

EM

ORIGINAL

Decision No. 77114

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's
own motion into the practices,
contracts, service and facilities
of The Pacific Telephone and
Telegraph Company.

Case No. 8858

ORDER DENYING REHEARING

A petition for rehearing and other relief from Decision No. 76726 has been filed by William M. Bennett and Consumers Arise Now. The Commission has considered this petition and each and every allegation contained therein and is of the opinion that good cause has not been shown for granting rehearing.

IT IS ORDERED that rehearing is denied.

Dated at San Francisco, California, this 21st day
of APRIL, 1970.

President

Commissioners

*I will file a
concurring opinion
Aug 1st*

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

A. W. GATOV, COMMISSIONER, Concurring:

I concur in the order of denial because the decision is primarily a statement of intent and the petition presents no legal grounds which require a rehearing.

Even were the petition granted, however, I see no possibility the majority would have been swayed by these petitioners since their decision completely ignored similar importunings of:

- (1) The Hearing Examiner who heard the case;
- (2) The Staff of the Commission;
- (3) The Chief Counsel of the Commission;
- (4) The United States Department of Defense and Executive Agencies;
- (5) The Attorney General and Chief Legal Officer of the State of California;
- (6) The City Attorney of the City and County of San Francisco;
- (7) The City Attorney of the City of Los Angeles; and
- (8) The City Attorney of the City of San Diego.

Notwithstanding the record shows these participants expressed strong opposition to the PT&T position, the decision ignores their arguments, to say nothing of their very presence, with the bare-bones acknowledgment that they had "actively participated".

Though Finding and Conclusion No. 4^{1/} may suggest the majority's position can be changed from day to day, I view Decision

^{1/} 4. The reasonableness of the prices paid by the respondent, during any period of time in the future to Western Electric Company for its products, must be judged as of such time by analyses of such charges with due regard to all general and specific economic circumstances at that time including consideration of the economic advantages enjoyed by Western Electric Company as well as the need of the Western Electric Company to realize a reasonable level of profits from its operations in the manufacture and sale of products to respondent so that Western Electric Company can, to the extent required, attract sufficient capital from the investing public to finance its operations adequately.

No. 76726 to be in the nature of an aide-memoire confirming little effort need be expended in the forthcoming rate hearing on the Western Electric adjustment aspect because the treatment thereof has already been determined.

The majority should have taken advantage of the instant petition to correct the decision which, as stated in my dissent thereto, I consider to be unfair, unreasonable and improper.



Commissioner

Dated at San Francisco, California,
April 21, 1970