

Decision No. 87332

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

J. J. GROW, INCORPORATED,
Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH
COMPANY,

Defendant.

Case No. 10241
(Filed January 17, 1977)

J. M. Grow, for complainant.
Norah Freitas, for defendant.

O P I N I O N

Complainant asserts that defendant billed it \$197 for relocating telephones from a second-floor office to a first-floor office in the same building. It asserts that a reasonable fee for the move would be \$65 and seeks reparations for the difference of \$132. Defendant denies the allegations and asserts that complainant was billed according to its filed tariffs. The matter was heard before Examiner Robert Barnett on April 8, 1977 in Los Angeles.

At the hearing, on the issue of the reasonableness of the charge, Mr. Grow testified that the work involved only two and a half hours of work for one person and that in his opinion at \$25 an hour and a minor amount for material, the charge should have been approximately \$65. Defendant's witness testified that the charges were based on the tariff, Exhibit 1 in evidence. Defendant had no choice but to charge the rates set forth in its filed tariff and we find that defendant did so charge.

At the hearing the issue of the definition of the word "premises" was raised. Defendant's tariff states "A change of location of items of Com-Key System Service or Key Telephone Systems Service from one premises to another, regardless of the class, type and grade of service with which it is associated will not be treated as move, but as a disconnect and a new installation." (Schedule Cal PUC 28-T, Fifth Revised Sheet 20, II. 5.) Complainant was billed on the theory that the move was from one premises to another.

The tariff definition of "premises" is as follows: "...any rooms on two or more successive or adjoining stories of a building provided all of the rooms or portions of each of the rooms are occupied by the customer in person or the customer's personnel." (Schedule Cal PUC 36-T, Third Revised Sheet 12, Rule No. 1.)

Under the above quoted tariffs if complainant's change of location of equipment is treated as a move on the same premises then Schedule Cal PUC 28-T is not applicable and the charge would be only \$81. If the schedule is applicable, that is, if there was a transfer of service from one premises to another, then the charge should be computed as if it were a disconnect and a new installation and the charge would be \$197. Defendant treated the change of location as a disconnect and a new installation. The evidence shows that complainant moved from rooms on the second floor of a building to larger space on the first floor of the same building. Prior to the move, which lasted a few days, complainant occupied space only on the second floor; during the time of the move he occupied both spaces simultaneously; however, after the move was completed he gave up his office on the second floor and retained his offices on the first floor. The offices on the second floor are now rented to other people. In our opinion, when a business moves from one set of offices to another it is quite reasonable to expect that for a few days there would be an overlap whereby the business occupies both the former

office and the new office. That kind of overlap does not bring complainant within the provisions of Cal PUC 36-T quoted above. The complainant was not occupying rooms in both adjoining stories of a building within the meaning of the tariff. To hold otherwise would negate the tariff for a substantial portion of Pacific's business relocations, and have a substantial effect on its revenue.

Findings

1. Defendant charged complainant \$197 to install telephone equipment which had been located in complainant's office on the second floor of 2400 West Coast Highway, Newport Beach, to a first floor office at the same address.

2. Defendant's charges were for services rendered and were the charges set forth in its filed tariffs.

3. The relocation was made from one premises to another.

The Commission concludes that the relief requested by complainant should be denied.

O R D E R

IT IS ORDERED that the relief requested is denied.

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

Dated at San Francisco, California, this 17th day of MAY, 1977.

Robert Bateman
President
William J. Quinn
Vernon L. Stedman
Richard D. Moore
Commissioners