

ORIGINALDecision No. 50093

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 THE PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a corporation, and)
 THE WESTERN UNION TELEGRAPH COMPANY,)
 a corporation, for authority to)
 execute an agreement amending)
 Contract No. 2 pertaining to the)
 leasing of circuits between exchange)
 areas, as authorized in Decision)
 No. 39219, dated July 19, 1946.)

Application No. 35380

OPINION AND ORDER

The Pacific Telephone and Telegraph Company and The Western Union Telegraph Company by this application filed on April 27, 1954 seeks authority under Section 851 of the Public Utilities Code to execute an agreement, dated May 1, 1954, modifying Contract No. 2 pertaining to the leasing of circuits between exchange areas as authorized in Decision No. 39219, dated July 19, 1946, in Application No. 27662 (46 CRC 870).

Contract No. 2 attached to this application as Exhibit "A" was entered into by the applicants effective August 1, 1946. It provides in part that each party will lease to the other, upon reasonable notice, circuits between Pacific Company's exchange areas of the kinds and at the terms and under the rates and conditions therein stated for operation by the lessee as part of its plant to furnish communication services to the public. Said Contract No. 2 also provides that unless otherwise terminated as provided therein, it shall continue until terminated by three years' written notice of intention to terminate by either party.

Applicants now propose to amend said Contract No. 2 by entering into an agreement, a copy of which is attached to the

application as Exhibit "B", and by reference made a part hereof for all purposes. The principal effects of the proposed amendment to Contract No. 2 would be to (1) reduce the charges for type (a) voice frequency circuits and type (c) fully operative telegraph circuits of over 16 miles and type (d) pairs of wire in cable for distances up to 20 miles, (2) discontinue the offering under Contract No. 2 of type (b) inoperative direct current telegraph circuits and substitute in lieu thereof, within a five-year transition period, type (c) fully operative telegraph circuits or type (d) inoperative direct current telegraph circuits using exclusively a pair of wires and (3) extend the period of notice required to terminate the contract from three to ten years with provisions for reopening the matter of charges for circuits in May, 1957 and each May thereafter.

The application reveals that the estimated loss in Pacific Company's revenues due to the reduction in charges for type (a) voice frequency circuits, type (c) fully operative telegraph circuits and type (d) pairs of wire in cable, amounting to \$42,000 per year, will, by the end of the five-year transition period, be substantially offset by the higher revenues, approximating \$25,000 per year, anticipated from the substitute use of type (c) fully operative telegraph circuits or type (d) inoperative telegraph circuits in lieu of type (b) inoperative telegraph circuits. It appears from the application that the revenues of neither Pacific nor Western Union will be greatly affected by the proposed agreement.

Applicants allege that under the proposed agreement, arrangements will be effected which will facilitate obtaining economically circuits and facilities which may be required by the respective parties in the furnishing of communication service to the public. Applicants further allege that the proposed agreement will

in no manner impair the ability of either applicant to meet its obligations to the public in the furnishing of communication service.

The proposed agreement does not contain a provision that it shall, at all times, be subject to change or modification by the Commission in the exercise of its jurisdiction as required by Paragraph X-A of the Commission's General Order No. 96.

The Commission having considered the request of applicants and being of the opinion that the application should be granted as herein provided and that a public hearing is not necessary, therefore,

IT IS HEREBY ORDERED that The Pacific Telephone and Telegraph Company and The Western Union Telegraph Company be and they are authorized to carry out the terms and conditions of the written agreement dated May 1, 1954, attached to this application as Exhibit "B", provided the agreement shall also contain substantially the following provision:

"This agreement shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may, from time to time, direct in the exercise of its jurisdiction."

IT IS HEREBY FURTHER ORDERED that applicants shall:

1. File with the Commission within thirty days after the effective date of this order, two certified copies of the agreement as executed, together with a statement of the date on which the agreement is deemed to have become effective.

- 2. Notify this Commission of the date of termination of said agreement within thirty days after said date of termination.

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

Dated at San Francisco, California, this 1st of June, 1954.

John E. Mitchell
President

Justin J. Adams

Samuel J. Potter

Jerome Peggins

Commissioners