

ORIGINAL

Decision No. 78183

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of THE PACIFIC TELEPHONE)
AND TELEGRAPH COMPANY for authority)
to consolidate its Emmet, Panoche)
and Tres Pinos exchanges into a)
single exchange to be designated)
Tres Pinos and establish Emmet and)
Panoche special rate areas within)
the new Tres Pinos exchange, San)
Benito County, California.)

Application No. 50928
(Filed March 4, 1969)

- Richard Siegfried, for applicant.
- Rex Bryan, for William Butts Telephone Company, and Bryan Telephone Company, protestants.
- William L. Knecht, for California Farm Bureau Federation; and Neal S. Hasbrook, for California Independent Telephone Association, interested parties.
- W. Figg-Hoblyn and R. G. Thayer, Counsel, and E. J. Macario, for the Commission staff.

O P I N I O N

This proceeding involves the applications of The Pacific Telephone and Telegraph Company (Pacific) to consolidate its rural telephone exchanges in Tres Pinos, Emmet, and Panoche in San Benito County.

Consolidation of the three exchanges was approved by the Commission in Decision No. 76482, dated November 25, 1969. However, upon the filing of a petition for rehearing by the William Butts Telephone Company and the Bryan Telephone Company (Bryan),¹ the

¹ These two small, independent telephone companies are under single ownership, and they are hereinafter sometimes referred to as the Bryan companies.

Commission granted a rehearing for the purpose of receiving further evidence in order to determine whether the consolidation results in undue or unreasonable preferential treatment of Pacific's subscribers (Decision No. 76881, dated March 3, 1970).

Pacific's Tres Pinos exchange is located southeast from Hollister and it borders on part of its Hollister exchange. The Emmet exchange is southeast of the Tres Pinos exchange, but it is separated from the Emmet exchange by a somewhat larger section of unfiled territory. The Panoche exchange is farther southeast and it is separated from the Emmet exchange by a somewhat larger section of unfiled territory. The three exchanges are connected by a single county road which is parallel to the Tres Pinos Creek. The terrain is hilly and naturally suitable for ranching. It is sparsely populated.

Tres Pinos has a small business district which includes a church, garage, general store, winery, tavern and feed store. It also has three schools, a golf club and a combined fairgrounds and park. Tres Pinos is six miles southeast from Hollister. There are no business or commercial establishments in Emmet; a tavern is the only such establishment located in Panoche.

The Bryan companies are located next to the Emmet and Panoche exchanges. One, the Butts Telephone Company, consists of the Pinnacles exchange, which is adjacent to and on the west side of the Emmet exchange. It also borders on a small portion of Pacific's Hollister exchange area. It is a long, narrow exchange which extends along State Highway No. 25 parallel to the San Benito River. It is physically isolated from the Emmet exchange by hills through which there are not any connecting paved roads. It does not border on the Panoche exchange. It has 80 telephone customers.

The Bryan Telephone Company also consists of only one exchange designated as the Idria exchange. Its service territory includes a long, narrow area which encompasses the remaining 20 miles of the county road which bisects Pacific's Panoche exchange. One end of the Idria exchange borders on the Panoche exchange, but it is separated from Bryan's Pinnacles exchange by some eight miles of unfiled and roadless territory. There are 64 telephone customers in the Idria exchange.

The size and number of telephone stations located in the three Pacific exchanges and the two Bryan exchanges, as of January 1, 1970, are set forth below:

<u>Exchange</u>	<u>Area (sq.miles)</u>	<u>Number of Telephones</u>
Tres Pinos (Pacific)	38	132
Emmet (Pacific)	52	36
Panoche (Pacific)	34	28
Pinnacles (Bryan)	126	80
Idria (Bryan)	65	64

Under Pacific's plan, the Panoche and Emmet exchanges will be consolidated with the Tres Pinos exchange, including the incorporation of the two small sections of unfiled territory which presently separate the three Pacific exchanges from each other. The result will be one enlarged Tres Pinos exchange, divided into the Tres Pinos base rate area, and a separate special rate area for

Emmet and another such rate area for Panoche. The present and proposed rates for Pacific's three exchanges are set out below:

	Rate Per Month			
	Present		Proposed	
	Emmet Panoche Tres Pinos	Tres Pinos BRA	Emmet SRA	Panoche SRA
BUSINESS				
1-party	\$ 9.00	\$ 9.00	\$ 11.60	\$12.25
2-party	6.75	6.75	8.15	8.50
PBX Trunks	13.50	13.50	16.10	16.75
Semipublic	4.50	4.50	7.10	7.75
Suburban 8-party	6.25	Not Offered	Not Offered	Not Offered
Suburban 4-party	Not Offered	7.50**	7.50**	7.50**
Farmer Line	2.75#	2.75	3.15*	3.25*
RESIDENCE				
1-party	\$ 4.75	\$ 4.75	\$ 7.35	\$ 8.00
2-party	3.65	3.65	5.05	5.40
4-party	2.95	Not Offered	Not Offered	Not Offered
Suburban 8-party	3.45	Not Offered	Not Offered	Not Offered
Suburban 4-party	Not Offered	4.00**	4.00**	4.00**
Farmer Line	1.50#	1.50	1.90*	2.00*

Not offered in Panoche.

* Applicable to service connecting at the SRA.

** Available only in suburban area.

The above table shows that Pacific's subscribers in the Emmet and Panoche special rate areas will incur increases in their monthly rates. On the other hand, they will receive upgraded service, including seven-digit numbering and direct distance dialing. Pacific will also offer suburban four-party service in lieu of present suburban eight-party service and it will withdraw residence four-party service.

More significantly, however, the consolidation will permit extended area service (EAS) between the Tres Pinos and Hollister exchanges because the toll rate centers of the two exchanges are less than eight miles apart. As a result Pacific's subscribers in Emmet or Panoche will be able to call Hollister toll free. The combined territory covered with EAS will be approximately 370 square

miles; and the longest theoretical toll-free calling distance from the extreme ends of the two exchanges will be 49 miles.

Bryan and the Commission staff assert that the consolidation causes certain adverse effects for Bryan's subscribers in the Pinnacles and Idria exchanges which result in unreasonable preferential treatment for Pacific's Emmet and Panoche subscribers. Therefore, Bryan and the staff urge that the consolidation be denied under Sections 453 and 728 of the Public Utilities Code. The staff proposes as an alternative that Pacific be authorized to institute four-party suburban service.

The circumstances alleged to result in unreasonable discrimination against Bryan's subscribers are:

1. The size of the toll-free calling area and the maximum toll-free calling distance received by Pacific's subscribers in Emmet and Panoche.

The staff objects to the size of the toll-free calling area and the theoretical maximum distance of such calls. It argues that the area is too large because only 39 of Pacific's 393 exchanges, or approximately 10 percent of them, have a toll-free calling area greater than 370 miles. It further contends that the distance factor of 49 miles involved is unreasonably preferential to Pacific's subscribers because only 3, or less than 1 percent, of the 393 exchanges have a greater toll-free calling distance.

In the staff's view such a large toll-free area results in such a distorted exchange that an undue preference is created for Panoche and Emmet subscribers as compared to the restricted toll-free area and calling distance available to the adjacent Pinnacles and Idria subscribers. The staff emphasizes that the calling distances now present in the three Pacific exchanges (Panoche, Emmet and Tres Pinos) and the two Bryan exchanges are about equal, but that after consolidation the unchanged toll-free calling distances

in Pinnacles and Idria will be less than half that in the enlarged Tres Pinos exchange.

2. The toll rate increases incurred by Bryan's subscribers for calls to the neighboring Pacific exchanges in Emmet and Panoche, and the cancellation of plans for toll-free calling (EAS) between Pinnacles and Emmet.

Bryan and the staff complain that the rate changes caused by the consolidation result in unreasonable discrimination against Bryan's subscribers.

Under the Commission's order in Decision No. 74917, Bryan's Pinnacles exchange and Pacific's Emmet exchange will receive EAS because their toll-rate centers are presently eight miles apart or less. (See printed Decision No. 74917, page 47, paragraph 5.) For the same reason, Pacific's present Tres Pinos and Hollister exchanges will get EAS. Because the consolidation results in the shift of toll-rate centers, the Pinnacles exchange will not receive EAS to Emmet, but the Tres Pinos and Hollister exchanges will still receive it. In addition, the current 10-cent toll rate for calls between Pinnacles and Emmet will be increased to 15 cents after the consolidation. This loss of EAS by Pinnacles' subscribers and the increase in the Pinnacles-Emmet toll rate are attacked as unreasonable and unfair burdens placed on Bryan's subscribers as a result of the consolidation. There will not be any increase in the toll rate, however, for calls between Pinnacles and Hollister. Finally, the rate for calls between Pinnacles and Panoche will be decreased from 30 to 15 cents.

Bryan and the staff also oppose the rate increases for Bryan's Idria subscribers on the same ground. After the consolidation, the current 20-cent toll rate for calls between Idria and Pacific's Panoche exchange will become 45 cents; and the present

rate of 35 cents between Idria and Emmet will go up to 45 cents. There will be no increase in the toll rate for calls between Idria and Hollister.

These rate changes are summarized below:

		Toll Calls		
Between		:Toll Charge 3-Minute Call:		
		:Present:	Proposed:	Increase:
Idria (Bryan)	and Panoche (Pacific)	20¢	45¢	25¢
Idria (Bryan)	Emmet (Pacific)	35	45	10
Pinnacles (Butts)	Panoche (Pacific)	30	15	(15)
Pinnacles (Butts)	Emmet (Pacific)	10	15*	5
Panoche (Pacific)	Hollister (Pacific)	40	-	(40)
Panoche (Pacific)	Tres Pinos (Pacific)	40	-	(40)
Emmet (Pacific)	Hollister (Pacific)	25	-	(25)
Emmet (Pacific)	Tres Pinos (Pacific)	20	-	(20)

(Decrease)

* As a 10-cent toll route Pinnacles-Emmet would become toll-free pursuant to Decision No. 74917. As a 15-cent route it will remain toll.

3. The fact that Pacific's Emmet and Panoche subscribers will receive toll-free calling service to Hollister, while Bryan's nearer subscribers in Pinnacles will not.

Under the consolidation Pacific's customers in the Panoche and Emmet exchanges will receive toll-free calling to Hollister although both exchanges are currently physically separated from the Hollister exchange by the Tres Pinos exchange and some unfiled territory. Bryan's Pinnacles exchange, which borders on Pacific's Tres Pinos and Hollister exchanges, and which is closer to Hollister, will continue to have toll-call service.

The staff argues that this situation demonstrates the discriminatory result produced by the proposed consolidation. The staff attacks the equity of this result because Pacific's community-

of-interest study shows that a greater volume of calling traffic occurs between Pinnacles and Hollister (1,466 calls)² than between either Panoche and Hollister (303 calls), or between Emmet and Hollister (626 calls). It and Bryan also contend that this situation will cause Bryan considerable difficulty in maintaining good customer relations.

Pacific does not dispute the factual consequences of the consolidation set forth by the staff and Bryan. It does, however, vigorously dispute their argument that undue preferential or unreasonable discrimination results. Pacific emphasizes that although the toll-free calling distance and area will be great they are not record-breaking in themselves. It further alleges that even if they did establish new precedents in length and size the result should not automatically be considered as unduly preferential if the facts surrounding the situation justify the result.

Concerning the toll rate increases which Bryan's customers will suffer and the loss of planned EAS service for the Pinnacles exchange, Pacific contends that these rate effects are de minimis. To support this position it introduced a community-of-interest study which shows that the calling routes which will have increased rates carry a low volume of calls except for the Idria-Panoche route.

² Exhibit No. 14. These are the number of originating messages in both directions for an average month during 1969.

The total "average month originating messages" for 1969 in both directions on the major routes are shown below:

Route	Total Messages Originating in Both Directions for Average Month in 1969
BETWEEN Idria and Panoche	119
Idria and Emmet	3
Idria and Tres Pinos	40
Idria and Hollister	462
Pinnacles and Panoche	3
Pinnacles and Emmet	130
Pinnacles and Tres Pinos	312
Pinnacles and Hollister	1,466

(Source: Exhibit No. 14)

Insofar as the staff's charge that unreasonable discrimination results because the nearer Pinnacles exchange will not have EAS to Hollister while Pacific's more distant Panoche area will, Pacific responds that this result has occurred in other consolidations involving its exchanges and bordering independent exchanges. To alleviate any unfairness in this regard, Pacific has offered to join Bryan in a study for EAS to the Pinnacle's exchange if the Bryan subscribers demand it.

Finally, Pacific advances construction cost savings as a justification for the consolidation. Its witness testified in the original hearing that the gross construction expenditure to serve the three exchanges on a consolidated basis is some \$100,000 less than to do so on a nonconsolidated basis.

The Commission agrees with Pacific that the question whether unreasonable discrimination results depends upon all the surrounding circumstances and conditions involved in the proposed consolidation (Atchison, Topeka & Santa Fe Ry., 36 C.R.C. 135 (1931)). We are required by Section 454 of the Public Utilities Code to

determine if the rate increases which result from the proposed consolidation are justified; and in making this determination we are further required by Section 728 of the Public Utilities Code to consider the rates for comparable service charged by adjacent telephone companies.

We disagree with the Commission staff's position that the calling distance and size of EAS exchange should be determinative. On the facts present here, neither factor establishes a new precedent. Factors such as the effect on rates, community of interest, and the surrounding circumstances are entitled to greater weight than distance and square mile figures.

As far as consolidation of the Tres Pinos and Emmet exchanges are concerned, we agree with Pacific that no unreasonable preference results. The Emmet exchange, being separated from the Tres Pinos exchange by a very small section of unfiled territory, and from the Hollister exchange by the narrow neck of the Pinnacles exchange, is a logical and reasonable area to be consolidated with Tres Pinos. Although the resulting loss of EAS service from Pinnacles to Emmet and the substitution of a toll increase from 10 to 15 cents between Pinnacles and Emmet is a serious step backward in service conditions, it is largely negated by the relatively small traffic volume between these two areas. The vast majority of Pinnacles' calling is to Tres Pinos and Hollister where there are business centers. We also give weight to the fact that Pinnacles and Emmet are physically separated from each other. There is apparently no significant community of interest between these two areas.

The proposal to include the Panoche exchange in the consolidation will result in a toll rate increase for Bryan's Idria subscribers' calls to Panoche from the current 20 to 45 cents for a

three-minute call.³ However, most of Idria's calling traffic is to Hollister, for which there is no rate increase as a result of the consolidation. Although we recognize that Idria has over twice as many telephone stations as Panoche, 64 compared to 28, the Commission concludes that consolidation is justified. Maintenance of a separate telephone exchange for only 28 telephone stations in a sparsely settled area is undesirable and inefficient. Under the consolidation Pacific's Panoche subscribers will receive the benefit of EAS calling to Hollister. Extension of this service to as many areas as possible is in the public interest. Under the facts presented in this proceeding, we conclude that the effect of the consolidation as proposed by Pacific is not unreasonable or unduly discriminatory.

The Commission makes the following findings of fact:

1. The Pacific Telephone and Telegraph Company, the Bryan Telephone Company, and the Butts Telephone Company are telephone corporations within the meaning of Section 234 of the Public Utilities Code.
2. Pacific operates the Hollister, Tres Pinos, Emmet and Panoche telephone exchanges in San Benito County.
3. The Bryan Telephone Company and the Butts Telephone Company are under single ownership, and they operate the Idria and Pinnacles exchanges, respectively, in San Benito County.

³ There is a rate increase from 35 to 45 cents for calls between Idria and Emmet. However, Pacific's study shows almost zero volume of traffic on this route. Only three calls were recorded for the average 1969 month. There is also a rate decrease proposed under the consolidation for Bryan's subscribers from 30 to 15 cents, for a call between Pinnacles and Panoche. Once again, the volume of traffic is very low, only three average month calls were recorded (Exhibits Nos. 13 and 14). The effect of this increase and decrease is de minimis.

4. Pacific's proposed construction additions and consolidation of the Tres Pinos, Emmet, and Panoche exchanges into an enlarged Tres Pinos exchange with an Emmet special rate area and a Panoche special rate area will permit its customers in these three present exchanges to receive upgraded telephone service, including seven-digit numbering, direct distance dialing, and extended area service (EAS) to the Hollister exchange. These service improvements are in the public interest.

5. The result of this consolidation will affect telephone subscribers of the Butts Telephone Company in the Pinnacles exchange by increasing the rate from 10 to 15 cents for a three-minute call to Emmet, and by canceling the scheduled introduction of EAS service between the Pinnacles and Emmet exchanges. Since the volume of calling traffic between Pinnacles and Emmet is small when compared to that between Pinnacles and Hollister or Tres Pinos, the rate increase and cancellation of EAS service are justified.

6. Pacific's proposed consolidation of the Panoche exchange will result in a rate increase from 20 to 45 cents for a call from the adjacent Idria exchange. There will not be an increase in the toll rate for calls from Idria to Hollister. Since 75 percent of the telephone calling traffic from Idria is to Hollister, and since maintenance of a separate telephone exchange for only 28 subscribers in a sparsely settled area is inefficient, the rate increase for calls from Idria to Panoche is justified.

7. Increases in exchange rates for the proposed Tres Pinos exchange and the Emmet and Panoche special rate areas are justified.

The Commission concludes that the application herein should be granted.

ORDER


IT IS ORDERED that:

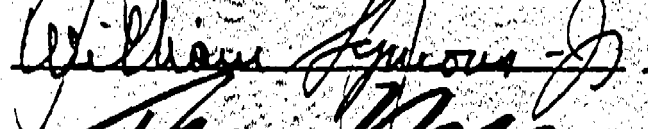
1. The Pacific Telephone and Telegraph Company's application to consolidate its Tres Pinos, Emmet and Panoche telephone exchanges is granted as proposed in the application herein.

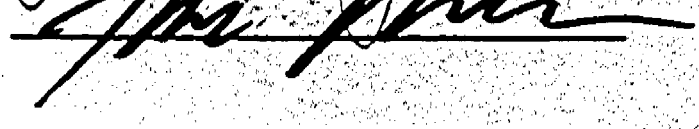
2. Within two years after the effective date of this order, applicant may be authorized by supplemental order to file the revised rate schedules attached to this order by Appendix A. Such filing shall comply with General Order No. 96-A. The effective date of the revised schedules shall be four days after the date of filing. The revised schedules shall apply only to service rendered on and after the date thereof.

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

Dated at San Francisco, California, this 13th day of JANUARY, 1971.



Chairman




Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

Applicant's rates, charges and conditions are changed as set forth in this appendix.

1. Discontinue the Emmet and Panoche Exchanges.
2. Enlarge the Tres Pinos Exchange and establish the Emmet and Panoche special rate areas as shown on Exhibit A attached to the application.
3. Rates:

	Rate Per Month		
	<u>Tres Pinos BRA</u>	<u>Emmet SRA</u>	<u>Panoche SRA</u>
<u>BUSINESS</u>			
1-party	\$ 9.00	\$11.60	\$12.25
2-party	6.75	8.15	8.50
PBX Trunks	13.50	16.10	16.75
Semipublic	4.50	7.10	7.75
Suburban 8-party	Not Offered	Not Offered	Not Offered
Suburban 4-party	7.50**	7.50**	7.50**
Farmer Line	2.75	3.15*	3.25*
<u>RESIDENCE</u>			
1-party	\$ 4.75	\$ 7.35	\$ 8.00
2-party	3.65	5.05	5.40
4-party	Not Offered	Not Offered	Not Offered
Suburban 8-party	Not Offered	Not Offered	Not Offered
Suburban 4-party	4.00**	4.00**	4.00**
Farmer Line	1.50	1.90*	2.00*

* Applicable to service connecting at the SRA.

** Available only in suburban area.

Other rates and rules in accordance with tariffs on file with the California Public Utilities Commission.