

Decision No. 83761**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of THE PACIFIC TELEPHONE  
AND TELEGRAPH COMPANY, a corporation,  
for a tariff for 770A Package II Dial  
Private Branch Exchange Service.

Application No. 55276  
(Filed October 29, 1974)

INTERIM OPINION AND ORDERApplicant's Request

The application of The Pacific Telephone and Telegraph Company, hereinafter referred to as "applicant", requests an ex parte order, pursuant to Sections 454 and 701 of the Public Utilities Code, authorizing applicant to establish a 770A PBX Package II tariff offering as described in Exhibit C attached to the application and for such other action as the Commission may deem proper in the premises.

Applicant requests, in the alternative, that if the Commission should find it necessary to hold public hearings on this application, the Commission should issue, ex parte, an interim order effective on the date of issuance, authorizing applicant to establish a 770A PBX Package II tariff offering as described in Exhibit C but providing that the rates collected shall be subject to increase or reduction should the record developed in the course of further public hearings lead to a decision to modify the authorized tariff.

Applicant alleges that the proposed new rates will recover all of applicant's costs for such service including return. Applicant's proposed tariff raises the monthly rate of 440 contract customers resulting in an annual revenue increase to applicant of approximately \$800,000. Such increase is less than 1 percent of applicant's intrastate revenues.

Background of Application

Since 1972, applicant has sought Commission authorization of a tariff for a new PBX service keyed to a dial switchboard known as the 770A Package II (hereinafter "770A").

Applicant first offered 770A service under Commission authorized contracts at rates and charges equivalent to those in Schedule Cal. P.U.C. No. 12T Series 300 rates in mid-1972. On September 20, 1972, Advice Letter No. 10892 was filed to establish a tariff based on a then current cost showing resulting in rates somewhat lower than Series 300 rates. On November 14, 1972, in response to protests by the Litcom Division of Litton Systems, Inc. and Business Communications, Inc., the Commission issued an Order of Suspension and Investigation on applicant's Advice Letter No. 10892, identified as Case No. 9469. The protestants alleged applicant's proposed rates were noncompensatory.

The Commission investigation under Case No. 9469 commenced on April 23, 1973. After six days of public hearing, the matter was taken off calendar to permit applicant to complete collateral studies supporting its offering.

By August, 1973, it became apparent that the suspension period for Advice Letter No. 10892 would run out before completion of applicant's studies. Applicant filed a new Advice Letter, No. 11120, mirroring Advice Letter No. 10892, to provide a basis for continuing Case No. 9469. By Decision No. 81864, the Commission subsequently suspended Advice Letter No. 11120.

During the period of time Advice Letters Nos. 10892 and 11120 were suspended and under investigation, applicant continued to provide 770A service under contract at rates and charges equivalent to those in Schedule Cal. P.U.C. No. 12-T Series 300 Rates. The collateral cost studies completed by applicant indicated a current need for higher rates than proposed in Advice Letters Nos. 10892 and 11120 and, therefore, applicant discontinued the negotiation of contracts for 770A service at Series 300 rates on May 1, 1974.

On May 16, 1974, applicant filed Application No. 54881 which sought authority to carry out the terms of 35 contracts for 770A service which were negotiated at the Series 300 rate level prior to May 1, 1974. Application No. 54881 was protested by an allegation that the use of contracts for the provision of 770A service was misleading to the customer. The Commission on July 16, 1974, issued Decision No. 83158 ordering applicant to (1) provide additional rate information to the 35 contract customers, and (2) carry out the terms of the 35 contracts.

All contracts for the 770A PBX contain substantially the following provision: "This agreement shall terminate upon the effective date of a tariff filed with the California Public Utilities Commission for the type of service furnished by 770A Dial PBX System. Thereafter, Utility shall furnish such service pursuant to the applicable provisions of its filed tariff."

In June, 1974, applicant requested permanent suspension of Advice Letter No. 11120, without prejudice to the filing of a new advice letter. Such new advice letter was warranted in that the collateral studies were completed, and since the original studies were over three years old the cost data supporting the rates proposed in Advice Letter No. 11120 were outdated. The Commission issued Decision No. 83125 in Case No. 9469, on July 9, 1974, permanently suspending tariff sheets associated with Advice Letter No. 11120.

Utilizing more current cost data developed during Case No. 9469, applicant commenced offering 770A PBX service on a contract basis in July, 1974, and filed Advice Letter No. 11372 to establish a tariff on August 13, 1974, at higher than the prevailing Series 300 rates. Advice Letter No. 11372 has been protested by several parties. The Commission, while approving contracts at the higher rates, has not approved Advice Letter No. 11372 as of the date of this application.

Applicant, after two years, is still without a Commission authorized 770A tariff even though it is providing the service to some 440 customers by individual contracts at Series 300 rates in effect prior to August 17, 1974. The presently effective rates are these pre-August 17 Series 300 rates. Protestants in 1973 to Advice Letters Nos. 10892 and 11120 alleged the proposed rates and charges were noncompensatory. Protestants in 1974 to Advice Letter No. 11372 allege the proposed rates and charges are overcompensatory.

#### Protests

The Commission has received protests against the proposed level of rates for the 770A PBX service from the following parties:

Santa Cruz Medical Clinic, Santa Cruz, California  
Rayne Communications, Tiburon, California  
Consumers Lobby Against Monopolies, Tiburon, California  
The Republic Supply Company of California, Compton, California  
Consolidated Freightways, Menlo Park, California  
Scott-Buttner Communications, Inc., Oakland, California

Generally these protests indicate that customers subscribed to 770A PBX service under contract at rates which they believed reasonable. The protestants allege that now, however, applicant's proposed rates will cause increases in monthly charges of as much as 50%. Protestants feel that such increases are inflationary and excessive.

#### Discussion

Commission records reveal that in addition to the 440 customers receiving 770A PBX service at Series 300 rates, there are nine customers for whom contracts are on file for the same service at the higher, proposed rates. This rate disparity for identical services is not a desirable situation. To regularize these services it is desirable that a tariff be filed and become effective at the earliest possible date. There are two alternatives. On the one hand, tariffs could be filed at the lower rate. To do so, however, would regenerate all the issues involved in the earlier proceeding,

Case No. 9469. On the other hand, tariffs filed at the higher level of rates would result in substantial rate increases to some contract customers.

The entire subject of PBX rates has been before the Commission in recent rate cases. Generally, the concern of the Commission has been that PBX service has been offered at less than fully compensatory rates. In its most recent rate order, Decision No. 83162, dated July 23, 1974, in Application No. 53587, the Commission authorized a 15% surcharge on all PBX, Centrex and related services of applicant. This treatment was authorized only as an expedient pending completion of comprehensive cost studies being undertaken by applicant. It is our view that the question of rate level for the 770A PBX must be resolved within the larger context of rate levels for the overall PBX services.

Applicant recently filed, on September 30, 1974, its Application No. 55214 to increase telephone service rates by some \$84 million annually. Although Application No. 55214 does not specifically propose revisions of PBX rates, it is an appropriate vehicle for such consideration. Our action herein will provide for consolidation of the instant application with Application No. 55214.

With respect to applicant's studies of PBX service, we take official notice of the record in Application No. 53587. At page 6340 of the transcript, recorded on October 10, 1973, Pacific's witness, Sullivan, indicated that Pacific then had a comprehensive PBX study under preparation. In order that the Commission may have the benefit of this study in evaluating the 770A PBX rates, we will require applicant to file it in this proceeding.

While ultimate disposition of this application must await completion of formal hearings, interim action will be taken herein to provide for establishment of tariffs. In view of the history of

the 770A tariff, it is reasonable at this time to authorize the rates requested by applicant in Exhibit C attached to the application. We will, however, provide that all rates collected shall be subject to refund to the extent that the Commission may authorize a lower level of rates after hearing.

Findings and Conclusions

Based upon the statements of applicant set forth in the application and upon the Commission's records previously noted, of which we take official notice, we make the following findings:

1. Applicant has sought to file tariff rates for the 770A PBX since September, 1972.
2. Applicant's efforts to establish effective rates under tariffs have to this date been stymied by protests from competitors and customers.
3. There is a public need for 770A PBX service.
4. There are approximately 450 customers now receiving 770A PBX service under contracts filed with this Commission.
5. Customers now receiving service under contract are being furnished such service under at least two different schedules of rates.
6. Those customers now receiving service at the lower rates would realize substantial rate increases under the rates requested herein.
7. Applicant's revenues would be increased by approximately \$800,000 under the rates requested herein.
8. The magnitude of revenue effect on the utility and rate effect on contract customers is so great as to require public hearings.
9. An interim arrangement is required to permit applicant's tariffs for 770A PBX service to become effective at the earliest possible date.

10. A refund provision coupled with interim rates will allow return to customers of all monies in excess of those finally determined by the Commission.

11. Applicant has prepared, or under preparation, a study of its overall PBX service which will be essential to the Commission in its evaluation of the rates herein.

We conclude that public interest requires establishing a tariff for the 770A PBX, that the increases in rates and charges authorized herein are justified on an interim basis, that the refund provisions provided will adequately protect existing customers, and that a public hearing is necessary before establishing a final level of rates; therefore,

IT IS ORDERED that:

1. Applicant is authorized to file with this Commission after the effective date of this order, in conformity with General Order No. 96-A, the schedule of rates attached to the application as Exhibit C and, upon no less than five days' notice to this Commission and to the public, to make said rates effective for all service rendered thereafter.

2. As a condition of filing its rates, applicant shall file a statement with the Commission indicating its acceptance of a plan to refund any excess rates, including any unwarranted termination charges, with interest to customers after final determination by the Commission of appropriate rate levels for the 770A PBX.

3. Within 30 days after the effective date hereof applicant shall file its refund plan with the Commission for its consideration. ✓

4. Within 60 days after the effective date hereof applicant shall file a rate study covering the investments, revenues, and expenses of its entire PBX service offerings.

5. This matter is hereby consolidated with Application No. 55214 for hearing and further consideration of the interim rates authorized herein.

The effective date of this order is the date hereof.

Dated at San Francisco California,  
this 26<sup>th</sup> day of NOVEMBER, 1974.

Verma L. Steiner  
President  
William L. Quinn  
Robert E. McFarland  
Commissioners