

Decision No. 59031**ORIGINAL**

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, for authority  
 to sell to Henry Sturgeon and Son,  
 Bakersfield, California, certain  
 private mobile radiotelephone system  
 equipment.

Application No. 41211

OPINION AND ORDER

The Pacific Telephone and Telegraph Company filed this application on June 9, 1959, seeking authority pursuant to Section 851 of the Public Utilities Code to sell certain private mobile radiotelephone system equipment to Henry Sturgeon and Son, Bakersfield, and to waive applicable basic termination charges. Applicant is now furnishing this same equipment to purchaser under a contract dated January 18, 1955, as modified by an agreement dated November 20, 1956.

Purchaser has agreed to pay and applicant has agreed to accept the sum of \$1,850 for the equipment listed in Exhibit B attached to the application. Applicant estimates that the book cost of these facilities is approximately \$6,200. Applicant has further agreed to waive the basic termination charges called for under the terms of the January 18, 1955, contract as modified. At the time the application was made, termination charges amounting to approximately \$300 would have been applicable.

Applicant first furnished private mobile communications systems in 1948 under contract by which it leased and maintained equipment for customers' use and operation. In the past several years a number of proceedings have come before the Commission involving the providing of such private mobile communications service by applicant.

Decision No. 50837, dated December 7, 1954, in the consolidated proceeding Application No. 33935 and Case No. 5570, ordered Pacific to file copies of all existing special contracts for service including those for private mobile and ordered that all new contracts and modifications of existing contracts be submitted to the Commission for its approval. By Decision No. 51271, dated March 29, 1955, in Applications Nos. 35843, 35844 and 36551, the Commission exercised jurisdiction over two contracts for private mobile communications service by requiring as a condition of approval that charges to the two customers involved, Southern California Gas Company and Southern Counties Gas Company of California, be increased to avoid any burden on Pacific's general telephone users. In Decision No. 51271 the Commission concluded that such private mobile communications service provided under contract would be public utility service and stated, in part:

"We are convinced that it would not be in the public interest to prevent Pacific from following new lines of development in the communications field. That monopolies must be regulated with respect to rates and service does not imply that they must be barred from contributing to and profiting from technological progress. We conceive it to be our duty to prevent them from taxing their ratepayers to finance experiments. But we do not conceive it to be our duty or consistent with our duty, as servitors of the public welfare, to prevent them from engaging in new projects at their stockholders' risk."

As a result of an aggressive sales policy, the number of contracts under which applicant provided service increased rapidly. On March 30, 1956, applicant filed *Tariff Schedule Cal. P.U.C. No. 108-T* containing the rates and conditions applicable to such service. Following receipt of protests relating to the propriety and reasonableness of this tariff schedule, the Commission suspended *Tariff No. 108-T* and instituted an investigation on its own motion. On January 29, 1957, the Commission issued Decision No. 54438, holding private mobile communications service to be public utility telephone

service and ordering Pacific to keep adequate records to permit it to develop capital, revenue, expense, net revenue and rate of return on a depreciated rate base for private mobile service to insure that regular telephone users are not being required to make up any deficits arising from such service. In the last general rate increase proceeding of The Pacific Telephone and Telegraph Company, Application No. 39309, the Commission stated in Decision No. 56652, dated May 6, 1958, as follows:

"With respect to applicant's private mobile service, this Commission has heretofore placed applicant on notice that such service would not be permitted to place a burden on applicant's telephone subscribers.<sup>4</sup> The evidence indicates that such service has fallen far short of the rate of return applicant had anticipated for it (1.3 per cent as compared with 6.8 per cent). Since applicant is not now seeking increased rates for such service, the staff adjustment has the effect of removing any effect of the deficient revenues of this service from the revenues required to be supplied by the regular telephone users. The adjustment is proper and will be adopted herein. It will be revised only to the extent necessary to recognize the rate of return to be accorded applicant herein.

<sup>4</sup> Decision No. 54438 in Case No. 5754, issued January 29, 1957."

Subsequently, Pacific filed Application No. 40934, requesting authority to cancel immediately Tariff Schedule Cal. P.U.C. No. 108-T and to withdraw from the furnishing of private mobile service by January 24, 1961, except as to services that may be provided to the United States Government. Applicant stated as reasons for withdrawing that the Federal Communications Commission has not licensed any new customers seeking to obtain facilities from applicant and that it is not fair to its present customers to hold out hope of a continuing service which applicant asserts will not be available after January 24, 1961, except as to services provided to the United States Government. By Decision No. 58699, dated June 29, 1959, the Commission

denied applicant's request finding that applicant is physically and legally able to perform its dedicated service and that a premature abandonment of this service might result in an economic loss and burden on applicant's other types of service and customers.

While the cost of plant involved in this particular sale is small in relation to applicant's California rate base, the latest semiannual report on the results of private mobile communications systems operation for the period ending February 28, 1959, filed pursuant to Decision No. 54438 in Case No. 5754, shows applicant's total investment in such operation to be over \$3,000,000. The Commission is of the opinion that applicant's regular telephone users should not be compelled to make up any losses resulting from Pacific's self-divestment of its private mobile communications operations.

To ensure that full information will be available to the Commission for its consideration in future rate proceedings, the order herein will provide that applicant shall submit a cost determination showing any unrecovered costs related to this sale of private mobile communications equipment. Such unrecovered costs shall be computed by deducting depreciation reserve as of the beginning of the current year from the book cost of the equipment, adding remitted termination charges and subtracting the agreed sales price. Depreciation reserve, as used above, shall be the amount of the recorded depreciation reserve accrued against the equipment being sold. If such recorded reserve is not available, an allocated depreciation reserve shall be determined by applying the reserve ratios by accounts and subaccounts for the appropriate accounting area of the applicant to the book costs of such equipment by accounts and subaccounts.

In this application Pacific offers no information to demonstrate that it is not physically and legally able to continue performing this dedicated public utility service for Henry Sturgeon and Son.

However, the leasing and maintenance of private mobile radiotelephone systems is a competitive communication service not having the monopolistic character of regular telephone service. The Commission takes official notice of the fact that in the Bakersfield area Sturgeon may obtain essentially the same maintenance service for the purchased equipment from non-utility enterprises at competitive commercial rates.

The Commission has considered this matter and is of the opinion that the granting of the application subject to the conditions set forth herein is not adverse to the public interest and that a public hearing is not necessary; therefore,

IT IS HEREBY ORDERED that after the effective date of this order and on or before December 31, 1959, applicant is authorized to sell to Henry Sturgeon and Son for \$1,850 the private mobile communications equipment described in Exhibit B attached to the application and to waive the basic termination charges applicable to such equipment, subject to the following conditions:

1. Applicant shall immediately notify purchaser in writing of all of his options relating to private mobile communications service provided by applicant pursuant to Ordering Paragraph 5 of Decision No. 54438 and shall submit a copy of such written notice to this Commission.

2. Applicant shall prepare and submit to this Commission a cost determination showing, with supporting detail, any unrecovered costs related to this sale of equipment, computed as described above.

3. Applicant shall account for the sale of this operative public utility property herein authorized in accordance with the "Instructions for Telephone Plant Accounts", Section 31.2-25, subsection (g) as set forth in the Uniform System of Accounts for Class A and Class B Telephone Companies prescribed by this Commission effective January 1, 1958. Applicant shall furnish to this Commission

a copy of the journal entry or entries used to record this sale on its books of account.

4. Within thirty days after the authority herein granted is exercised, applicant shall notify this Commission in writing of the date of the completion of the sale of property herein authorized and of its compliance with the conditions hereof.

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

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

Dated at San Francisco, California, this 22nd day of September, 1959.

Gerrit Allread  
President  
John E. Butler  
William B. ...  
E. J. Fox  
Theodore J. ...  
Commissioners