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Decision No. 80346

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 increase certain intrastate rates
and charges applicable to telephone
services furnished within the State
of California.

Application No. 51774
(Filed March 17, 1970)

William M. Bennett, Consumer Spokes-
man, and Consumers Arise Now, an
association,

Complainants,

vs.

The Pacific Telephone and Telegraph
Company, a corporation,

Defendant.

Case No. 9036
(Filed April 13, 1970)

144 SPANISH-SPEAKING TELEPHONE SUB-
SCRIBERS FROM SAN FRANCISCO, SONOMA,
AND IMPERIAL COUNTIES, THE SPANISH
SPEAKING/SURNAMED POLITICAL ASSOCI-
ATION, THE MEXICAN-AMERICAN POLITICAL
ASSOCIATION, THE HEALDSBURG AND
WINDSOR LOCAL ACTION COUNCILS,

Complainants and
(Proposed)
Protestants,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant and
Applicant in Pro-
posed Rates Increase
#51774.

Case No. 9042
(Filed April 2, 1970)

WILLIAM M. BENNETT, Consumer Spokesman, and Consumers Arise Now, an association,

Complainants,

vs.

Western Electric Company, joining Pacific Telephone and Telegraph Company and American Telephone and Telegraph Company as Interested Parties,

Defendants.

Investigation on the Commission's own motion into the rates, tolls, rules, charges, operations, separations, practices, contracts, service and facilities of The Pacific Telephone and Telegraph Company.

Investigation on the Commission's own motion into the rates, tolls, rules, charges, operations, separations, practices, contracts, service and facilities of the telephone operations of all the telephone corporations listed in Appendix A, attached hereto.

Case No. 9043
(Filed April 6, 1970)

Case No. 9044
(Filed April 7, 1970)

Case No. 9045
(Filed April 7, 1970)

O P I N I O N

By Decision No. 78351 dated June 22, 1971 in Application No. 51774, this Commission authorized The Pacific Telephone and Telegraph Company (Pacific) to increase its rates by \$143 million annually; the increased rates were effective July 23, 1971. Later, by Decision No. 79873, issued April 4, 1972, and Decision No. 79941, issued April 11, 1972, both in Application No. 52794, this Commission authorized Pacific to increase its rates by \$68.9 million annually; the increased rates were effective May 27, 1972. Petitions for review of all three decisions were filed with the Supreme Court of the State of California.

On June 9, 1972, the Supreme Court annulled Decision No. 78351 and directed the Commission as follows: "The decision is annulled. The commission is directed to reinstate the rates of its last lawful order preceding the instant proceeding provided, however, that it may grant interim rate increases should it find them appropriate while it reconsiders Pacific's application for rate increases. The commission is further directed to order Pacific to make refunds in accordance with the views expressed herein." City of Los Angeles v. Public Utilities Comm. (1972) 7 C 3d 331, 359. This opinion is to comply with those directions. Rate increases will be considered in a separate opinion.

In Los Angeles the Supreme Court deferred consideration of Decisions Nos. 79873 and 79941 and said, regarding the rates authorized by those decisions: "However, insofar as the May 27 rates are attributable to the approximately \$70 million increase authorized on April 4, they are not subject to refund at this time." (Modification of opinion in City of Los Angeles v. Public Utilities Comm., supra, filed July 12, 1972.)

We interpret this to mean that the \$68.9 million rate increase authorized by Decisions Nos. 79873 and 79941 is still valid subject to refund if ordered by the Supreme Court.

We will implement the order of the Supreme Court by reinstating the rates of our last lawful order preceding Decision No. 78851 and by continuing in effect the rate increases established in Decisions Nos. 79873 and 79941. The practical effect of our interpretation is illustrated in the following example:

The basic telephone exchange residence rate in San Francisco on July 22, 1971 was \$4.65 a month; the rate increase effective July 23, 1971 raised the basic rate to \$5.65 a month; and the increase effective May 27, 1972 raised the basic rate to \$5.75 a month. Based on these figures, we interpret the Supreme Court ruling to have invalidated only the \$1 increase effective July 23, 1971. The lawful rate to be collected today is the \$4.65 rate of July 22, 1971 plus the \$.10 increase of May 27, 1972.^{1/} The validity of the \$.10 rate increase is still pending before the California Supreme Court and may be subject to refund.

As an administrative matter, to have the tariffs in proper sequence we will order Pacific to reinstate the rates of its last lawful order preceding Decision No. 78851. Concurrently, we will authorize Pacific to increase its rates by \$55.4 million as set forth in Decision No. 80347 issued this date; and we will authorize Pacific to refile its rate increments heretofore authorized in Decisions Nos. 79873 and 79941 as set forth in Decision No. 80348 issued this date.

Our understanding of the Supreme Court decision is that the Court has directed us to order Pacific to refund all rates collected in excess of those in effect prior to July 23, 1971, less the rate increments authorized in Decisions Nos. 79873 and 79941. We shall so order. Because Pacific shares its message toll rate

^{1/} This example does not include the rate increase granted this date in Decision No. 80347.

revenue with 28 independent telephone companies in California, and its message unit revenue with General Telephone, all such independent companies should also be required to make refunds accordingly.

All refunds will be made at 7 percent interest from July 23, 1971, until paid. However, refunds of those portions of the rates which reflect local and federal taxes shall be made without interest.

Findings

1. Pacific shall reduce its rates to those in effect prior to July 23, 1971. This is a reduction of \$211.9 million at the 1970 level of business.

2. Pacific shall refund all monies collected over and above its rate levels in effect prior to July 23, 1971, less the rate increments authorized in Decisions Nos. 79373 and 79941, plus interest to date of refund at 7 percent, to all present and former customers; except that federal and local taxes shall be refunded without interest. This refund shall be made in conformance with the refund plan attached hereto as Appendix A.

3. General Telephone shall refund all monies collected over and above Pacific's rate levels affecting General Telephone in effect prior to July 23, 1971, less the rate increments authorized in Decisions Nos. 79373 and 79941, plus interest to date of refund at 7 percent, to all present and former customers; except that federal and local taxes shall be refunded without interest. This refund shall be made in conformance with the refund plan attached hereto as Appendix B.

4. Continental Telephone shall refund all monies collected over and above Pacific's rate levels affecting Continental Telephone in effect prior to July 23, 1971, less the rate increments authorized in Decisions Nos. 79373 and 79941, plus interest to date of refund at 7 percent, to all present and former customers; except that federal and local taxes shall be refunded without interest. This refund shall be made in conformance with the refund plan attached hereto as Appendix C.

5. All independent telephone companies, respondents in Case No. 9045, except General and Continental, shall refund all monies collected over and above Pacific's rate levels affecting these independent companies in effect prior to July 23, 1971, less the rate increments authorized in Decisions Nos. 79373 and 79941, plus accumulated interest to date of refund at 7 percent, to all present and former customers; except that federal and local taxes shall be refunded without interest. This refund shall be made in general conformance with the refund plans attached hereto as Appendices A, B, and C.

O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company is authorized to file with this Commission, on or after the effective date of this order, revised tariff schedules with rates, charges, and conditions as set forth in Appendix B to Decision No. 80347 and Appendix A to Decision No. 80348 issued concurrently with this order. Until Pacific makes these filings, the rates, charges and conditions of its tariffs in effect on July 22, 1971 shall be the lawful rates, charges, and conditions of Pacific.
2. After the effective date of this order, Pacific shall make refunds to its present and former customers of all monies collected over and above its rate levels in effect prior to July 23, 1971, less the rate increments authorized in Decisions Nos. 79373 and 79941, for the period beginning July 23, 1971 continuing until the effective date of tariff schedules filed as authorized in Decisions Nos. 80347 and 80348, in conformance with the refund plan attached hereto as Appendix A.
3. After the effective date of this order, General Telephone shall make refunds to its present and former customers of all monies collected over and above Pacific's rate levels affecting General Telephone in effect prior to July 23, 1971, less the rate increments

authorized in Decisions Nos. 79373 and 79941, for the period beginning July 23, 1971 and continuing until the effective date of tariff schedules filed as authorized in Decisions Nos. 80347 and 80348, in conformance with the refund plan attached hereto as Appendix B.

4. After the effective date of this order, Continental Telephone shall make refunds to its present and former customers of all monies collected over and above Pacific's rate levels affecting Continental Telephone in effect prior to July 23, 1971, less the rate increments authorized in Decisions Nos. 79873 and 79941, for the period beginning July 23, 1971 and continuing until the effective date of tariff schedules filed as authorized in Decisions Nos. 80347 and 80348, in conformance with the refund plan attached hereto as Appendix C.

5. After the effective date of this order, all independent telephone companies, respondents in Case No. 9045, except General and Continental, shall make refunds to their present and former customers of all monies collected over and above Pacific's rate levels affecting these independent telephone companies in effect prior to July 23, 1971, less the rate increments authorized in Decisions Nos. 79373 and 79941, for the period beginning July 23, 1971 and continuing until the effective date of tariff schedules filed as authorized in Decisions Nos. 80347 and 80348, in general conformance with the refund plans attached hereto as Appendices A, B, and C.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 5th
day of AUGUST, 1972.

Vernon L. Sturgeon President
William Synovis
Thomas M. ...
... Commissioners

I will file
a concurring
opinion.
Thomas M. ...

APPENDIX A
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THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY
REFUND PLAN

The following procedures will be used to refund increased charges billed as a result of Decision No. 78851 (rates effective July 23, 1971):

A. Computation of Basic Refundable Amount Per Customer

1. Basic Exchange Charges (C.O. Lines and Trunks)

Each customer will be refunded any increased amounts billed. In Folsom, Fair Oaks, Rio Linda and Mt. Wilson where rates were decreased on July 23, 1971, if the additional amount due on basic service exceeds the refund on other items, no additional amount will be billed. The refund amount for those customers will be zero.

2. Supplemental Equipment and Non-recurring Charges

Each customer will receive an individually computed refund using the following formula. The total accumulated amounts will be separated between Business and Residence accounts.

$$\frac{\text{Total Supp. Equip. \& NRC Refund}}{\text{Total Supp. Equip. \& NRC Accum. for all customers}} \times \frac{\text{Accum. Amt. Supp. Equip. \& NRC This Customer}}{\text{Supp. Equip. \& NRC Refund}}$$

3. Message Toll Charges

Each customer will receive an individually computed refund based on the following formula:

$$\frac{\text{Total Toll Refund}}{\text{Total Toll Accum. for all Customers}} \times \text{Amount Toll this Customer} = \text{Toll Refund}$$

4. Message Unit Charges

$$\frac{4.7 - 4.05}{4.7} \times \text{Total MU Amount This Customer} = \text{MU Refund}$$

Hotels, which had a reduction in the message unit rate, will be excluded from this calculation.

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B. Computation of Tax Refunds

1. Local Tax

Refund computation will be as follows:

$$\frac{\text{Local Tax (this Cust.)}}{\text{Total Intrastate Accum. (this Customer)}} \times \frac{\text{Total Basic Refundable Amount (this customer)}}{1} = \text{Local Tax Refund}$$

2. Federal Tax

Refund computation will be as follows:

$$\frac{\text{Federal Tax (this Cust.)}}{\text{Total Intrastate Accum. (this Customer)}} \times \frac{\text{Total Basic Refundable Amount (this customer)}}{1} = \text{Federal Tax Refund}$$

C. Computation of Interest

Interest at the rate of 7% per annum will be applied to the basic refundable amount (excluding tax). The interest rate formula will use an averaging convention to recognize the accumulation of the basic refundable amount over the period.

D. Application of Refund

1. Current Customers

The refund will be applied as a credit on the customer's bill not more than 120 days after the effective date of the refund order. The amount will be reflected on the Other Charges and Credits line of the bill. If there are no other items included on that line that month, the refund credit will be the amount on that line. If there are other items, the refund will appear on the Other Charges and Credits Statement. A printed bill insert will also accompany each refund.

2. Former Customers

Refunds will be calculated as outlined above and, if the refund amount is \$1.00 or more, a draft will be mailed to the last known address of the former customer not more than 120 days after the effective date of the refund order. Former customers with an outstanding balance will be credited the refund amount. If the balance resulting is a credit of \$1.00 or more, a draft will be prepared and mailed to the former customer. If the account was previously written off as uncollectible, the refund will be credited against the written off amount and a draft will be issued only if a net credit of \$1.00 or more results.

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3. Coin and Hotel-Motel Guest Customers

These customers may file a claim with the business office for refunds on intrastate toll calls placed from coin telephones or from hotel or motel rooms. These customers will be required to furnish details of calls on which refunds are requested. Claims must be filed within 90 days of the effective date of the refund order.

4. Supersedures

Supersedures involving a closing bill will be handled as a regular final account. Supersedures not involving a closing bill will be treated as continuous service and the refund will be made only to the current account.

5. Refund Adjustments

Any customer who is dissatisfied with his refund may contact the business office for an explanation and will receive an adjustment if warranted.

E. Reporting Requirements

Pacific Telephone will file a refund report with the Commission within 90 days of completion of the refunds. The report will contain the following information:

1. The total basic refundable amounts plus interest due customers.
2. The estimated refund due coin and hotel-motel guest customers.
3. The total amount credited on bills either initially or through adjustments (Item 5 above).
4. The total amount of refund drafts issued.
5. The total amount of refund drafts returned as undeliverable.
6. The total amount of refund drafts outstanding and an estimate of the portion which will never be presented for payment.
7. The total unrefunded amount (1+2-3-4+5+6 (portion)).
8. The amount of expense incurred in making refunds and accounts charged therewith.
9. Pacific Telephone will also present a proposal for disposal of any moneys due customers but not yet refunded.

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GENERAL TELEPHONE COMPANY OF CALIFORNIA
REFUND PLAN

The following procedures will be used to refund increased charges billed as a result of Pacific Company's Decision No. 78851 (rates effective July 23, 1971):

A. Computation of Basic Refundable Amount Per Customer

1. Basic Exchange Charges (C.O. Lines, Trunks and Centrex Mileage)

Each Customer will be refunded any increased amounts billed (actual amount).

2. Supplemental Equipment and Non-recurring Charges (GTC Tariff Schedule G-21).

Each customer will be refunded any increased amounts billed (actual amount).

3. Message Toll Charges (Intrastate)

Each customer will receive an individually computed refund based on the following formula:

$$\frac{\text{Total Toll to be Refunded}}{\text{Total Toll Billed for All Customers}} \times \text{Amount of Toll this Cust.} = \text{Toll Refund}$$

4. Message Unit Charges (actual amount)

$$(.047 - .0405) \times \text{Total MMU this customer} = \text{MMU refund.}$$

Hotels which had a reduction in the message unit rate will be excluded from this calculation.

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5. Total basic refundable amount per customer will be the total of Items 1, 2, 3, 4 and 5.

B. Computation of Tax Refunds

1. Local tax will be computed on individual customer refund using applicable city tax codes (actual amount).
2. Federal tax will be computed on individual customer refund using applicable tax codes (actual amount).

C. Computation of Interest

Interest at the rate of 7% per annum will be applied to the basic refundable amount (excluding tax). The interest rate formula will recognize the accumulation of the basic refundable amount over the period.

D. Application of Refund

1. Current Customers

The refund will be applied as a credit on the customer's bill, not more than 120 days after the effective date of the refund order. The amount will be reflected as a credit adjustment on the bill. Each refundable amount (basic refund, city tax, Federal tax and interest) will appear as a separate entry on the bill. A printed bill insert will also accompany each refund.

2. Former Customers

Customers taken out of service 90 days prior to the refund date will be sent a notice that they may be entitled to a refund as ordered in the decision herein. Customers will be advised to contact the business office to request refunds. Claims must be filed within 90 days of the receipt of the notice.

Former customers whose final accounts are being processed through the billing system as of the refund date will be given a credit.

All refunds will be calculated as outlined above and if the refund amount is \$1.00 or more, a check will be mailed to the address supplied by the former customer.

If the balance resulting is a credit of \$1.00 or more, a check will be prepared and mailed to the former customer.

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3. Coin and Hotel-Motel Guest Customers

These customers may file a claim with the business office for refunds on intrastate toll calls placed from coin telephone or from hotel or motel rooms. These customers will be required to furnish details of calls on which refunds are requested. Claims must be filed within 90 days of the effective date of the refund order.

4. Supersedures

Supersedures involving a closing bill will be handled as a regular final account. Supersedures not involving a closing bill will be treated as continuous service and the refund will be made only to the current account.

5. Refund Adjustments

Any customer who is dissatisfied with his refund may contact the business office for an explanation and will receive an adjustment, if warranted. Claims must be filed within 90 days of customer's receipt of bill or refund check.

E. Reporting Requirements

General Telephone will file a refund report with the Commission within 90 days of completion of the refunds. The report will contain the following information:

1. The total basic refundable amounts, plus interest due customers.
2. The refund paid coin and hotel-motel guest customers.
3. The total amount credited on bills either initially or through adjustments (Item 5 above).
4. The total amount of refund checks issued.
5. The total amount of refund checks returned as undeliverable.
6. The total amount of refund checks outstanding and an estimate of the portion which will never be presented for payment.
7. The total unrefunded amount (1+2-3-4+5+6 (portion)).
8. The amount of expense incurred in making refunds and accounts charged therewith.
9. A proposal for disposal of any moneys due customers but not yet refunded.

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CONTINENTAL TELEPHONE COMPANY OF CALIFORNIA
REFUND PLAN

The following procedures will be used to refund increased charges billed as a result of Decision No. 78851 (rates effective July 23, 1971):

A. Rate Refund

1. Foreign Exchange Service

Each customer will be refunded any increased amounts billed.

2. Message Toll Charges

Each customer will receive an individually computed refund based upon the following formula:

$$\text{Total Toll at New Rate} - \text{Total Toll at Old Rate} = \text{Refund Due} *$$

B. Tax Refund

1. Local Tax

Refunds will be applied to all customers according to credits due for the classes of service provided.

2. Federal Tax

Refunds will be applied to all customers according to credits due for the classes of service provided.

C. Computation of Interest

Interest at the rate of 7% per annum will be applied to the basic refundable amount (excluding tax). The interest rate formula will use an averaging convention to recognize the accumulation of the basic refundable amount of the period.

*Should this computation result in an amount due from the customer, the company will not bill the customer for this amount.

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D. Application of Refund

1. Current Customers

The refund will be applied as a credit on the customer's bill not more than 120 days after the effective date of the refund order. The amount will be reflected on the Other Charges and Credits line of the bill. If there are no other items included on that line that month, the refund credit will be the amount on that line. If there are other items the refund will appear on the Other Charges and Credits Statement. A printed bill insert will also accompany each refund.

2. Former Customers

Refunds will be calculated as outlined above, and if the refund amount is \$1.00 or more, a draft will be mailed to the last known address of the former customer not more than 120 days after the effective date of the refund order. Former customers with an outstanding balance will be credited the refund amount. If the balance resulting is a credit of \$1.00 or more, a draft will be prepared and mailed to the former customer. If the account was previously written off as uncollectible, the refund will be credited against the written off amount and a draft will be issued only if a net credit of \$1.00 or more results.

3. Coin and Hotel-Motel Guest Customers

Those customers may file a claim with the business office for refunds on intrastate toll calls placed from coin telephones or from hotel or motel rooms. These customers will be required to furnish details of calls on which refunds are requested. Claims must be filed within 90 days of the effective date of the refund order.

4. Supersedures

Supersedures involving a closing bill will be handled as a regular final account. Supersedures not involving a closing bill will be treated as continuous service, and the refund will be made only to the current account.

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5. Refund Adjustments

Any customer who is dissatisfied with his refund may contact the business office for an explanation and will receive an adjustment if warranted.

E. Reporting Requirements

Continental Telephone will file a refund report with the Commission within 90 days of completion of the refunds. The report will contain the following information:

1. The total basic refundable amounts plus interest due customers.
2. The estimated refund due coin and hotel-motel guest customers.
3. The total amount credited on bills either initially or through adjustments (Item 5 above).
4. The total amount of refund drafts issued.
5. The total amount of refund drafts returned as undeliverable.
6. The total amount of refund drafts outstanding and an estimate of the portion which will never be presented for payment.
7. The total unrefunded amount (1+2-3-4+5+6 (portion)).
8. The amount of expense incurred in making refunds and accounts charged therewith.
9. Continental Telephone will also present a proposal for disposal of any moneys due customers but not yet refunded.

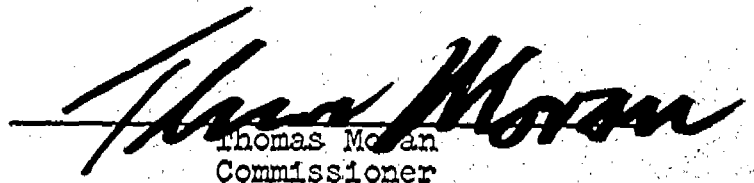
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COMMISSIONER MORAN, CONCURRING.

I concur in each of these three Pacific Telephone decisions today as they substantially correct the gross errors of law and judgment embodied in this Commission's three previous outrageous decisions ^{FN/} respecting Pacific Telephone (to all three of which I dissented).

It is unfortunate that this Commission has finally recognized its responsibility to the people of California only because the Supreme Court has compelled the Commission to do so. Literally several millions of dollars, not to mention the time of dedicated staff personnel, has been wasted unnecessarily, all at the expense of Pacific Telephone's ratepayers, the taxpayers, and indeed even to the detriment of Pacific Telephone's stockholders.

Dated: August 8, 1972
San Francisco, California


Thomas Moran
Commissioner

FN/ D. 76726, January 27, 1970,
respecting so-called "Western Electric Adjustment",
D. 77987, November 24, 1970,
respecting so-called "accelerated depreciation",
D. 78851, June 21, 1971,
which granted Pacific a rate increase in excess of
\$143,000,000 per year.