

ORIGINAL

Decision No. 67722

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DeWitt B. Stirling, D. C.)
 Complainant,)
 vs.)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY,)
 Defendant.)

Case No. 7828

DeWitt B. Stirling, D. C., in propria
 persona.
 Arthur T. George and Richard W. Odgers,
 by Richard W. Odgers, for The Pacific
 Telephone and Telegraph Company.

O P I N I O N

The complaint herein, heard and submitted on April 7, 1964, at San Francisco, before Examiner Gregory, seeks restoration in complainant's name only, of a previous joint professional classified directory listing with Dr. George W. Stokes in Santa Cruz, under the telephone number 475-3434. Complainant also seeks damages, at the rate of \$500 per month for approximately six months, for alleged inconvenience and loss of potential income during the period from about December 2, 1963 (when complainant was engaged in relocating his office and had assumed that he would retain, at his new individual location, the same telephone number he had previously shared with Dr. Stokes) to about June 2, 1964, the then estimated publication date of a new telephone directory. In addition, complainant requests a refund of \$213.67 for exchange service billed to 475-3434 from July 16 to November 16, 1963 and paid for by him

after Dr. Stokes had moved his residence from the premises in July 1963, but was still sharing the office facilities.

The answer avers, in substance, that: service at telephone number 475-3434 was first established in 1958 with George W. Stokes, D.C., as subscriber; about March 28, 1963 Dr. Stirling was added to that service; about July 9, 1963 a supersedure form, sent to Dr. Stokes on June 15, 1963 at his request, was received by Pacific signed by Dr. Stirling alone; about July 10, 1963 Pacific issued an order, effective July 12, 1963 changing the billing for 475-3434 from Dr. Stokes to Dr. Stirling and changing the additional listing from Dr. Stirling to Dr. Stokes; from April through November 1963, Dr. Stokes and Dr. Stirling divided the cost of service to 475-3434 between themselves. Further averments are that: about December 4, 1963 Pacific wrote, but did not issue, an order to transfer telephone number 475-3434 to a new address; about December 5, 1963 Pacific discovered that the change of billing from Dr. Stokes to Dr. Stirling (which took place about July 12, 1963) had been made in error because the supersedure form had been signed only by Dr. Stirling; Pacific's local manager then acknowledged the mistake in connection with the change in billing and, about December 11, 1963, suggested to Drs. Stokes and Stirling that Pacific intercept calls and challenge callers on 475-3434 and then refer the calling parties to the new number for either Dr. Stokes or Dr. Stirling, an arrangement that was agreeable to Dr. Stirling but not to Dr. Stokes; about December 13, 1963 the billing for telephone number 475-3434 was changed back to Dr. Stokes with an additional listing in the name of Dr. Stirling added to the service; about December 20, 1963 a new number was issued to Dr. Stirling, but due to a printers' strike, it did not appear in the Information Operator's Supplemental listings until December 26, 1963 and the additional listing for Dr. Stirling

on the old number, 475-3434, was not removed from the supplemental listings until December 26, 1963. Defendant requests that the complaint be dismissed.

The record reveals no substantial variance between the pleadings and the supporting evidence. Although complainant appears to have been subjected to some inconvenience and annoyance during a period of about a week in the latter part of December 1963, after his removal to a new location but before his new telephone number was made available to callers, the record indicates that the trouble resulted from a combination of circumstances. These included the company's error, in July 1963, when it changed the billing of 475-3434 from Dr. Stokes to Dr. Stirling on an improperly executed "Request for Supersedure", and delays in connection with attempts to settle the dispute in December 1963 after discovery of the error, compounded by a 6-day printers' strike which was beyond defendant's control. Also, the record reveals that a certain lack of cordiality between Dr. Stirling and Dr. Stokes, during the period in question, contributed to the general confusion attendant on the change in service. The record shows, also, that defendant, as a result of the matters involved in this complaint, has instructed its area personnel throughout the state to review supersedures of service with all appropriate employees.

Supersedures of telephone service are governed by defendant's Schedule 36-T, Rule 23-B, which requires written notice from both the subscriber and the applicant when the applicant is to take service on the premises of a discontinuing subscriber, which is the case here. Defendant concedes that the supersedure request was processed in error and has offered to make reparation in the sum of \$213.67, the amount paid by Dr. Stirling on billings from

July 16 to November 16, 1963 for exchange service for 475-3434. The record does not reveal the monetary amount, if any, of other damages alleged to have been suffered by complainant.

Defendant's error in changing the billing for number 475-3434 from Dr. Stokes to Dr. Stirling, effective July 12, 1963, on an improper supersedure request, had the practical effect of casting on Dr. Stirling the subscriber's responsibility formerly held by Dr. Stokes. Although the record indicates that the two doctors shared office and telephone expenses until their disassociation in December 1963, the basis for the sharing was not disclosed by the evidence, other than a suggestion, by counsel for the company, that it might have been on an equal basis.

Defendant's Regulation 17(B)1 reads as follows:

- "17. Telephone Directories, Listings and Numbers,
 - "B. Liability for Listings in Directories... The Company is liable for errors or omissions in listings of its subscribers in the alphabetical and classified telephone directories in accordance with the following:
 - 1. Listing furnished without additional charge: In amount not in excess of the charge for the exchange service xxx during the effective life of the directory in which the error or omission is made."

The record shows that except for the period in December 1963 from discovery of defendant's error to the time complainant's new telephone number was made available to callers after December 26, telephone service received by complainant has been satisfactory.

We find that:

1. Complainant is not entitled to reinstatement of telephone number 475-3434 at Santa Cruz.
2. Complainant is entitled to be reimbursed by defendant in the sum of \$213.67, the amount erroneously billed to him as a subscriber of telephone service at telephone number 475-3434 at Santa

Cruz, under bills dated July 16, August 16, September 16, October 16 and November 16, 1963.

O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company, defendant herein, within thirty days after the effective date of this order, shall pay to DeWitt B. Stirling, D. C., complainant herein, the sum of \$213.67, without interest, by way of reparation for defendant's error in listing and billing complainant as the subscriber of telephone service at telephone number 475-3434 at Santa Cruz, California, between the dates of approximately July 12, 1963 and December 13, 1963.

2. Except as granted herein, the relief prayed for in the complaint is denied.

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

Dated at San Francisco, California, this 18th day of AUGUST, 1964.

Frederick B. Holliff
President

[Signature]

[Signature]

George L. Brown

Stallman Bennett
Commissioners