

ORIGINAL

Decision No. 88602 MAR 21 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HENRY WILLIAM SANDS,
Complainant,

PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, WILLIS A.
HUDSON,

Defendants.

Case No. 10424

(Filed September 23, 1977)

Henry William Sands, Attorney at Law, appears for himself, complainant.
Donald K. King, Attorney at Law, for The Pacific Telephone and Telegraph Company; and Willis A. Hudson, Attorney at Law, for himself, defendants.

O P E N I N G

Henry William Sands' (Sands) complaint alleges that The Pacific Telephone and Telegraph Company (Pacific) refused to provide split referral service on telephone number (213) 299-8090 upon the breakup of the joint use of law office space located at 4401 Crenshaw Blvd., Los Angeles, by Sands and Willis A. Hudson (Hudson). Sands claims that 42 months of use of the telephone under the joint use of office space gives him an equitable right to the telephone number and therefore seeks an order requiring Pacific to provide the split referral service requested.

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Pacific's answer is essentially a general denial of the allegations. Pacific admits that split referral would require that both parties be assigned new telephone numbers and that the intercept operator would refer the calling party to the number of the person called. For an affirmative defense Pacific alleges that Hudson was the original subscriber assigned telephone number (213) 299-8090 before it was moved to the Crenshaw address; that at all times Hudson was the subscriber and the person responsible for payment of the telephone bills; that Rule 17(c) in tariff Schedule No. 32-T states that the customer has no proprietary right in a telephone number, therefore, neither could a third party have a proprietary interest in the number; that there is no service requirement that would require a change of telephone number; and that Pacific rightfully denied Sands' request since the subscriber (Hudson) declined to have his number changed. Pacific filed a Motion to Dismiss on the grounds that the complaint fails to state a cause of action because it does not set forth any act or thing done or omitted to be done which is claimed to be in violation of any provision of law or any order or rule of the Commission.

Hudson did not file an Answer.

A hearing was held in Los Angeles on January 13, 1978 before Administrative Law Judge Bernard A. Peeters. The matter was submitted after closing arguments.

The Evidence

Sands' evidence consisted essentially of a restatement of the allegations set forth in his complaint. Exhibit 1, an Application For A Listing or Joint User Service, was introduced by Pacific through Sands. Upon questioning Sands on this exhibit, he was not certain whether he initiated this document or not. He admitted that his

signature was on the document which set up an additional listing on Hudson's telephone number (213) 299-8090. Sands also stated that when he and Hudson decided to share office space, Sands agreed that Hudson's telephone number should be used since it was more economical to do this. They worked out an arrangement for dividing the phone bill between themselves. Sands testified that after Pacific refused to provide a split referral service it would not advise him when the number was to be disconnected so that Sands could coordinate the installation of his own telephone. Sands now has his own number ((213) 295-3155) located in Suite 201 at 4401 Crenshaw Blvd. He also pointed out that as late as last week the information operator was giving (213) 299-8090 as his telephone number. On cross-examination Sands admitted he has had no problems with referrals from Hudson's telephone and that he has no listing in the yellow pages under the Attorneys classification. Pacific presented one witness, the business manager of the local office responsible for service on telephone 299-8090, and two exhibits. Exhibit 2 is an Application for Business Service dated November 21, 1972 at 3850 W. Santa Barbara Avenue, Los Angeles, by Willis A. Hudson with an assigned telephone number of (213) 299-8090. The purpose of this exhibit was to show that Hudson was the subscriber to the telephone number in dispute before his association with Sands. Exhibit 3 is a copy of Rule 17(c) which provides, among other things, that the customer has no proprietary right in a telephone number. With respect to Exhibit 1, the witness testified that Sands appears on the application as an additional listing for telephone number (213) 299-8090; that Hudson is the subscriber and the only person who could make a change in the service; that Sands' listing appears in the white pages of the directory; that for split referral service it is necessary to change the telephone number; and that since Hudson was the subscriber and refused to have his telephone number changed, Pacific rightfully declined to provide split referral service upon Sands' request in conformity with their tariff requirements. Pacific renewed its Motion to Dismiss.

Hudson's testimony shows that Sands approached him with respect to the sharing of office space in Suite 201 at 4401 Crenshaw Blvd., sometime in late January, early February of 1974; that at that time Hudson was located at 3850 W. Santa Barbara Avenue, Los Angeles, and had telephone number (213) 299-8090 since December of 1972; that Hudson wanted to carry his phone number to the new location since it was in the 299 exchange area, whereas Sands' was not; that on or about April 1, 1974 the move to the Crenshaw address was made; that Hudson initiated the request to move telephone number (213) 299-8090 to that address and to add two additional lines for Hudson; that although Sands may have viewed the arrangement as a partnership, Hudson never did, and that there was no partnership agreement entered into; and that after several years, differences arose between Sands and Hudson and it was decided that Hudson would move out of the joint office space Hudson refused to agree to a split referral service since that would change his telephone number which he felt was his and it was valuable to him; that since the change in offices, he has instructed his office personnel to promptly and courteously refer parties calling for Sands to Sands' new number; that to his knowledge there has been no problem in this area; and that by now the number of calls for Sands on any of (213) 299-8090 has dropped off to about 10 per week.

Findings of Fact

1. Hudson was the subscriber on telephone number (213) 299-8090 since December 1972 and was the responsible party for paying the telephone bill on that number.

2. Sands was an alternate listing on telephone number (213) 299-8090 since April 5, 1974 until the fall of 1977, and had no responsibility to Pacific for payment of the charges on this or other number.

3. Hudson and Sands had a private agreement for dividing the telephone bill on number (213) 299-8090.

4. A split referral service requires that the telephone number be changed.

5. Pacific's policy in connection with split referral is to not change a subscriber's telephone number at the request of a third party without the subscriber's consent.

6. Sands requested split referral service but, Hudson, the subscriber to telephone number (213) 299-8090, did not give his consent to have the number changed.

7. Pursuant to Rule 17(c) of Pacific's tariff Schedule Cal. PUC 36-T, the subscriber does not obtain a proprietary right in a telephone number.

8. Although Sands may have used telephone number (213) 299-8090 for 42 months, he obtained no proprietary or equitable rights to the use of that number.

9. Pacific did not violate any law, rule, or order of the Commission by its refusal to provide split referral service.

10. Sands has obtained a new telephone number. The referral of calls on number (213) 299-8090 by Hudson to Sands has not created any problems or undue inconvenience to Sands.

11. To order split referral service at this time would create more of a detriment to Hudson than a benefit to Sands.

The Commission concludes that complainant is not entitled to any relief.

O R D E R

IT IS ORDERED that the relief requested is denied.

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

Dated at San Francisco, California, this 21st day of MARCH, 1978.

Robert Belmont
 President

William J. ...
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 Commissioners