

Decision No. 50413**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of LOS GATOS TELEPHONE COMPANY, a)	
California corporation, for authority)	Application No. 34471
to increase rates and charges for)	
exchange telephone service at Novato,)	
California.)	

FIRST SUPPLEMENTAL OPINION AND ORDER

By its First Supplemental Application in the above-entitled proceeding filed July 30, 1954, Los Gatos Telephone Company seeks authorization to file increased exchange telephone rates in its Novato exchange in Marin County in order to produce additional gross revenues equivalent to increased federal income taxes imposed upon applicant by the revenue code of 1954. Under such code applicant will be obligated to pay federal income taxes, from and after April 1, 1954, at a rate of 52 per cent rather than the 47 per cent rate upon which its presently effective tariffs are based. With respect to the provisions of said code which would permit applicant to adopt a liberalized method of depreciation accounting for its property, applicant covenants that it has no present intention of adopting any such method for the year 1954 and that it will not undertake doing so without prior approval of this Commission.

The telephone rates authorized by this Commission's Decision No. 49630 issued February 2, 1954 in this matter were based upon revenues and expenses that reflected the 52 per cent federal income tax rate in effect at that time. Subsequently income taxes were reduced and applicant correspondingly reduced its telephone rates on April 1, 1954. Applicant now proposes to restore the

identical rates in effect immediately prior to April 1, 1954. This will result in an increase of \$2,573 in gross revenue, thereby returning applicant to the earning position found to be fair and reasonable by said Decision No. 49630. ✓

It is the rule established by the Supreme Court of the United States that income taxes, both state and federal, are a proper charge to operating expense (Galveston Electric Company v. City of Galveston - decided in 1922 - 285 U.S. 388, 399, 66 L.ed. 678, 684; Georgia Railway and Power Company v. Railroad Commission - decided in 1923 - 262 U.S. 625, 632, 633, 67 L.ed. 1144, 1148). The Court stated unequivocally that income taxes are a proper charge to operating expense and that it is error not to allow such charge. In the circumstances, we are of the opinion that the Commission is bound by the rule laid down by the Supreme Court of the United States concerning the subject in question. Therefore the additional income taxes levied against this applicant at the 52 per cent rate must be allowed as a proper charge to its operating expense.

Applicant has heretofore made a full showing of the facts justifying the increased service rates authorized by Decision No. 49630 and we have so found.

The Commission is of the opinion that applicant's instant request is reasonable and should be granted without delay. Being of the further opinion that a public hearing thereon is not necessary,

IT IS FOUND AS A FACT that the increases in telephone rates and charges authorized herein are justified and that present rates and charges, in so far as they differ therefrom, are for the future unjust and unreasonable; therefore,

IT IS HEREBY ORDERED that Los Gatos Telephone Company is authorized to file in quadruplicate with this Commission, on or after the effective date of this order, tariff schedules with the

increased rates contained on Page 3 of the First Supplemental Application and after not less than one day's notice to the public and to this Commission to make said tariffs effective for all service rendered on and after the effective date of said filing.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 17th day of August, 1954.

John E. Mitchell
President
Justina F. Calisher
Robert H. Lott
James Higgins

Commissioners