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Decision No. 66884

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and Investigation on the Commission's own motion of tariffs of the California Water and Telephone Company providing for the offering of mobile telephone service within its Palm Springs mobile service area.	Case No. 7691

Bacigalupi, Elkus & Salinger, by Claude N. Rosenberg, for respondent.
Frank Chalfont, for Chalfont Communications, interested party.
James G. Shields, for Commission staff.

O P I N I O N

On August 20, 1963, the Commission issued the above-entitled order of suspension and investigation suspending until December 23, 1963, California Water & Telephone Company's tariffs, filed under Advice Letter No. 377, offering mobile telephone service within its Palm Springs mobile service area. The period of suspension was extended to June 22, 1964, by order dated December 17, 1963.

The suspension of tariffs and investigation were occasioned by a protest of Chalfont Communications, a radiotelephone utility, providing mobile telephone service in the Palm Springs area, alleging that respondent's proposed rates were unduly low and might constitute an unreasonable burden on other telephone subscribers.

The matter was heard before Commissioner Holoboff and Examiner Patterson in Palm Springs on December 12 and 13, 1963, and was taken under submission upon receipt of late-filed Exhibit 15 on December 27, 1963.

The suspended tariffs, Exhibit 1, provide rates, charges, and special conditions for domestic public land mobile radio service on a manual basis within the Palm Springs mobile service area as defined in the tariffs.

By letter dated October 18, 1963, Exhibit 2, respondent advised the Commission that as a result of delays which had been injected into the matter, the decision had been made to offer mobile telephone service on a dial basis rather than manual, and to effect this, submitted a revised memorandum tariff proposal. Said revised memorandum tariff proposal, along with computations of rates and charges on the basis of costs, was received as Exhibit 3. The rate computations show the development of estimated costs for 1, 2, 3, 4 and 5 channel operation, all reflecting a loading of 40 mobile units per channel. As a result of questions raised by the staff, respondent made certain clarifying text changes in the proposed tariffs. These changes, none of which affect the proposed rate levels, are contained in Exhibit 4. The tariffs which resulted from applying the changes in Exhibit 4 to the revised tariff proposal in Exhibit 3, are set forth in Exhibit 5, and they represent the tariffs now proposed by respondent for mobile service in lieu of those under suspension.

Respondent's Schedule M-1 (Exhibit No. 5) limits liability for error in or omissions of directory listings to 15 percent of the monthly charges. This is not in conformity with treatment of liability limits extended to other services (Schedule A-14, Condition 12) and, accordingly, Schedule M-1 should be revised.

The essential features of the proposed tariffs include an installation charge of $50.00 for a mobile set and a flat rate of $47.50 a month. For this monthly charge respondent will provide a multi-channel, dial, mobile set equipped to operate on all channels, up to a maximum of 5 channels, and including a transmitter, receiver, antenna, control unit, selective signaling equipment, associated wiring, and one directory listing. For a subscriber-owned mobile set including one directory listing, the flat rate charge will be $17.50 per month.

It is noted that respondent's proposed flat rate treatment differs from the usual mobile telephone service message rate treatment filed by other utilities. Because a mobile telephone system is in effect a large party line, often with 20 to 40 or more stations on it, efficient use of the channels is necessary. Message rate treatment would tend to reduce subscribers' holding time and result in more effective channel utilization as well as a more equitable distribution of usage among subscribers. Because of the limited number of channels available, wasteful use of the channels is not to be encouraged. However, respondent's operation is in a geographically isolated area, and it appears that adequate channels will be available. Accordingly, the flat rate proposal will be authorized; but should channel loading become a problem in the future, message rate service should be considered.

The witness for respondent testified that the cost calculations in Exhibit 3 reflect estimated full costs of rendering mobile service, including a rate of return of 7 per cent, and assuming a loading of 40 mobile units per channel. Although there will be dial mobile usage of exchange plant, he made no specific allocation of expense for such plant but stated that in his opinion those expenses would be offset by additional revenues, not reflected in the calculations, which would be generated through toll and foreign usage. The estimated costs range from $47.00 to $52.50 per month for company-owned sets, and from $15.75 to $16.75 per month for subscriber-owned mobile sets. The range of estimated costs in each instance is dependent upon the number of channels reflected in the estimates.

Pursuant to the staff's request, respondent submitted late-filed Exhibit 15 which developed cost estimates reflecting a lower number of mobile units per channel than the 40 units per channel assumed in the calculations in Exhibit 3. The costs presented in Exhibit 15 show for 20 mobile units per channel, a range from $57.50 to $63.00 per month for company-owned units, and $26.25 to $28.50 for subscriber-owned units. For 10 mobile units per channel, the estimates show a range of $78.75 to $83.50 per month for company-owned units and $46.75 to $51.75 for subscriber-owned units.

Respondent has pending with the Federal Communications Commission (FCC) an application for a construction permit for a base station transmitter on Garnet Hill, north of Palm Springs, to be operated on a frequency of 152.69 megacycles. According to the record it is respondent's understanding that the construction permit should issue after the filing with the FCC has been amended to provide for dial service and after the FCC has been satisfied that tariffs for the service have been accepted for filing by this Commission.

Mr. Chalfont, in his protest, endeavored to show that respondent's estimates of cost do not reflect sufficient allowance for idle equipment nor for depreciation expense. He also endeavored to show that respondent's filing with the FCC, a portion of which was presented in Exhibit 8, was misleading in that the service area, as depicted by the map attached thereto, was inaccurate and that many of the 35 prospective subscribers to the service who purportedly had signed applications for service actually had no need for the service. Evidence on this last point was presented through signed statements from 21 of the 35 applicants stating, in essence, either that they had not signed an application for such service or that at the present time they had no need for the service.

The record shows that the mobile communications service provided by Chalfont in the Palm Springs area differs from that proposed by respondent. His two-way communication service is the manual type, and although he does have a connection with respondent's land line telephone system, all calls are handled by an operator. He also provides one-way signaling service. He has operated his service for approximately 4-1/2 years and presently serves about 70 units on 2 channels. He has an application for a third channel pending with the FCC.

The primary issue which has been raised in this proceeding is whether or not the rates proposed by respondent will be fully compensatory; if not, they might cast a burden upon respondent's land line telephone subscribers. This is the first opportunity the Commission has had to examine the level of rates for mobile service. The validity of this examination is hampered by the fact that the evidence on rate level and costs is based almost entirely on estimates rather than on experience and recorded costs.

Although some questions might be raised that, in view of the rapid technological improvements being made in the mobile communications field, service lives as used by respondent of 20 years for base station equipment and 10 years for mobile equipment may be too long, and that channel loading of 40 mobile units per channel as reflected in the rates may be too high, the fact is that conclusive answers will be obtained only from experience. Moreover, these factors are offset to some extent by the inclusion in the cost calculations of a rate of return of 7 per cent which is somewhat higher than the return respondent is currently earning on its over-all operations.

Expansion of mobile service to meet the needs of the public will not be attained if in the setting of rates we are constrained to authorizing only those rates for a new service which will guarantee a full return from the very outset of the service offering. There is a certain element of risk which must be recognized in any new service proposal.

From our examination we find that respondent's estimates fall within the zone of reasonableness. We further find that the rates and charges as proposed for mobile telephone service in Exhibit 5 are just and reasonable, and that they will not unduly burden respondent's other telephone subscribers.

Because of the many unknown factors involved in this new type of service, respondent will be directed to submit annual results of operation studies for mobile service at the end of the first and fourth years and quarterly reports of stations served. Such action will be required in order to assure that respondent's other subscribers will not be unduly burdened in the event that the operations contemplated herein prove to be noncompensatory.

A secondary issue which must be decided is whether or not the service offered by respondent will result in unreasonable or ruinous competition to Chalfont Communications. In this regard the record shows that the crossover point where the two utilities' charges are essentially equal, occurs for a subscriber using 103 messages per month. A subscriber using less than that number of messages would experience lower charges on Chalfont's rates, whereas a subscriber using more than 103 messages per month would experience lower charges on respondent's flat rate.

The record also shows that the service to be offered by respondent will differ from that offered by Chalfont in several respects. There are advantages and disadvantages to each of the two types of service. Under these circumstances, it seems clear and we find that the service to be offered by respondent will not result in unreasonable or ruinous competition to Chalfont Communications.

The record in this proceeding has demonstrated, as have the records in other mobile communications proceedings, that although the 37 dbu contour maps, which are based on theory, are useful in providing a common basis for considering the utilities' respective mobile service areas, they do not necessarily reflect the actual reliable service areas experienced in practice. Looking toward a more realistic manner of depicting service areas, the staff should give consideration to means of implementing procedures whereby all utilities providing mobile service, including the land line telephone utilities, will be required to file maps which will be reliable representations of their respective mobile service areas.

Based upon the record and the foregoing findings we conclude that the tariffs of respondent now under suspension should be permanently suspended and that, after revising the liability clause of Schedule M-1, respondent should be authorized to file tariffs for mobile service essentially as set forth in Exhibit 5.

O R D E R

IT IS ORDERED that:

1. The suspension of Cal. P.U.C. Sheets Nos. 3662-T through 3674-T, inclusive, filed by California Water & Telephone Company by Advice Letter No. 377, is hereby made permanent.

2. California Water & Telephone Company is authorized to file with this Commission, after revising the liability clause of

Schedule M-1 to correspond to Schedule A-14, after the effective date of this order and in conformity with General Order No. 96-A, tariff schedules for mobile service substantially as set forth in Exhibit 5 and to make such rates effective upon not less than five days' notice to the Commission and to the public.

3. Within one hundred twenty days following the first and fourth full calendar years of mobile service operation, California Water & Telephone Company shall submit to the Commission results of operation studies, showing the rate of return experienced on mobile telephone service in the Palm Springs mobile service area for such calendar years. Said studies shall be based upon recorded revenues, expenses and rate base figures where available and upon allocations of those items where accounting procedures do not reasonably permit segregation of the items by accounting records.

4. Within thirty days after the end of each calendar quarter, after establishment of service, California Water & Telephone Company shall submit a report showing the number of mobile telephone stations served by categories of service, listing separately stations used for company purposes, together with the number of held orders, as of the end of each quarter.

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

Dated at San Francisco, California, this 25th day of February, 1964.

Peter E. Mitchell
Everett C. McKeage
George G. Grover
Frederick B. Holoboff

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.