

Decision No. 85507

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

KAISER AETNA (Westward Builders
Division), a California general
partnership,

Complainant,

vs.

PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Case No. 9506
(Filed February 6, 1973;
amended October 1, 1973
and January 9, 1974)

Graham and James, by Boris H. Lakusta,
David J. Marchant, and Gary L. Stromme,
Attorneys at Law, for complainant.
Robert M. Ralls and Robert P. Colson,
Attorneys at Law, for defendant.
Ermet Macario, for the Commission staff.

ORDER OF DISMISSAL

Complainant, Westward Builders Division of Kaiser Aetna (Westward), seeks an order requiring defendant, The Pacific Telephone and Telegraph Company (Pacific), to interpret its service connection rule as requiring Pacific to provide its pro rata share of trenching costs irrespective of whether or not conduit is determined to be required, provide that Pacific's determination of the necessity of installing underground supporting structures be governed by Commission approved objective criteria, require Pacific to apply its line extension rule to all line extensions within Westward's developments, and eliminate all practices discriminating against Westward. In

addition, Westward asserts that this Commission has jurisdiction to grant relief regardless of the form of the prayer in the complaint if the substance of the allegations made in the complaint gives rise to such relief and on this basis, in the prayer of its opening brief, Westward seeks a refund of the additional costs of undergrounding resulting from Pacific's decision to require conduit in Westward's Pinole, Hayward, and Marinwood properties.

Public hearings were held before Examiner Johnson at San Francisco on December 14, 1973 and January 22, 23, and 24, 1974, and the matter was submitted on July 12, 1974 upon receipt of complainant's closing brief.

Subsequent to submission, complainant and defendant met to further discuss this matter. These discussions resulted in proposed tariff revisions recommended for the purpose of disposing of the matter without further litigation. The proposed tariff revisions were forwarded for our review with the request that if such revisions were acceptable, the complaint be dismissed with prejudice.

The Commission staff has no objections to the proposed revised tariff sheets which result in treatment of planned unit developments similar to that accorded ordinary residential subdivisions.

The proposed tariff revisions have been reviewed by Mr. Neal Hasbrook on behalf of the California Independent Telephone Association, by Continental Telephone Company of California, and by General Telephone Company of California. Complainant and defendant stated their understanding that once the proposed revisions have been accepted for filing the other telephone utilities in California will file similar tariff revisions.

Complainant having filed a written request to have the above-entitled matter dismissed with prejudice,


IT IS ORDERED that:

1. The complaint in Case No. 9506 is dismissed with prejudice.
2. Within ten days of the effective date of this order The Pacific Telephone and Telegraph Company shall file, in accordance with the procedure prescribed by General Order No. 96-A, revised tariff sheets substantially as attached to this order as Appendix A and concurrently to cancel and withdraw the presently effective sheets being superseded. The effective date of the revised tariff sheets shall be four days after the date of filing.

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

Dated at San Francisco, California, this 2nd
day of MARCH, 1976.

Labstain
Robert Bateman



President
William Synovus Jr.
Vernon L. Sturgeon

Vernon L. Sturgeon

Robert Bateman

Commissioners

APPENDIX A
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Revised Tariff Sheets to
Be Filed Pursuant to
Ordering Paragraph 2

APPENDIX A
Page 2 of 11

The Pacific Telephone and Telegraph Company
San Francisco, California

SCHEDULE CAL. P.U.C. NO. 36-T
Revised Sheet 4-A

RULE NO. 1

Definitions - Continued

Applicant:

An individual or concern making application to the Utility for telephone service or installation of facilities.

Automatic Telephone Service:

See Dial Telephone Service:

Auxiliary Line:

An additional individual line from the same central office to the same premises as the main individual line and associated therewith.

Base Rate Area:

A more closely built up section of the exchange area in which the base rates apply without mileage charges.

Battery Power:

Electrical energy furnished by means of a circuit from a central office or other source of supply to a private branch exchange system or other equipment requiring battery power.

x

x

x Material formerly shown on Sheet 5.

Continued

The Pacific Telephone and Telegraph Company
San Francisco, California

SCHEDULE CAL. P.U.C. NO. 36-T
Revised Sheet 5

RULE NO. 1

DEFINITIONS - Continued

Building:

A non-mobile ground supported structure intended to give protection from the elements and usually enclosed by a system of essentially continuous exterior walls. A building may contain more than one premises. Carports, driveways, passageways, patios or similar connecting elements not intended for occupancy - covered or not - do not create a single building.

Abutting structures having common hallways above ground level, occupied by a subscriber or his personnel as a permanent work location and appearing to function as one entity, are treated as a single building.

A pier or wharf for mooring one or more boats is treated as a single building.

A trailer pad improved for regular use is treated as a single building.

For the provisions of service connection facilities, each of several single occupancy "Townhouse" living units constructed on a separate lot within a continuous property is treated as a separate building.

A building may be sub-divided by one or more interior walls preventing passage between portions of the building, as in a row of business establishments. All portions of a building need not have single ownership, as in a condominium.

Buried Wire:

A cable designed for use in underground construction and utilized in extending the Company's telephone plant.

Business Service:

Exchange service furnished to individuals engaged in business, firms, partnerships, corporations, agencies, shops, works, tenants of buildings and individuals practicing a profession or operating a business who have no offices other than their residences and where the use of the service is primarily or substantially of a business, professional, or occupational nature. If the directory listing denotes the character of the service to be for business use, the rates for business service will apply.

Central Office:

A Telephone Company's switching office unit by means of which one telephone station may be connected to another.

Material omitted from this sheet now shown on Sheet 4-A.

Continued

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San Francisco, CaliforniaSCHEDULE CAL. P.U.C. NO. 36-T
Revised Sheet 6-A

RULE NO. 1

DEFINITIONS - Continued

Continuous Property:

A property wholly owned or leased by an applicant or customer where all portions may be served without crossing a public thoroughfare or the property of another. The property of an applicant or customer when divided by a public thoroughfare is considered continuous, provided the applicant or customer furnishes at his expense an underground or enclosed overhead passageway suitable for the running of telephone circuits between the portions of the property separated by the public thoroughfare. (T)

In the application of Rules governing Line Extensions, Service Connection Facilities and Interior Wiring only, a Continuous Property may contain two or more lots or parcels, each individually owned and aggregating less than the whole of the property, with each owner having an interest in the remainder of the property by virtue of his ownership of his lot or parcel (as in certain planned unit developments). (N)

Customer:

An individual or concern regularly receiving exchange telephone service other than that from public telephone stations.

Customer-provided Terminal Equipment:

Denotes devices, apparatus, and their associated wiring, provided by a customer, which are used with the network control signaling unit, or other station equipment furnished by the Utility and does not include customer provided communications systems.

Data Access Arrangement:

Denotes a protective connecting arrangement for use with the network control signaling unit. The protective connecting arrangement may be located either on the customer's premises and/or, at the Utility's option, in the Utility's central office.

Material omitted now on Sheet 7.

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The Pacific Telephone and Telegraph Company
San Francisco, California

SCHEDULE CAL. P.U.C. NO. 36-T
Revised Sheet 7

RULE NO. 1

DEFINITIONS - Continued

Data Switching:

The term "Data Switching" as used in connection with Composite Data Service denotes the switching of data (non-voice) messages by the interchange, controlling and routing of data messages between two or more stations, via communications facilities, wherein the information content of the message remains unaltered.

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Date of Presentation:

The date upon which a bill or notice is mailed, postage prepaid, in a sealed envelope properly addressed to the customer, or the date when that bill or notice is presented to the customer.

x

Desk Set:

A telephone consisting of a fixed signal box and a movable stand connected to the signal box by means of a flexible cord and to which stand is attached a transmitter and a receiver by means of a flexible cord.

Dial Telephone Service:

Service by means of a telephone system in which the central office equipment is of the automatic or machine-switching type and in which the customer's station is equipped with a dial for use in originating calls therefrom.

Dial Electrical Connection:

Denotes a physical connection of the electrical conductors in the communications path.

Directory Listings:

Essential information in the telephone directory whereby telephone users may ascertain the telephone number of a customer's station.

x Material formerly on Sheet 6-A.
Material omitted now on Sheet 8.

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The Pacific Telephone and Telegraph Company
San Francisco, California

SCHEDULE CAL. P.U.C. NO. 36-T
Revised Sheet 8

RULE NO. 1

DEFINITIONS - Continued

Distribution Facilities:

The Utility's cables, wires and associated supporting structures and appurtenances, located in dedicated streets and utility easements, designed to serve more than one property and extending from the serving central office to the points of connection with service connection facilities. (See also Line Extension and Service Connection Facility.)

District Area:

A specific portion of an exchange area served by a particular central office or by a group of central offices common only to that portion.

Election Service:

New or additional service or facilities for use in connection with a Federal, State, or local election campaign for political office, including fund raising activities, or in connection with a proposition, bond, initiative, or any other matter which is on, or may be on, an election ballot.

Emergency:

A situation which exists when serious sickness or public safety or necessity is involved.

Equipment:

Relays, apparatus, mechanical equipment and other associated devices, other than telephone instruments, used as a part of or in connection with telephone service.

Exchange:

A telephone system providing service within a specified area within which communications are considered exchange messages, except those messages between toll points.

Exchange Area:

An area within which the Utility holds itself out to render exchange telephone service from one or more central offices serving that area.

x Material formerly on Sheet 7.

Material omitted now on Sheet 8-A.

Continued

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The Pacific Telephone and Telegraph Company
San Francisco, California

SCHEDULE CAL. P.U.C. NO. 36-T
Sheet 8-A

RULE NO. 1

DEFINITIONS - Continued

Exchange Service:

Telephone service furnished between customers within an exchange area.

Extended Service:

An exchange service available to customers in a particular exchange area for communication throughout that exchange area and other designated areas in accordance with the provisions of the exchange tariffs.

Extension Bell:

A bell connected to the same circuit and operated with the bell on the primary or private branch exchange station.

Extension Station:

A station connected to a primary station directly or by means of a switching device, excluding private branch exchange or intercommunicating system stations.

Farmer Line Service:

Exchange service furnished in the suburban area of an exchange by use of lines provided, owned and maintained in part by the customers to the service. Such lines usually connect to the Utility's facilities at the boundary of the base rate or special rate area. Switching service is performed by the Utility at its central office. The customers own the telephones and batteries used in their services and maintain the facilities and instrumentalities owned by them.

Fictitious Name:

A name under which a concern conducts its business or desires to be known to the public, other than the actual name of a person or corporation conducting the business concerned.

x Material formerly on Sheet 8.

Continued

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The Pacific Telephone and Telegraph Company
San Francisco, California

SCHEDULE CAL. P.U.C. NO. 36-T
Sheet 61-B

RULE NO. 16

SERVICE CONNECTIONS AND FACILITIES ON CUSTOMER'S PREMISES - Continued

I. Service Connection Facilities - Continued

C. Underground Service Connection Facilities - Continued

2. On the property to be served

For the purpose of this rule: (i) A service connection facility (or a branch thereof) intended to serve all or a portion of one building is denoted as being "separate". (ii) Where a single service connection facility is intended to serve two or more buildings on one continuous property, the section extending from the property line and excluding the "separate" branches to individual buildings is denoted as the "common portion". (T)

a. The trench or underground supporting structure for a "separate" service connection facility, and for any "common portion" for which an easement acceptable to the Utility is not obtainable without charge or condemnation, will be provided as follows:

- (1) Where the Utility determines that buried wire or cable is to be used for the service connection facilities, the applicant or customer will provide the trench or pay the trenching costs. Such trench will be to the Utility's plans and specifications between designated points on the building served and the boundary of the "common portion" easement, utility easement or dedicated street, as required. (T) ✓
- (2) Where the Utility determines that conduit is to be used for the service connection facilities, the applicant or customer will construct, own and maintain at his expense the underground supporting structure. Such underground supporting structure will be to the Utility's plans and specifications between designated points on the building served and the boundary of the "common portion" easement, utility easement or dedicated street, as required. (T)

Continued

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San Francisco, CaliforniaSCHEDULE CAL. P.U.C. NO. 36-T
Sheet 61-C

RULE NO. 16

SERVICE CONNECTIONS AND FACILITIES ON CUSTOMER'S PREMISES - Continued

I. Service Connection Facilities - Continued

C. Underground Service Connection Facilities - Continued

2. On the property to be served - Continued

- b. Where feasible, a single service connection facility will be constructed to serve two or more buildings on one continuous property. If an easement acceptable to the Utility for the "common portion" of such an arrangement has been obtained without charge or condemnation, the trench or underground supporting structure for the "common portion" and those segments of "separate" portions lying within the boundary of the easement will be constructed as set forth in this part "b". Unless otherwise agreed between the applicant and the Utility, the width of such easement shall not exceed five feet. However, where the easement of the "common portion" is adjacent to or within the paved area of a private street giving access to two or more buildings, such easement shall be broadened where required so as to include those portions of "separate" service connections that will be constructed beneath the street pavement. (T)
- (1) Where all requirements will be for residential service: (C)
- (a) the Utility will provide the trench or undergrounding supporting structure at its expense, provided (C)
- (b) the applicant will perform or pay for any pavement cutting and repaving, and for clearing the route and grading it to within six inches of final grade, all in time to give the Utility a reasonable construction period. (C)

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The Pacific Telephone and Telegraph Company
San Francisco, California

SCHEDULE CAL. P.U.C. NO. 36-T
Sheet 61-D

RULE NO. 16

SERVICE CONNECTIONS AND FACILITIES ON CUSTOMER'S PREMISES - Continued

I. Service Connection Facilities - Continued

C. Underground Service Connection Facilities - Continued

2. On the property to be served - Continued

b. -Continued

- (2) Where all or a portion of the requirement will be for business service and the Utility determines that buried wire or cable is to be used: (C)
- (a) the Utility will provide the trench at its expense, and
 - (b) the applicant will perform or pay for any pavement cutting and repaving, and for clearing the route and grading it to within six inches of final grade, all in time to give the Utility a reasonable construction period. (C)

Material omitted now on Sheet 61-D-1

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The Pacific Telephone and Telegraph Company
San Francisco, California

SCHEDULE CAL. P.U.C. NO. 36-T
Sheet 61-D-1

RULE NO. 16

SERVICE CONNECTIONS AND FACILITIES ON CUSTOMER'S PREMISES - Continued

I. Service Connection Facilities - Continued

C. Underground Service Connection Facilities - Continued

2. On the property to be served - Continued

b. -Continued

- (3) Where all or a portion of the requirement will be for business service and the Utility determines that an underground supporting structure is required: x (C)
(C)

- (a) the Utility will provide the conduit material, and metallic manhole covers where specified (or where mutually agreeable, the applicant may provide the conduit material to the Utility's specifications and the Utility will reimburse the applicant at the Utility's current cost for that type of conduit),
- (b) the applicant will construct to the Utility's specification and deed to the Utility the complete underground supporting structure, and
- (c) the applicant shall be responsible for loss, unreasonable breakage and any liability in connection with the conduit material or manhole covers provided to the applicant by the Utility.

- c. In either a. or b. above, the Utility will, at its expense, furnish, install, and maintain the service connection wire or cable.

- D. Existing service connection facilities will be reinforced as required to accommodate added service requests under the conditions set forth above. x

x Formerly on Sheet 61-D.

Continued