory listing on his business telephone at his residence; in reviewing his canceled checks he found one dated November 14, 1958, in the amount of \$6.73 (attached to the complaint) which he interpreted as an approximate charge for residence service for the reason that the rate for business service was \$9.45 per month; he had in his possession, and read into the record, the monthly charges of \$9.45 from November 25, 1959 through March 28, 1963, and also a charge for March, 1959, in the same amount; he assumed that he probably had been properly charged prior to November 14, 1958; an adjustment was made by defendant for the April, 1963, charge to \$6.85, which is the rate for a single-party residence telephone with one extension; it had never occurred to him to question the monthly charge for the telephone service at his residence; an accountant, who kept the books for complainant's textile office in Santa Barbara, paid the telephone bills, although the complainant reviewed the toll charges for payment; and the monthly statements of defendant do not distinguish between types of service for the

monthly charges rendered and the complainant had no way of knowing that he was being charged for a two-party business service at his residence.

The defendant produced as Exhibit No. 2 a copy of complainant's customer service record, signed by complainant, showing that complainant requested two-party business telephone service in November, 1947, under Category IV of defendant's Rule and Regulation No. 8, Priority of Establishment and Supersedure of Service, which covered, in Section A, business service other than that included in Categories I, II and III, which, in turn, covered public, emergency and other services, changes of address of business service within the same exchange, and new business service for veterans. Rule No. 8 became effective March 27, 1947, and was canceled October 15, 1956. Exhibit No. 4 is a copy thereof.

We find that on November 18, 1947, at telephone number 2-9446, and on February 23, 1949, at WO 9-0489, complainant subscribed to two-party business telephone service at his residences, first on Mason Street, and later at 26 Rametto Road; that on June 17, 1949, an extension was added and that at no time did the subscriber request a change of classification of telephone service.

While good business practice may indicate that when telephone service is requested to be changed from one location to another, particularly to a different central office, which was the instant case, the subscriber should be asked if he wished to continue the same type of service, or wished to subscribe to a different classification, nevertheless, we find that the lawful

responsibility for designating the type of telephone service desired in the instant matter clearly rested, and does rest, with the complainant subscriber. We further find that complainant applied for two-party business telephone service at his residence in 1947 in order to secure telephone service during a period of shortage of equipment and nonavailability of particular types of telephone service, including one-party residence telephone service and that, at no time, did he request or apply for a change in such service.

The Commission finds that complaint is without merit, and concludes that it should be dismissed.

O R D E R

IT IS ORDERED that the complaint, Case No. 7837, is dismissed.

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

Dated at San Francisco, California, this 28th day of April, 1964.

*Halligan W. Deane*  
 President

*George L. Grover*

*Fredrick B. Holdoff*  
 Commissioners