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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON 25

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B-90487

NOV 29 1949

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Puerto Rico Telephone Company  
P. O. Box 4275  
San Juan 21, Puerto Rico

Gentlemen:

Reference is made to your letter of September 13, 1949, in effect requesting review of settlement dated August 19, 1949, disallowing your claim for \$16 for two international telephone calls made through the office of the War Assets Administration in San Juan, Puerto Rico.

It appears from the record that one of the calls, for which the toll was \$6, was made on May 19, 1947, by Mr. Thomas S. Chopin, a former employee of the War Assets Administration in San Juan, to a Mr. Boehm in Washington, D. C., and that the other, for which the toll was \$10, was made on May 29, 1947, by Mr. Chopin to Mrs. Chopin in St. Louis, Missouri. It is administratively reported that the calls were personal calls of Mr. Chopin. It further appears that the administrative office has endeavored to have Mr. Chopin make payment therefor but without success.

The claim was disallowed because the calls were personal calls, payment for which is prohibited by the provisions of section 4 of the act of May 10, 1939, 53 Stat. 738, 31 U.S.C. 680a. Said section provides that no part of any appropriation for any executive department, establishment, or agency shall be used for the payment of long distance telephone tolls except for the transaction of public business which the interests of the Government require to be so transacted and that all such payments shall be supported by a certificate by the head of the department, establishment, or agency concerned, or such subordinates as he may specially designate, to the effect that the use of the telephone in such instances was necessary in the interest of the Government. The record contains no certificate such as required by said act and obviously, in view of the nature of the calls, there would be no basis for such certificate.

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You contend that the contract was made subject to all your rules and practices and that you cannot control any long distance or international calls. However, the contract must also be viewed as having been made subject to the provisions of section 4 of the cited act of

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173

May 10, 1939, supra. Said act contains no authority for its waiver by an officer or employee of the Government in any case--nor does any such authority otherwise exist. Hence, in the absence of the collection of the amount of said calls from Mr. Chopin, there appears no basis upon which your claim may be allowed.

Accordingly, the disallowance of your claim must be and is sustained.

With reference to the concluding paragraph of your letter, you are advised that, while the responsibility of assuring that only proper and authorized use is made of official telephones primarily is an administrative one, this Office by circular letter dated May 24, 1939, advised the heads of all departments, independent establishments and agencies of the Government of the provision of section 4 of the act of May 10, 1939, supra, and of the necessity for compliance therewith.

Very truly yours,

Comptroller General  
of the United States