

ORIGINAL

Decision No. 83087

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

NANCY S. BRADSHAW, ET AL.,

Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY,

Defendant.

Case No. 9565  
(Filed June 6, 1973;  
amended July 5, 1973)

Nancy S. Bradshaw, for herself,  
complainant.  
Richard Siegfried, Attorney at Law,  
for The Pacific Telephone and  
Telegraph Company, defendant.  
Peter Arth, Jr., Attorney at Law,  
for the Commission staff.

O P I N I O N

After due notice, hearing was held on December 11 and 12, 1973 on this complaint before Examiner Coffey in San Diego. The matter was submitted upon the receipt of the transcript on January 28, 1974.

The original complaint in this matter was signed by 42 complainants. The amended complaint was signed by 33 complainants. Two complainants, in addition to Ms. Bradshaw, testified in support of the complaint. Ms. Bradshaw testified, presented eight exhibits, and cross-examined defendant's witness. Nineteen subscribers testified in support of the complaint and one opposed the complaint. The staff

intervened in the proceeding, cross-examined witnesses, and stated its position. Defendant presented the testimony of one witness and three exhibits in opposition to the complaint.

Complaint

Complainants in their amended complaint request that defendant be ordered to include the Pacific Beach and La Jolla exchange areas in the San Diego exchange. If the complaint is satisfied, subscribers located in the Pacific Beach and La Jolla exchange areas will have the same toll-free extended area service available to subscribers in the San Diego exchange area.

Complainants allege:

1. The community of interest factors developed by The Pacific Telephone and Telegraph Company (Pacific) are invalid because subscribers travel to places where calls can be made without toll calls or use friends to make local calls for them in a foreign exchange.
2. Eighty percent of the subscribers in the Pacific Beach and La Jolla exchanges would be willing to pay higher rates for telephone service if they could have the same toll-free calling available to subscribers in the San Diego exchange.
3. They are aware they can have foreign exchange service to the San Diego exchange, but this would not be economical to most of them because most subscribers in the Pacific Beach and La Jolla exchanges make only two or three calls per month to areas beyond their toll-free calling area.
4. Provision of the requested toll-free extended area would not entail extensive construction costs, and a nominal increase in telephone rates to all subscribers would compensate for the loss of revenue occasioned by granting the request.

Defense

Pacific denied all of complainants' allegations and alleged as a separate and affirmative defense:

1. The complaint does not set forth facts sufficient to constitute a cause of action as required by Section 1702 of the Public Utilities Code.

2. The complaint, in essence, alleges unfair discrimination in that the local calling area of the La Jolla and Pacific Beach exchanges is not the same size as the local calling area of the San Diego exchange.

3. The issues raised in this case are identical to those raised and dismissed in the complaint of Percy E. Whitten, et al. against The Pacific Telephone and Telegraph Company, Decisions Nos. 79790 and 81011.

Service Area

Pacific Beach and La Jolla telephone exchanges are part of a group of exchanges designated the San Diego Extended Service Area (ESA). Exhibit 9 shows the nine exchanges making up the San Diego Extended Service Area and the seven exchanges to the north of the ESA. The following exchanges and district areas are in the ESA:

1. Chula Vista  
Chula Vista D.A.  
Dulzura D.A.
2. Coronado
3. El Cajon
4. La Jolla
5. La Mesa
6. National City
7. Pacific Beach
8. San Diego
9. San Ysidro

The ESA extends north from the Mexican border approximately 25 miles and east from the Pacific Ocean approximately 40 miles. As of the end of 1972 there were about 454,000 main stations in the ESA.

Subscribers in the San Diego exchange have toll-free calling to each of the other exchanges in the ESA, except Dulzura D. A.; and subscribers in each of the other exchanges, again except Dulzura D. A., can call toll free to the San Diego exchange. Each exchange in the ESA has toll-free service to the adjacent exchange and to every nonadjacent exchange within eight toll rate miles within the ESA. Subscribers in the La Jolla exchange presently<sup>1/</sup> can call toll free to the Del Mar exchange outside the ESA in addition to the San Diego and Pacific Beach exchanges within the ESA. Similarly, subscribers in the Pacific Beach exchange can call toll free to the Coronado, La Jolla, and San Diego exchanges, all within the ESA.

In addition to present toll-free calling, complainants are requesting that toll-free calling be established between the La Jolla and Pacific Beach exchanges and Coronado, El Cajon, La Mesa, National City, and San Ysidro exchanges and the Chula Vista District Area.

Statistical Comparisons

The following tabulation compares the rates, station availabilities, and size of toll-free calling areas of the various exchanges in the ESA:

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<sup>1/</sup> In Application No. 53587, defendant is proposing toll-free calling between La Jolla and Rancho Santa Fe exchanges.

COMPARISON OF RATES, STATION AVAILABILITIES,  
AND SERVICE AREAS

<u>Exchange</u>	<u>Monthly One-Party Flat Residence Rate 6-15-73</u>	<u>Exchange Main Stations 12-31-72</u>	<u>Main Stns. In Local Calling Area 12-31-72</u>	<u>Main Stations In Local Calling Area Outside Exchange 12-31-72</u>
Chula Vista				
Chula Vista D.A.	\$4.80	48,528	350,567	302,039
Dulzura D.A.	4.80	275*	152,792*	152,517*
Coronado	4.80	6,669	297,794	291,125
El Cajon	4.80	51,491	322,032	270,542
La Jolla	4.80	21,336	277,043	255,707
La Mesa	4.80	52,498	393,085	340,587#
National City	4.80	22,525	350,292	327,767
Pacific Beach	4.80	30,984	270,088	239,104
San Diego	4.80	217,768#	454,103#	236,335
San Ysidro	4.80	2,304	297,794	295,490

# High end of range.

\* Low end of range.

(Continued)

COMPARISON OF RATES, STATION AVAILABILITIES,  
AND SERVICE AREAS  
(Continued)

<u>Exchange</u>	<u>Square Miles In Local Calling Area 12-31-72</u>	<u>Toll-Free Stns. Per Exchange Main Station In Local Calling Area 12-31-72</u>	<u>Toll-Free Stns. Outside Exchange Per Exchange Main Station 12-31-72</u>	<u>Main Stns. Per Sq. Mi. In Local Calling Area 12-31-72</u>
Chula Vista				
Chula Vista D.A.	519.87	7.22	6.22	674.34
Dulzura D.A.	637.08	555.61 <sup>#</sup>	554.61 <sup>#</sup>	239.83 <sup>*</sup>
Coronado	321.82	44.65	43.65	925.34
El Cajon	668.36	6.25	5.25	481.82
La Jolla	225.57	12.98	11.98	1,228.19
La Mesa	815.42 <sup>#</sup>	7.49	6.49	482.06
National City	387.45	15.55	14.55	904.10
Pacific Beach	196.46 <sup>*</sup>	8.72	7.72	1,374.77 <sup>#</sup>
San Diego	746.82	2.09 <sup>*</sup>	1.09 <sup>*</sup>	608.05
San Ysidro	321.82	129.25	128.25	925.34

# High end of range.

\* Low end of range.

From the foregoing tabulation it appears that:

1. The one-party flat residence rate is the same in all exchanges, \$4.80 per month.
2. Based on the number of main stations in the exchange, the La Jolla and Pacific Beach exchanges are, respectively, the seventh and fifth largest in the ESA.
3. Based on the number of available toll-free main stations, the La Jolla and Pacific Beach exchanges have, respectively, the eighth and ninth largest toll-free station availability.
4. Based on the number of available toll-free main stations outside the exchange areas, the La Jolla and Pacific Beach exchanges have, respectively, the seventh and eighth largest toll-free station availability.
5. Geographically, the La Jolla and Pacific Beach exchanges have, respectively, the next to smallest and the smallest toll-free calling areas.
6. The number of toll-free main stations in the local calling area per exchange main station is 8.72 and 12.98 for Pacific Beach and La Jolla exchanges, respectively, ranking fifth and sixth above the smallest ratio for San Diego exchange, 2.09.
7. The number of toll-free main stations outside the exchange per exchange main station is 7.72 and 11.98 for Pacific Beach and La Jolla exchanges, respectively, ranking fifth and sixth above the smallest ratio of 1.09 for San Diego exchange.
8. The density of toll-free main stations per square mile is greatest for Pacific Beach and second largest for the La Jolla exchange.

The following tables set forth the number of customer accounts in the Pacific Beach and La Jolla exchanges as of April 1973:

Customer Accounts

	<u>Residential</u>	<u>Business</u>	<u>Total</u>
Pacific Beach	28,345	1,772	30,117
La Jolla	16,590	2,457	19,047

The growth of San Diego foreign exchange service in the Pacific Beach and La Jolla exchanges is shown in the following tabulation:

Subscribers to San Diego Foreign Exchange Service

<u>Year</u>	<u>Pacific Beach</u>		<u>La Jolla</u>	
	<u>Residential</u>	<u>Business</u>	<u>Residential</u>	<u>Business</u>
1966	302	84	6	36
1967	431	117	8	31
1968	561	160	26	34
1969	711	215	41	33
1970	856	247	57	37
1971	1,047	291	87	59
1972	1,200	323	127	80
1973*	1,281	310	156	96

\* As of October 31, 1973.

Based on messages in the month of April 1973, Pacific developed the following indicators of Pacific Beach and La Jolla subscriber toll usage to other exchanges in the ESA:



	<u>Rate</u> <u>Mile</u>	<u>% Users</u>		<u>Monthly Messages</u>		<u>CI Factors</u>		<u>Total</u>
		<u>Res.</u>	<u>Bus.</u>	<u>Res.</u>	<u>Bus.</u>	<u>Res.</u>	<u>Bus.</u>	
<u>PACIFIC BEACH TO:</u>								
Coronado	9	7.3	13.3	5,681	577	.20	.33	.21
El Cajon	18	26.2	52.5	23,977	5,455	.85	3.08	.98
La Mesa	14	34.5	60.3	32,325	6,535	1.14	3.69	1.29
National City	12	10.9	29.4	9,079	2,012	.32	1.14	.37
San Ysidro	21	.9	2.3	511	76	.02	.04	.02
Chula Vista DA	15	20.0	42.1	16,853	3,254	.59	1.84	.67
<u>LA JOLLA TO:</u>								
Coronado	13	8.7	15.8	3,768	1,197	.23	.49	.26
El Cajon	19	24.0	49.5	11,871	7,243	.72	2.95	1.00
La Mesa	17	31.5	59.6	16,585	9,274	1.00	3.77	1.36
National City	15	8.1	25.7	3,999	2,401	.24	.98	.34
San Ysidro	25	.9	3.1	340	217	.02	.09	.03
Chula Vista	19	16.3	38.2	7,599	4,634	.46	1.89	.64

"Rate Mile" in this tabulation being the distance between exchange toll rating centers gives an indication of the geographical distance between exchanges and the relative toll charges. "Percent Users" is an expression of the percent of total resident subscribers who make one or more telephone calls per month over a route. For instance, in April 1973, 7.3 percent of the subscribers in Pacific Beach exchange made one or more toll calls to a subscriber in the Coronado exchange. "Monthly Messages" is the number of completed toll calls from subscribers in Pacific Beach and La Jolla exchanges to subscribers in other exchanges in the ESA. The community of interest, or "CI Factors," is derived by dividing the total number of monthly messages by the number of customer accounts listed above. Thus the defendant divides the 5,681 toll messages during April from residential subscribers in the Pacific Beach exchange to subscribers in the Coronado exchange by the number of residential subscribers in the Pacific Beach exchange, 28,345, to derive a CI factor of .20.

Complainant Bradshaw computed from data supplied by defendant that the average monthly revenue from toll calls in 1972 per subscriber was \$1.19 and \$1.61, respectively, for residence and business Pacific Beach subscribers and correspondingly was \$1.15 and \$1.88 for La Jolla subscribers. The toll revenues used in this calculation represent toll calls to exchanges within and outside the ESA.

Based on several recent extended service economic studies involving fewer central offices and shorter toll routes, Pacific estimated that the requested service would require construction costs in excess of \$1 million and perhaps as high as \$3 million.

In addition to data supplied, at the end of the hearing complainant Bradshaw requested that Pacific be ordered to provide her with data on the toll revenues to different areas than the San Diego extended area for the past few years so she could make a projection of the cost per subscriber per month. We will not grant the request since such a projection of revenues would not be indicative of construction costs.

#### Complainants' Position

Complainants believe that Pacific's measures of community of interest are invalid because most subscribers avoid paying toll calls by traveling to a location from which toll-free calls can be made or by asking friends in foreign exchanges to make toll-free calls. Further, complainants are willing to pay higher rates per expanded toll-free calling service. The offer of defendant to provide optional extended area service did not satisfy the complaint.

Complainants believe that Pacific's estimate of construction cost is inflated and that it would be economical for defendant to provide free toll-free extended service because of growth in revenues. Complainants, while believing there is unfair discrimination, did not argue this issue in this proceeding because of the precedent of Decision No. 79790 dated March 7, 1972 and Decision No. 81011 dated January 30, 1973 in Case No. 9057.

Pacific's Position

Pacific maintains that the evidence shows that Pacific Beach and La Jolla subscribers are not being unreasonably discriminated against in terms of local calling area; further, that the very low percentage of usage coupled with low user calling volume precludes any need for two-way nonoptional service to replace toll calling over the six designated routes.

Pacific proposes to proceed as appropriately and as fast as possible to develop a statewide optional offering.

Staff Position

The staff generally supported Pacific's position and expressed its eagerness to see the maturation of statewide criteria for optional extended area service.

Optional Extended Area Service

An industrywide committee has been formed of representatives from defendant, independent telephone companies, and the Commission staff to establish recommendations for a statewide optional calling service plan.

Presently, demographic characteristics of about 250 exchanges and a computer model are being developed which it is anticipated will be of such dynamic character that future growth and future changes in population and geography can be considered. Pacific's witness anticipated that in 1974 the work of the committee will result in a formal application which will identify in periods of two- or three-year increments the various rate plans that seem to be most appropriate for all communities of the State.

An experimental plan has been authorized recently for the Fresno and Modesto areas which indicated the calling pattern and rate structure which may be made available.

One-way nonoptional extended service is free local calling from an exchange to a neighboring exchange for a nominal increase in basic monthly rates. In recognition of the lack of calling interest for the majority of those people who reside in a core exchange, such as San Diego, to call to a satellite exchange, such as La Jolla, the optional calling measured service has been designed. This plan will be available to resident subscribers with individual line service. Customers will be allowed to make two hours worth of nonoperator-handled calls per month to the exchange of their choice between the hours of 8:00 a.m. and 8:00 p.m. In addition to the two-hour daytime allowance, the subscribers will be allowed to make as many calls as they like and talk as long as they like during the remaining 12-hour period from 8:00 p.m. to 8:00 a.m. The charge for this plan on an experimental basis is \$2.75 per month for each route within 20 toll rate miles and an additional charge of three cents per minute for overtime beyond the two hours. Calling is free from 8:00 p.m. until 8:00 a.m. For routes from 21 to 40 miles, there would be a charge of \$3.95 per month with an overtime charge of four cents per minute. Pacific's witness testified that it would be natural to apply this rate plan to service between satellite exchanges.

#### Discussion

After complaints by the cities of Beverly Hills and Los Angeles and investigations on the Commission's own motion, Decision No. 26716 dated January 10, 1934 required extended telephone service be made available to areas contiguous to the Los Angeles exchange stating:

"The primary calling area for extended service subscribers in the various exchanges and portions of exchanges would include all stations served from the subscribers' exchange, all stations served from those exchanges contiguous to the subscribers' exchange which are within the ultimate Los Angeles extended service area, and all stations served from the central offices in those fundamental plan areas of the Los Angeles exchange which are contiguous to or have scaling points which are within a distance of six miles of the scaling point of the subscribers' exchange."

That appeared to be the first approval in California of two-way nonoptional extended area service. Within five years that kind of service was placed in effect in certain exchanges in San Diego County and in the San Francisco-East Bay area. Ultimately, by 1955, extended area service became available between the San Francisco and East Bay zones, in Orange County, and in Sacramento County. We note that in general the offering of extended service came after service complaints and/or investigations on the Commission's own motion.

A review of decisions which established and modified metropolitan extended service areas in California does not support Pacific's contention that a guideline has been established by the Commission that every exchange in the metropolitan extended service areas will have every adjacent exchange and every nonadjacent exchange within eight toll rate miles in its extended local calling area. While such a pattern may have been utilized by those who developed specific rate recommendations, the suitability of a rate structure and its acceptance by the Commission are not limited to so inflexible a rule.

Defendant appears to be aware of the growing public pressure to expand toll-free calling areas. Such pressures have to be carefully evaluated to prevent unreasonable burdens from the transfer to low income or low volume users of the increased cost which results from

enlarging toll-free calling areas to meet the needs of high volume users. Further, the concept that enlarged toll-free calling can be obtained for modest increases in exchange rates generally is a myth since the expansion in "free calling" generates increased calling which in turn creates the need for additional plant and growth in expenses, all of which have to be recovered from increases in rates. Truly, just as there is no "free lunch" there is no "free calling".

The Commission is keenly aware of the constantly changing and expanding areas with integrated community of interests. Not only have population centers grown and merged, but rapid transportation has made distance less and less an important factor. In appreciation of the increased public need for expanded areas of toll-free calling to meet the expanded communities and at the same time insure that the increased costs are equitably shared, the Commission has steadily been encouraging the telephone industry to evaluate and develop progressive rate structures to meet modern needs. For instance, the Commission said in Decision No. 71575:

"In the rates which we adopt herein a major consideration is simplification of the rate structure to encourage the study of future improvements and elimination of inequities. With the advent of direct distance dialing, V-H measurement, automatic billing and accounting, and electronic switching, the future rate structure may well change from the present exchange-toll concepts to a pattern of minimum fixed charges plus variable metered charges based on the incremental cost of subscriber actual time and distance usage, tempered by humanitarian considerations." (CPUC v Pacific (1966) 66 CPUC 419, 462.)

Complainants, with cause, object to the factors currently being applied by Pacific, but both Pacific and the Commission are currently studying more reliable indicators. We will not repeat again our past critical comments on community of interest factors. It is encouraging that Pacific and the telephone industry are now currently reviewing the factors and are moving to increase the usefulness and reliability of the indicators. Such studies are costly and require substantial time to implement.

We are impressed by the increasing public need as expressed by this complaint. It is significant that the large public attendance and most of the witnesses resulted from informal notice by news articles in local newspapers. It is obvious from this record that despite small community of interest indicated by Pacific factors, the public need is growing for expanded toll-free calling. It does not appear that a sufficiently large proportion of the subscribers will benefit from granting complainants' request to justify at this time the increased burden on low income and low usage subscribers. However, we shall expect Pacific expeditiously to offer optional extended area service throughout the San Diego extended area on an experimental basis. We shall continue to observe and study the development of rates for the San Diego area.

Findings of Fact and Conclusion

1. Foreign exchange service is available to complainants.
2. Complainants have not suffered discrimination with respect to their toll-free dialing area.
3. As of December 31, 1972, complainants living in the La Jolla exchange had available to them for toll-free dialing 277,043 main stations within the ESA and 255,707 in the local calling area outside of the exchange.

4. As of December 31, 1971, complainants living in the Pacific Beach exchange had available to them for toll-free dialing 270,088 main stations within the ESA and 239,104 in the local calling area outside the exchange.

5. During April 1973, no more than 34.5 percent of the residence customers in either Pacific Beach or La Jolla called even once a month to any of the six exchanges requested in the complaint.

6. During April 1973, the community of interest factor of the residence customers in Pacific Beach or La Jolla with the six requested exchanges did not exceed 1.14.

7. The indicators of usage developed by Pacific are reasonable for the purposes of this proceeding.

8. The usage of San Diego foreign exchange service is steadily increasing.

9. Complainants' estimates of revenue from toll calls per customer cannot be reliably used as indicators of customer costs for expanded toll-free calling inasmuch as the estimates do not reflect the costs of increased usage of expanded toll-free services.

We conclude that the relief requested should be denied but that defendant should be required to offer optional extended area service between all exchanges of the San Diego Metropolitan Extended Area.

O R D E R

IT IS ORDERED that:

1. The relief requested is denied.



2. On or before December 31, 1975, The Pacific Telephone and Telegraph Company shall apply to this Commission for authorization to offer to subscribers optional extended area service between all exchanges of the San Diego Metropolitan Extended Area.

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

Dated at San Francisco, California, this 2nd day of JULY, 1974.

James L. Sullivan  
President  
William Synnott, Jr.  
Alfred M. ...  
...  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.