

ORIGINAL

Decision No. 70706

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LOUIS E. DEWITT

Complainant,

vs.

GENERAL TELEPHONE CO., a
corporation,

Defendant.

Case No. 8311
(Filed December 3, 1965)
(Answered December 23, 1965)

Louis E. DeWitt and Mary E. DeWitt,
for complainant.
A. M. Hart and H. Ralph Snyder, Jr.,
by H. Ralph Snyder, Jr., for
defendant.

O P I N I O N

Complainant, Louis E. DeWitt, and his wife, Mary E. DeWitt, have been residents of an apartment at 451 South Barrington Street, in West Los Angeles, since November 10, 1962. He is a graphic artist with NBC TV, and she has been employed at J. W. Robinson Co. from time to time, although since about August of last year, she has been at home. Their son, Louis E. DeWitt, Jr., is a musician with a band which has filled part-time engagements at functions from time to time and has had regular engagements at Warehouse 9 and the Mirage Bar in Los Angeles and Santa Monica. He was at Camp Pendleton in the Marine Corps Reserve during the period July, 1963, through January, 1964.

Complainant alleges that his message unit charges at his telephone station 476-1605, for which service is rendered by defendant, have been, and continue to be, excessive without basis.

Defendant denies complainant has been charged for other than the actual use of the telephone, although it informally adjusted complainant's bill for the months of November and December, 1964, and January, February and March, 1965, in the total amount of \$181.66, which is the sum of the message unit charges for those months, plus tax of \$18.17, totaling \$199.83.

On the basis of the adjusted months, complainant alleges that a similar adjustment should be ordered by the Commission for the months from November, 1962, to but not including November, 1965, at the rate of \$30 per month.

Public hearings were held at Los Angeles before Examiner Warner on January 27, March 10, and April 13, 1966.

Defendant maintains and furnishes detailed statements of message unit calls showing the number called, the time in minutes, the number of message units, and upon request, the name of the party called, but such records are maintained only for a six-months' period.

Since no detailed records prior to January, 1965, were available, the presiding examiner requested defendant to submit detailed statements for the year 1965, which were received as Exhibit 22. The purpose of said exhibit was to establish, if

possible, complainant's calling habits during 1965.

Exhibit 22 shows by a red mark the called station number which complainant did not recognize during each month. Also shown is the name and address of the unrecognized telephone number.

Exhibit 21 is a summary of defendant's review of the message unit billing to complainant's telephone for the year 1965, which shows 378 disclaimed calls out of a total of 1,062 calls, and 2,455 disclaimed message units, with a cost of \$102.47, out of a total of 6,105 message units. Total message unit charges for 1965, including disclaimed costs, were \$267.85. Disclaimed calls totaled 128 and 700 disclaimed message units during the last five months of 1965 compared with 250 calls and 1,755 message units disclaimed for the first seven months of that year.

Upon examination, complainant's witnesses recognized additional numbers and names and addresses called shown as disclaimed in Exhibit 22. Many of the disclaimed numbers are those of answering services, agencies, music and record establishments and studios, cafes and bars, hotels, motels and rooming houses, and names of other places which suggest association with the entertainment world.

Exhibit 8 is a summary of complainant's message unit billings by month for the years 1962 through 1965. Said exhibit shows 38 months in excess of \$20 per month. From July, 1963, through January, 1964, the period of the son's Marine Corps service away from home, the bill was less than \$20 per month,

except in September 1963, when it was \$22.27 and December 1963, when it was \$20.27. The average monthly billing for 1962 was \$35.25; 1963, \$26.07; 1964, \$32.59; and 1965, \$22.32. The August 1965 bill was \$21.10; September 1965, \$16.81; October 1965, \$20.86; November 1965, \$23.45; and December 1965, \$11.79. The costs of disclaimed calls were \$28.35 for the period August through December 1965, compared with \$74.12 for the period January through July 1965.

Based on the record, we find that:

1. Complainant and his wife are subscribers to defendant's telephone service in an apartment at 451 South Barrington Avenue, West Los Angeles, where they have resided since 1962.

2. Although their apartment is occupied only by themselves and their son, total message units and message unit calls have been between 400 and 600 per month. However, the number decreased in the period July 1963 through January 1964, when the son was in the Marine Corps service. The number of disclaimed calls and related message units has decreased since Mrs. DeWitt ceased working during 1965.

3. Complainant admits 684 calls out of 1,062 calls during 1965, resulting in 3,650 admitted message units out of 6,105 message units.

4. Most disclaimed calls during 1965 were to places associated with the entertainment world, or admittedly known associates.

5. There is no evidence that complainant has been billed incorrectly.

It is incumbent upon complainant to monitor use of his telephone.

The complaint should be dismissed.

ORDER

IT IS ORDERED that the complaint is dismissed.

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

Dated at San Francisco, California, this 17th day of MAY, 1966.

Frederick B. Hallock
President

D. S. Mitchell

George H. Grover

Arrogator

William L. Bennett
Commissioners