

Decision No. 57143

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE WESTERN UNION TELEGRAPH COMPANY,)
a corporation, and WEST COAST TELEPHONE)
COMPANY OF CALIFORNIA, a corporation,)
for authority to carry out the terms of)
an agreement pertaining to the leasing)
of circuits between exchange areas,)

Application No. 40133

(Appearances and Witnesses are listed in
Appendix A)

O P I N I O N

Applicants' Request

The Western Union Telegraph Company, hereinafter sometimes referred to as Telegraph Company, and West Coast Telephone Company of California, hereinafter sometimes referred to as Telephone Company, filed the above-entitled application on June 2, 1958, requesting that the Commission issue an order authorizing them to carry out the terms of an agreement dated December 2, 1957, pertaining to the leasing of circuits between exchange areas. A copy of the agreement is attached to the application and by reference made a part thereof.

Public Hearing

After due notice public hearing was held on this application, on a consolidated record with Application No. 39988, before Examiner Manley W. Edwards on July 14, 1958, in Crescent City. Applicants presented two exhibits and testimony by two witnesses in support of the application. The Commission staff represented by an engineer, and certain of the interested parties, cross-examined the witnesses for the purpose of developing a full record to aid the Commission in deciding this matter. No objection to the granting

of applicants' request was made at the hearing. The matter was submitted for Commission consideration at the close of the day's hearing and now is ready for decision.

The Agreement

The Telegraph Company and Telephone Company^{1/} entered into the agreement, effective as of October 1, 1957, for the purpose of leasing to each other, upon reasonable notice, circuits and certain related facilities of the kinds and at the terms and under the conditions stated in the agreement. The term of said agreement is ten years from the effective date thereof unless terminated upon notice by either party upon violation of any of the conditions of said agreement. It would appear that the agreement is a standard form of agreement that applies generally to such leases and that supplemental riders are necessary to make this standard agreement form fit the special conditions pertaining to this service.

Such a rider was executed on December 2, 1957, wherein it was provided that said agreement applies to the properties and in the territories of said telephone companies as they existed on February 15, 1956, and as they may have been extended since said date, and upon transfer of such properties by said telephone companies, said companies shall, as a condition of making such transfer, cause the transferee to accept the provision of this agreement, and to execute such instruments in respect to such acceptance as Telegraph Company shall reasonably require. Said rider is now a part of said agreement.

Another rider is attached containing the following clause:

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

^{1/} The agreement also is signed by West Coast Telephone Company, a Washington corporation, and parent of the West Coast Telephone Company of California.

The Commission requires this clause concerning jurisdiction be inserted in public utility contracts.

Attached to the agreement are three schedules which provide rates for the services or equipment to be provided by the Telephone Company entitled as follows:

- Schedule A - Rentals for Local Circuit Facilities
- Schedule B - Rentals for Circuit Sections
- Schedule C - Rentals for Duct and Pole Line Attachments

Included in the agreement are figures 1 to 7 which graphically interpret the meaning and application of the first two of the above-listed schedules. The main purpose of the agreement is to provide circuits for telegraph service at rates below the regularly filed tariffs of the Telephone Company for equivalent private line service.

Telephone Company's Position

The Telephone Company represents that this agreement is an improvement compared to the former method of handling telegraph messages in that a sizeable loss is eliminated. Formerly, Telephone Company acted as the primary agent for Telegraph Company, handling the business on a commission basis. For the year 1957, Telephone Company figured the net loss on the telegraph business at \$3,741, computed as follows:

<u>Expenses</u>	
Wages (operating, plant and commercial)	\$ 9,702
Floor space	223
Interexchange telegraph channel	1,158
Total Expenses	<u>11,083</u>
<u>Revenues</u> (Commission paid)	<u>7,342</u>
<u>Net Loss</u>	\$ 3,741

Under the new leasing agreement Telegraph Company has obtained a new primary agent^{2/} and Telephone Company states that the agreement is fair and reasonable to the telephone user despite

2/ The new office is run in conjunction with a travel bureau office, located next to the Greyhound Bus Depot in Crescent City; hours, 8:00 a.m. to 5:00 p.m. on week days; during hours when the travel office is not open, telegraph messages are telephoned to the Eureka Western Union office and the telephone company receives full toll revenue.

the fact that the annual revenue is \$822 less for the leased circuits than would be charged for private line service under its present filed tariffs.

Telegraph Company's Position

Prior to August 1, 1945, Western Union provided the lines and facilities for telegraph service in the area. From August 1, 1945, to October 1, 1957, Telephone Company provided the service on an agency agreement basis. Telephone Company now desires to discontinue as the primary telegraph agent in the area and the agreement attached to the application was entered into to accommodate Telephone Company. Telegraph Company takes the position that the agreement is not a public offering of service, but rather an interchange of facilities for which authorization is required under the Commission's General Order No. 96, and that the selection of who shall act as its primary agent in the area is not a matter that requires Commission authorization. Telegraph Company represents that the new primary agent in the area is fulfilling its public telegraph service responsibility, that it is not losing money under the new arrangement, that the new agreement will save duplicate wire facilities, that it puts control of and responsibility for telegraph service in one company, and that, therefore, the agreement and new arrangement is in the public interest.

Findings and Conclusions

After considering the evidence of record the Commission finds and concludes that the arrangements made by the agreement provide circuits required by the two utilities on an economical basis under present rate levels and, therefore, the agreement presently is in the public interest. However, it should be pointed out that Telephone Company is seeking increased rates under Application No. 39988 and a different conclusion as to the financial aspects of this agreement might be reached in the future if the Commission

authorizes increases in telephone rates. The jurisdiction clause will enable the Commission to prevent any unreasonable burden falling on the telephone subscribers in the future as a result of authorization of this agreement at this time.

The Commission finds that applicants' proposal is reasonable at this time and that an order should be issued authorizing the applicants to carry out the agreement.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be leased.

O R D E R

The above-entitled application for authority to carry out the terms of an agreement pertaining to the leasing of circuits between exchange areas having been filed with this Commission, a public hearing having been held, the matter having been submitted and now being ready for decision, and it appearing to the Commission that the proposed leasing arrangement will not be adverse to the public interest at this time; therefore,

IT IS ORDERED that:

1. Western Union Telegraph Company and West Coast Telephone Company of California be and they are authorized to carry out the terms and conditions of the written agreement dated December 2, 1957, and to render the services described therein under the terms, charges and conditions stated therein.
2. Applicants shall file with the Commission within thirty days after the effective date of this order, two certified copies of the contract as executed, together with a statement of the date on which the contract is deemed to have become effective.
3. If the authority herein granted is exercised applicants shall, within thirty days thereafter, file the following statements:

- (a) Telephone Company shall file a detailed summary of the plant and equipment being leased to Telegraph Company showing its regularly filed rate as of July 1, 1958, for such service and the rate being provided in the agreement.
- (b) Telegraph Company shall file a detailed summary of the plant and equipment being leased to Telephone Company showing its regularly filed rate as of July 1, 1958, for such service and the rate being provided in the agreement.
- (c) The Telephone Company shall file a summary showing the computation of the amount by which charges for its services provided under the agreement differ from charges computed at the Telephone Company's filed tariff rates.
- (d) The Telegraph Company shall file a summary showing the computation of the amount by which charges for its services provided under the agreement differ from charges computed at the Telegraph Company's filed tariff rates.

4. Within sixty days after June 30 of each year applicants shall file a statement of any changes in the equipment being leased as provided in sections (a), (b), (c) and (d) of ordering paragraph 3 above, as of June 30 of each year.

5. Applicants shall notify this Commission of the date of termination of said agreement within thirty days from and 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 12th day of August, 1958.

[Signature]

 President

[Signature]

 Commissioners

-6- Commissioner Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES

FOR APPLICANTS:

Pillsbury, Madison & Sutro, by Noel Dyer, for Western Union Telegraph Company; Peter A. Nenzel and William G. Fleckles of Bacigalupi, Elkus & Salinger, for West Coast Telephone Company of California. ✓

INTERESTED PARTIES:

Bert Buzzini, for California Farm Bureau Federation; Mrs. Dorothy Brack, for Patrons of Granges of Del Norte County.

PROTESTANTS AND COMPLAINANTS (Mainly Concerned with Application No. 39988):

Ernest L. Pyke, for Del Norte Chamber of Commerce; Roward O. Wolfe, Mrs. Nina Olson, Mrs. W. D. Fisher, Mrs. Ace B. Crook, Kenneth Layman, Mabel C. Maris, Ed Langlois, Vance Bolick, in propria personae.

COMMISSION STAFF:

M. J. Kimball.

LIST OF WITNESSES

Evidence was offered on behalf of the applicants by: D. A. Perrigo and E. Bolz.