

cm

Decision No. 80638

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. 53587

(Filed 9/15/72)

ORDER DENYING INTERIM RELIEF

The Pacific Telephone and Telegraph Company filed on September 15, 1972, its application for interim and final rate increases. Applicant requests \$103.3 million of interim rate increases. In support of such requests Pacific alleges, among other things, that the \$103.3 million increase is sufficient only to bring Pacific's rate of return to the 7.85% level authorized in June 1971, that Pacific must raise approximately \$325 million of outside capital in 1973 in addition to the \$460 million in outstanding short-term indebtedness at the end of 1972, that the rate increases which the Commission authorized on August 8, 1972, could be the subjects of requests for review, and that such increase is essential to prompt improvement of service.

In considering the question of interim relief and whether to set hearings on interim relief the Commission must rely on the allegations in Pacific's application in light of the conditions which are known to obtain. Generally speaking, the granting of interim rate relief should be preceded by a showing that an emergency situation or other undue hardship obtains with respect to a utility's operations. (Saunby v. Railroad Commission, 191 Cal. 226, 230 et seq.; Decision No. 42530, 48 Cal. P.U.C. 487, 488; cf. Dyke Water Co. v. Public Utilities Com., 56 Cal.2d 105, 110.)

This principle was recently restated by the federal Price Commission in a new rule promulgated to apply to the allowable suspension periods of requested interim increases. The rule states that in situations where requested increases are allowed by law to go into effect automatically after a maximum suspension period, the regulatory agency must, even if certificated, suspend the requested increase for such maximum period, unless "it is otherwise required for emergency reasons or to prevent an undue hardship or gross inequity." (Sec. 300.307 (c)(1)(i)) Although there is no such automatic implementation of interim rate increases available to utilities in this state, the principle described above may serve as an analogy in placing an appropriate standard on judging the need for such an increase. Pacific has not alleged a financial emergency which if not mitigated would cause immediate and irreparable harm to the utility.

The primary factors of which we are aware and which would prevent us from finding a financial emergency are: (1) On October 13, 1972, the Supreme Court refused to issue a writ of review on Pacific's wage offset application, Application No. 52794, which would render moot any appeal that may be pending with respect to Decision No. 80348, and (2) Pacific's most recent financial data indicate a marked improvement in Pacific's earnings.

Pacific's financial statements filed with the Commission indicate earnings per share of common stock (annual basis) of \$1.76 for August 1972 as compared with \$1.24 for the same month in 1971. These reports show earnings for June at \$1.21 and July at \$1.65. Based on these three months' reports, which are the latest available, no emergency exists. The \$1.21 per share earnings for June are after \$19,060,000 was deducted from revenues to reflect refunds. The \$1.65 earnings for July are after deducting \$5,416,000 for refunds. The \$1.76 per share earnings are after deducting \$2,938,000 for refunds. On this reported basis, the average earnings per share for the three months period are \$1.54 per share on an annual basis compared to the current dividend of \$1.20 per share per year. The refunds which are being made to customers in September and October 1972 will not reduce earnings in those or

subsequent months.

Pacific's request for \$103.3 million interim rate increase is based on projected 1973 earnings and requests a full return of 7.85%. The difference between the interim request and the full \$328 million requested is related to two elements: (1) Tax treatment of flow-through versus normalized taxes and (2) a requested increase in rate of return from 7.85% to 9.5%. Pacific does not allege grounds for the Commission to find that an emergency, in fact, exists. It is apparent that to grant the \$103.3 million would be equivalent to grant of the full \$328 million without increases for tax treatment and rate of return. Pacific's interim request is for a full return and fails to specify the minimum increase required to meet an unspecified emergency situation.

The Commission finds, after consideration of the allegations set forth in the application and the exhibits attached thereto, as well as filings made by applicant pursuant to General Order No. 65-A, that such allegations, even if accepted as true, do not contain a showing of emergency and that no such showing is apparent from Pacific's published earning reports; therefore, good cause appearing,

IT IS ORDERED that Pacific's request for interim relief is denied.

Dated at Los Angeles, California, this 17th day of OCTOBER, 1972.

Vernon L. Sturgeon
President
William J. Murphy
J. H. Williams
John J. H. H.
Commissioners