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Decision No. 85740

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of General Telephone Company of California, a corporation, for authority to increase its rates and charges for telephone service.	Application No. 53935 (Filed March 28, 1973)
Investigation on the Commission's own motion into the rates, tolls, rules, charges, operations, cost, separations, practices, contracts, service and facilities of GENERAL TELEPHONE COMPANY OF CALIFORNIA, a California corporation; and THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, a California corporation; and all of the telephone corporations.	Case No. 9578 (Filed July 3, 1973)
LONG BEACH AREA CHAMBER OF COMMERCE, Complainant, vs. GENERAL TELEPHONE COMPANY OF CALIFORNIA, Defendant.	Case No. 9905 (Filed April 18, 1975)

(Appearances listed in Appendix A)

OPINION UPON FURTHER HEARING ON MEASURED LOCAL SERVICE

Pursuant to Decision No. 83779 General Telephone Company of California (General) filed tariffs to place nonoptional business measured local service (MLS) into effect in the Los Angeles Metropolitan Area (LAMA)[1/] on May 1, 1975. By Decision No. 84393 issued April 29, 1975, the Commission suspended both those tariffs and Decision No. 83779 insofar as it authorized nonoptional business MLS, required General to mail to each flat rate business customer in the LAMA a sample billing showing what that customer's bill would have been had MLS been in effect, and ordered further hearing.

Background

In Decision No. 75873 the Commission ordered General to establish no later than July 1, 1974 nonoptional message rate service for business customers in the LAMA. With message rate service, local calls beyond an allowance are charged on a per call basis of one message unit and are untimed.

On March 28, 1973 General filed rate increase Application No. 53935 requesting, among other things, authority to change from message rate service to MLS. The Pacific Telephone and Telegraph Company (Pacific), which has been providing nonoptional business message rate service in the LAMA for many years and in other metropolitan areas for at least several years, likewise earlier requested the same authority to convert to MLS (Application No. 53587). That authority was granted to Pacific by Decision No. 83162.

1/ LAMA includes General's exchanges in the Los Angeles Extended Area plus the exchanges of Pomona, Ontario, Etiwanda, Huntington Beach, and Westminster.

In contrast to message rate service where each local call is tallied as one message unit regardless of the call's length, under MLS local calls are timed in increments of five minutes or less. Each increment of five minutes or less beyond the allowance is charged at the single message unit rate, presently five cents.

General was authorized by Decision No. 81646 to delay implementation of either message rate service or MLS until January 1, 1975 or six months after the decision in Application No. 53935, whichever date was later. Decision No. 83779, the eventual decision in that application, ordered General to provide nonoptional business MLS in the LAMA.

Pursuant to that decision and to tariffs filed March 27, 1975 under Advice Letter No. 3329, General proposed, as previously stated, to place nonoptional measured local service into effect in the LAMA on May 1, 1975. On April 18, 1975 a Petition for Reconsideration and Partial Stay of Decision No. 83779 was filed by the city of Long Beach (Long Beach) and on the same date a Request for Enjoinder Respecting Charge for Time-Measured Local Calls was filed as a formal complaint by the Long Beach Area Chamber of Commerce (Chamber). By Decision No. 84510, issued June 3, 1975, the Commission dismissed Long Beach's petition for reconsideration on the ground that Decision No. 84393 supra, disposed of all issues raised by that petition. The Chamber's filing became Case No. 9905.

Public Hearing

On June 6, 1975 a notice of hearing was issued setting further hearing on Application No. 53935 and Case No. 9578 and original hearing on Case No. 9905. In addition, a notice of hearings accompanied the informational comparative billings mailed about mid-July 1975, to each of General's flat rate business customers in the LAMA. Accordingly, public hearings were held before Examiner Main on August 19, 1975 in Long Beach and on August 20, 1975 in Los Angeles. The hearings continued thereafter in Los Angeles until completed on August 22, 1975.

At the Long Beach hearing, Chamber sponsored the testimony of approximately 15 of General's customers. An additional 25 customers appeared on their own behalf. At the Los Angeles hearings 15 more of General's customers gave testimony. The concerns expressed by all of these customers varied but may be fairly summarized as follows:

a. A number of private charitable organizations ask that special rate exemptions be authorized to avoid increases in cost which would curtail their services.

b. High volume users, such as telephone solicitors, public schools, and real estate firms complained of substantially increased costs. Those who place a high percentage of short calls objected to the five-minute timing feature and suggested a shorter interval at a lower rate.

c. Some hospitals, hotels, and motels must set up methods for counting and timing local calls they do not charge for now.

d. Local calls will not be itemized so it will be difficult for customers to check for accuracy.

Long Beach participated extensively in the examination of witnesses and took the position that the matter of MLS should be retried in the Pacific case. In the interim nonoptional business message rate service could, in its view, be implemented in the LAMA by General. Nonprofit organizations and agencies should, however, be established as a new class of customers and permitted optional flat rate service.

General presented Exhibits FH-3, a statistical report on the comparative billing amounts which General mailed to affected customers prior to the hearing, FH-4, a diagram of facilities used in MLS, FH-5, a study of message suppression to be anticipated under message rate service, and FH-7 (late-filed), a comparison of investments required to provide MLS.

General has invested $20 million in equipment to provide MLS and is prepared to change over to MLS upon further order of the Commission. General does not favor special exemptions for charitable organizations.

The Commission staff presented Exhibit FH-6, a memorandum report on measured business service, through the testimony of an engineering witness. In the staff's view, MLS is more equitable than either flat rate or message rate service because it more truly reflects the underlying cost of service. The staff recommends that the suspension be lifted.

Status of Flat Rate Business Service

In California nonoptional business message rate service, which was provided as early as 1930 in the then Los Angeles exchange by Pacific, has rendered flat rate business service in metropolitan areas an anachronism.

At the time the Commission issued Decision No. 74917 on November 6, 1968, in Application No. 49142, Pacific's Los Angeles Extended Area exchanges and certain exchanges in the San Francisco-East Bay Extended Area had available only message rate individual line business service, but other parts of the San Francisco-East Bay Extended Area and all of the San Diego, Orange County, and Sacramento Extended Areas offered individual business service on an optional flat rate or message rate basis. In that decision the Commission held that message rate business service charges are more equitable than flat rate business charges in that they are proportional to the amount of service utilized and, consistent therewith, ordered the withdrawal of flat rate business services, with the substitution of message rate service therefor, within three years in the San Francisco-East Bay, San Diego, Orange County, and Sacramento Extended Areas.

In that decision the Commission also held that Pacific and General should have comparable basic exchange services and rates in the Los Angeles Extended Area (LAEA) and, consistent therewith, authorized settlements between Pacific and General for cross-boundary extended area service traffic on a full cost basis. The Commission further held optional "lifeline" service to be in the public interest where residence message rate service is provided and, consistent therewith, ordered that it be made available in such areas.

Some eight months after issuing the decision in question on Pacific the Commission issued Decision No. 75873 on General. In the decision on General we said:

> "General provides almost 65 percent of its service in the Los Angeles Extended Area (LAEA). In the LAEA only two companies provide service: General and Pacific. General serves about 1,300,000 telephones and Pacific serves about 2,990,000 telephones. This Commission considers the LAEA not a group of separate communities or a collection of different telephone exchanges, but a megalopolis. As far as telephone service is concerned the LAEA should be treated as one rate-making unit with substantially one basic rate throughout. We have just completed a rate spread for Pacific (Decision No. 74917) in the LAEA where we applied what we consider to be valid rate-making principles; most of the same principles should be applied to General.
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> "For decades this Commission has been importuning General to provide nonoptional message rate business service within its exchanges in the Los Angeles area. General has done so reluctantly and in only a few exchanges. In our opinion, the message rate basis of charging for business service is a more equitable way of properly assessing the cost of providing service to both small and large user. Such service has been provided by Pacific within the LAEA for over 30 years. Further, in Decision No. 74917 we authorized extension of nonoptional business message rate service to include all major metropolitan areas served by Pacific. The time for pleading is past. We will order General to provide nonoptional business message rate service in the Los Angeles metropolitan area.
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> "General provides flat rate residence service. It does not propose an offering of residence measured service. The staff proposes, in addition to flat rate residence service, a one-party measured service for residence subscribers in the Los Angeles metropolitan area at $2.30 a month, with an allowance of 30 messages. This is known as a 'lifeline' service, and is provided primarily to take care of the needs of the poor, the infirm, and the shut-ins; it is similar to service now provided by Pacific. We find such lifeline service to be in the public interest and reasonable."

Accordingly, within the LAMA, General was ordered in that decision to withdraw the offering of business flat rate service and substitute therefor nonoptional message rate service and to withdraw the offering of residence two-party and four-party line flat rate services and substitute therefor individual line message rate ("lifeline") service. Those conversions were to be accomplished by no later than July 1, 1974.

The installed cost of the equipment to implement those message rate service offerings would approximate $20 million, which, although in actuality was the amount General expended to provide MLS, is representative because incorporating the later ordered timing feature added little to the cost. Most of that $20 million cost was for equipment common to both the business and lifeline measured service offerings. The economics of lifeline service, we thus see, are dependent in part upon the offering of business MLS or business message rate service. Specifically, the investment required without nonoptional business MLS would be about $18 million, i.e., almost 90 percent of the $20 million investment would be needed to make available lifeline service only.

Business MLS vs. Message Rate Service

Because business message rate service charges are more equitable than flat rate charges and because additional plant investment to render some form of measured service is justifiable in regions of high customer density, virtually all business customers served by Pacific in metropolitan areas have nonoptional message rate service. Even so some business customers in metropolitan areas served by Pacific continue to pay less than their fair share of the cost of service and do so by using a single local message unit to place calls lasting anywhere from one-hour up to a full day in length or longer.

For example, many customers have satellite offices within the local calling area. By placing one call to the satellite office and with the utilization of coupling devices they establish the equivalent of private line service, an intercom system, or a connection between computers. Obviously under message rate service it costs far more to provide the service than is returned in the revenue and the cost for these types of calls is now being shared by the majority of customers whose local calls last less than five minutes.

Timing of such local calls will bring the revenues closer to the basic concept of usage sensitive pricing: Those that use the most, pay the most. Furthermore, costs are pushed up as more telephone circuits are monopolized by lengthy calls because more call connecting equipment must be added in central offices.

In response both to the inherent fairness of making the pricing more usage sensitive and to such cost pressures, MLS was authorized by the Commission first for Pacific in Decision No. 83162 dated July 23, 1974 and then for General by Decision No. 83779 dated November 26, 1974. Pacific's present plans are to start the cutover to MLS in the LAMA in the third quarter of this year and continue it into early 1977 until completed.

At this time a cutover to business MLS in General's case would have to be from flat rate service in most of General's exchanges in the LAMA. Thus, in contrast to the Pacific conversion where the only new element is the timing of the local call, most business customers in General's affected territory would be faced with a changeover in a single step from a flat rate service to a measured rate service where both the number of local calls and their duration are determinative elements in billing.

Accordingly, in Pacific's territory within the LAMA the types of customers that will be most affected by MLS, since there is no business flat rate service, are those making lengthy local calls, whereas in General's portion of the LAMA the conversion at this point to MLS would not only markedly affect business subscribers making lengthly local calls, but also those making numerous local calls of short duration because of the prevalence of flat rate service. In the latter category are firms which make telephone solicitations. In some instances they, either on their own behalf or on a contract basis, operate what are characterized as "boiler rooms" where an employee uses the telephone on a continuous basis over a work shift to solicit customers or conduct market studies. In many instances, such firms have gravitated to the fringes of General's service territory to avoid Pacific's message rate billing. Obviously under flat rate service it costs far more to provide service to these customers than is returned in the revenue from them.

In MLS the following functional elements, which determine cost of service, are inherently considered: An initial cost of placing the customer on the network; a cost of placing and completing a call; and a cost reflective of the duration of the call. Business MLS, by thus being more in harmony with the general ratemaking principle of payment according to use, is to be preferred over message rate service. Accordingly, our prior decisions have charted a proper course toward usage sensitive pricing.

As indicated earlier, Pacific plans to start the cutover to MLS in the LAMA in the third quarter of this year and continue it into early 1977 until completed. In the LAMA General should make the conversion to business nonoptional MLS on or about January 1, 1977 which is expected to be several months after Pacific's much broader based cutover is under way, except for exchanges in which message rate service is available. For those exchanges the cutover may be made earlier, as the capacity of the new measuring equipment is needed, but not later than on or about January 1, 1977.

Upon completing the cutovers all business subscribers in the LAMA, whether served by Pacific or General, will have MLS. This will bring to an end an anomalous result, if indeed not an unduly discriminatory one, which presently obtains in the application of rates to a business call between the same two points within a local calling area encompassing both Pacific and General exchanges. If the call originates in a Pacific exchange, a message rate applies, whereas if the call between the same two businesses originates in a General exchange, flat rate service usually applies.

MLS Time Unit

The Chamber asserts in its complaint and several public witnesses testified that the five-minute MLS time unit is inequitable.

The five-minute time unit was chosen for several compelling reasons: Under that choice most calls of business customers are expected to result in only one unit being charged per call. Such an expectation is consistent with Pacific's studies which show that 88 percent of local calls have a holding time of five minutes or less.

Also, the characteristics of general's measuring equipment impose some constraints. That equipment can be adjusted so that the timing unit measured can range from selected increments of 15 seconds to 10 minutes. However, whatever time unit is selected must remain constant for the duration of the entire call. The measuring equipment has a still further limitation in that it can be programmed to tally the number of time units or the number of calls, but not both.

The reasonableness of the five-minute MLS time unit in Pacific's case was discussed at some length in Decision No. 83162. That discussion included:

> "The proposal of Pacific and the staff preserves existing rate relationships and message allowances while at the same time eliminating the abuses to which local message service has been subjected. We recognize when rates are increased and new concepts are introduced some users will be financially harmed more than others, but we see no way to avoid this when dealing with millions of ratepayers. In this particular instance, Olan Mills will not be harmed at all. It makes almost no calls of duration of more than five-minutes. It argues fairness to business users, but, except for a gluttonous (sic) few, business users will not be harmed by five-minute timing. We will adopt the proposal of Pacific and the staff."2/

Impact of MLS

The Chamber asserts MLS could be disastrous for many organizations and businesses. Long Beach claims a like impact on nonprofit organizations, such as charitable organizations and governmental entities. The public witnesses who testified or made statements for the most part represented organizations or businesses with substantial local usage whose bills would increase under MLS. They complained about the impact of large telephone bills on the ability to carry out their business or services.

Experience in the LAMA indicates that the concerns of the Chamber, Long Beach, and the public witnesses are probably overstated; such LAMA experience is applicable to the extent those concerns relate to the impact of billing according to the number of local calls. That is so because the same types of businesses (i.e., schools,

2/ In Case No. SF 23216 Olan Mills, Inc., petitioned the California Supreme Court for a writ of certiorari to review Decision No.83162; the Court denied the writ.

charitable organizations, hospitals, hotels, realtors, etc.) operate in Pacific's territory with message rate service and because through the years there has been little adverse public reaction to it.

If at this point the conversion were made from flat rate to message rate service, business customers in General's portion of the LAMA would merely be accorded the same nonoptional service as that presently available everywhere else in the LAMA. Assuredly, that conversion would by design tend to shift to business customers with heavy outgoing local usage, such as solicitation firms, their proper share of the cost of local service. Indicative of such a conversion's thrust and its being long overdue, many firms of this type have gravitated to the fringes of General's serving territory to avoid Pacific's message rate billing.

In the cutover to be ordered from flat rate service to MLS, which is intended to be phased in with Pacific's cutover to MLS in the LAMA, General's business customers should be accorded, on a timely basis this time, the same nonoptional service as that expected to be then available everywhere else in the LAMA.

As pointed out earlier, Pacific's studies show that approximately 88 percent of local business calls are less than five-minutes in duration. Accordingly, there should be little difference in the size of bills under either a message rate or MLS billing concept for the majority of customers. Assuredly, however, MLS with its timing feature will tend by design to shift to those customers, who have substantial local calls which take longer than five minutes, their proper share of the cost of local service.

Several further points concerning the impact of MLS are significant:

1. In most instances where witnesses complained about increased telephone costs under MLS, those costs represented a very small percentage of their total operating costs. Also, some witnesses testified that the impact of MLS on their operations can be lessened by more efficient use of the telephone.

2. According to Exhibit FH-3 nearly 64 percent of General's flat rate business customers in the LAMA would have a decrease in their bills had they been billed under MLS. Although the 64 percent figure depends on the results of just one billing cycle and thus probably contains some distortion, it should still be reasonably indicative. In any event it is proper to conclude that whatever percentage applies, whether up or down from the 64 percent figure, it would tend to increase when customers are actually billed under MLS because message suppression will occur in response to price elasticity. On balance, after consideration of both possible distortion and message suppression, it seems unlikely that the percentage of customers that would pay less under MLS than under flat rates would fall below the 64 percent figure.

3. The overall effect of MLS at currently authorized rates will be a reduction in local business revenues for General compared to what would have been billed had General retained flat rate billing. Thus, business customers subject to MLS will, as a group, pay less for local telephone service.

Absence of Billing Detail

The Chamber claims lack of detailed billing of local calls (i.e., number called, date and time of call, and length of conversation) prevents the customer from determining the accuracy of MLS bills. According to General, the equipment which will measure local call usage measures usage in increments of time only and cannot provide detailed billing; nor, moreover, is there any economic means by which equipment for such detailed billing can be provided.

General's technical witness testified that the equipment to time local calls is precise and accurate. If however a malfunction does occur, he indicated it will almost always be in the customer's favor, i.e., the message will not be timed and thus will not appear on the customer's bill. If a customer should challenge a bill, General has procedures which will enable it to determine if there was any malfunction during the billing period on the particular measuring equipment for that customer which could have resulted in overbilling. If there was such a malfunction, an appropriate adjustment will be made.

For a little different perspective, Pacific's many years of successful experience with message rate service without detailed billing of local message rate calls (i.e., number called and date and time of call) should be cited. In our view, similar experience can reasonably be expected with MLS without detailed billing.

Sub-billing

Some hospitals, hotels, and motels will have need for counting and timing local calls. It is anticipated that this need will be met on a timely basis by tariff offerings of suitable equipment, which will be located on the customer's premises.

Request for Special Exemptions

Several charitable organizations and governmental organizations requested they be exempted from MLS. Long Beach strongly supports such a request. Both the Commission staff and General oppose it. The telephone usage characteristics of such organizations were not shown to differ from those of other businesses.

Business customers of General and Pacific receiving message rate service do not receive exemptions. The effect of giving an exemption is to force other telephone ratepayers, through higher rates, to subsidize the cost of telephone service to those eligible for the exemption. As stated in Pacific Telephone & Telegraph Co. v Public Utilities Commission (1965) 62 Cal 2d 634, 668: "Ratepayers should be encouraged to contribute directly to worthy causes and not involuntarily through an allowance in utility rates."

Charitable organizations should obtain financial support for their activities from those in sympathy with the aims of the charity, and governmental entities should receive financial support from taxpayers. Accordingly, a regulatory scheme, under which the worthiness of a cause, the public convenience and necessity of a governmental activity, or other criteria which would determine exemptions, need not be established.

Findings of Fact

1. Business message rate service is more equitable than business flat rate service.

2. In California nonoptional business message rate service has rendered business flat rate service in metropolitan areas an anachronism.

3. In General's territory the economics of residential lifeline service are dependent in part on nonoptional business message rate service for MLS because of common measuring equipment.

4. Pacific has provided nonoptional business message rate service in the LAEA for many years. Only Pacific and General serve the LAEA with Pacific having the substantially larger share of the service. Settlements between Pacific and General for LAEA service are made on a full cost basis. Comparable basic exchange service offerings and rates for both companies within the LAMA are implicit within that basis of settlement.

5. Schools, charitable organizations, hospitals, hotels, realtors, etc., have operated in Pacific's territory under nonoptional message rate service for many years. There has been little adverse public reaction to Pacific's message rate service.

6. General has invested approximately $20 million in equipment which can be used to provide either message rate service or MLS in the LAMA.

7. Business nonoptional MLS is to be preferred over business nonoptional message rate service because it will bring the service closer to the basic concept of usage sensitive pricing. Those who use the most, pay the most.

8. Local messages timed on the basis of five-minute periods are reasonable and practicable.

9. Pacific's present plans are to start the cutover to MLS in the LAMA in the third quarter of this year and continue it into early 1977 until completed.

10. On or about January 1, 1977 General should make the conversion from business flat rate service to nonoptional business MLS within the LAMA. For exchanges where message rate service is available, the cutover to MLS may be made earlier, as the capacity of the new measuring equipment is needed, but not later than on or about January 1, 1977.

11. Detailed billing for MLS is not presently feasible.

12. There are no special exemptions for nonprofit organizations under message rate service; nor should there be under MLS.

The Commission concludes that the tariffs General filed under Advice Letter No. 3329 to provide nonoptional business MLS should be permanently suspended, and that nonoptional business MLS should be placed in effect by General in the manner prescribed in the following order.

O R D E R

IT IS ORDERED that:

1. On or about January 1, 1977, within the Los Angeles Metropolitan Area, General Telephone Company of California shall withdraw the offering of business individual line flat rate, business two-party line flat rate, and business PBX trunk flat rate services and substitute therefor individual line measured local service and PBX trunk measured local service.

2. Within the LAMA, either concurrently with the above ordered conversion or earlier consistent with Finding 10 above, General shall withdraw the offering of business individual line message rate and business PBX trunk message rate services and substitute therefor individual line measured local service and PBX trunk measured local service.

3. The tariffs General filed under Advice Letter No. 3329 to provide nonoptional business measured local service are permanently suspended.

4. Except as set forth above the relief requested in Case No. 9905 is denied.

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

Dated at San Francisco, California, this 27th day of APRIL, 1976.

President

William Symons Jr.

Vernon L. Sturgeon

Leonard Ross

Robert Batinovich

Commissioners

APPENDIX A

LIST OF APPEARANCES

Application No. 53935 & Case No. 9578 before further hearing:

Applicant: Albert M. Hart, H. Ralph Snyder, Jr., and John Robert Jones, Attorneys at Law, for General Telephone Company of California, and respondent in C.9578.

Respondent: Roger P. Downes, Attorney at Law, for The Pacific Telephone and Telegraph Company.

Interested Parties: Burt Pines, City Attorney, by Charles W. Sullivan and C. P. Karos, Attorneys at Law, for the City of Los Angeles; Robert W. Russell, Chief Engineer and General Manager, and Manuel Kroman, by K. D. Walpert and Kenneth E. Cude, Department of Public Utilities & Transportation, for the City of Los Angeles; Louis Possner, for the City of Long Beach; William L. Knecht, Attorney at Law, for California Farm Bureau Federation; Carl B. Hilliard, Jr., Attorney at Law, for Telephone Answering Systems of California, Inc. (TASC); Lessing E. Gold, Attorney at Law, for Western Burglar and Fire Alarm Association; and Jack Krinsky, President, Ad Visor, Inc., for certain business telephone subscribers.

Commission Staff: Walter Kessenick, Attorney at Law, Kenneth Chew, and James G. Shields.

Application No. 53935 & Case No. 9578 upon further hearing & Case No. 9905

Applicant: A. M. Hart and H. Ralph Snyder, Jr., Attorneys at Law, by H. Ralph Snyder, Jr., for General Telephone Company of California, defendant in C.9905, and respondent in C.9578.

Complainant: W. Robert Pierce, for Long Beach Area Chamber of Commerce.

Interested Parties: Louis Possner, for City of Long Beach; and K. D. Walpert, for R. W. Russell, Chief Engineer and General Manager, Dept. of Public Utilities & Transportation, for the City of Los Angeles.

Commission Staff: Walter H. Kessenick, Attorney at Law, and James G. Shields.