

ORIGINAL

Decision S2 OS 072 AUG 18 1982

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 author- )  
ity to increase certain intrastate )  
rates and charges applicable to )  
telephone services furnished within )  
the State of California. )

Application 59849  
(Filed August 1, 1980;  
amended August 28, 1980  
and October 14, 1980)

In the Matter of the Application of )  
THE PACIFIC TELEPHONE AND TELEGRAPH )  
COMPANY, a corporation, for author- )  
ity to increase certain intrastate )  
rates and charges applicable to )  
telephone services furnished within )  
the State of California. )

Application 59269  
(Filed November 13, 1979;  
amended November 15, 1979)

Re Advice Letter (PT&T) No. 13640 )  
to reprice certain telephone )  
terminal equipment and Resolution )  
No. T-10292 granting approval of )  
said changes. )

Application 59858  
(Filed August 1, 1980)

In the Matter of Advice Letter )  
Filing No. 13641 of THE PACIFIC )  
TELEPHONE AND TELEGRAPH COMPANY )  
for authority to increase certain )  
rates for key telephone service by )  
\$30.1 million. )

Application 59888  
(Filed August 19, 1980)

Investigation on the Commission's  
own motion into the rates, tolls,  
rules, charges, operations, costs,  
separations, inter-company settle-  
ments, contracts, service, and  
facilities of THE PACIFIC TELEPHONE  
AND TELEGRAPH COMPANY, a California  
corporation; and of all the tele-  
phone corporations listed in  
Appendix A, attached hereto.

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OII 63  
(Filed December 18, 1979)

Investigation on the Commission's  
own motion into the rates, tolls,  
rules, charges, operations, costs,  
separations, inter-company settle-  
ments, contracts, service, and  
facilities of THE PACIFIC TELEPHONE  
AND TELEGRAPH COMPANY, a California  
corporation; and of all the tele-  
phone corporations listed in  
Appendix A, attached hereto.

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OII 81  
(Filed August 19, 1980)

Investigation on the Commission's  
own motion into the Matter of  
Revision of the Accounting for  
Station Connections and related  
Ratemaking Effects and the Economic  
Consequences of Customer-owned  
Premise Wiring.

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OII 84  
(Filed December 2, 1980)

(See Decisions 93367 and 93728 for appearances.)

Additional Appearances

Marlin D. Ard, Attorney at Law, for The Pacific Telephone and Telegraph Company, applicant.

James L. Rhodes, for himself, protestant.

James S. Blaszak, Attorney at Law (Texas and District of Columbia), for American Broadcasting Companies, Inc. and CBS, Inc.; D. Laurence Padilla, Attorney at Law (New York), for American Telephone and Telegraph Company; Daniel R. Loftus, Attorney at Law (Tennessee), for Sonitrol Security Systems, Inc.; and Cohn & Marks, by N. Frank Wiggins, Attorney at Law (Washington, D.C.), for California Interconnect Association; interested parties.

INTERIM OPINION ON MOTION OF SMALLER INDEPENDENT TELEPHONE COMPANIES

This decision addresses a motion of the smaller independent telephone companies<sup>1</sup> (smaller independents, movant) operating in California for an increase in the revenue limitation in Commission General Order 96-A (GO 96-A) under which utilities may file for rate increases by advice letter rather than formal application. The request was first made by the smaller independents in a brief filed in the spring of 1981 in the general rate increase phase of these proceedings. In the Commission decision on the rate phase (Decision (D.) 93367 issued August 4, 1981) we stated that the motion should be made on the formal record so all parties would have a chance to respond. The smaller independents filed such a motion October 1, 1981 and at the fifth prehearing conference on October 28, 1981 it was agreed that a hearing would be held on the motion. This was done on December 2, 1981 and January 8, 1982. The matter is now ready for decision.

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<sup>1</sup> Calaveras, Capay, Dorris, Ducor, Evans, Foresthill, Happy Valley, Hornitos, Kerman, Livingston, Mariposa, Pinnacles, Sierra, Ponderosa, Siskiyou, and Volcano.

The Issue

Section VI of GO 96-A presently provides that a utility may request authority for a rate increase by an advice letter filing only if the utility's projected annual operating revenues, including the requested increase, do not exceed \$750,000. For telephone utilities the revenue used in the limitation test is the intrastate revenue excluding toll revenues. Movant claims that due to the current inflationary economy the present limitation precludes a number of the smaller independents from using the expedited rate increase provisions of GO 96-A. They believe an increase in the limitation to \$1,000,000 would be reasonable based on local exchange revenue only. Also, movant proposes an annual increase in the limitation to account for inflation.

The smaller independents offered a witness in support of their proposal; the Commission staff sponsored a witness who opposed the motion.

Movant's Evidence

Roger M. Barker, a certified public accountant, testified in support of the smaller independents' proposal. Appendix A is Section VI of GO 96-A and Appendix B contains the changes proposed by Barker. Barker stated there is some question under the present procedure of just what revenues are used to determine whether a utility meets the revenue limitation. He proposes that any doubt be removed by having the applicable revenues defined by Federal Communications Commission account number, in this case Account 500. Account 500 includes subscriber station revenues from local flat and measured rate service and multielement service connection charges.

The \$1,000,000 limitation would be indexed from December 31, 1980 for purposes of future adjustment for inflation. Indexing would take place once each year based on the All-U.S. Urban

Consumer Price Index (CPI) as of December 31. The CPI is developed monthly by the U.S. Bureau of Labor Statistics.

Barker testified that the plant investment and revenues of the smaller independents have grown significantly since GO 96-A was originally adopted in 1962, and the \$750,000 limitation does not appear to be reasonable or take into consideration any growth or inflation since 1962. He claims the purpose of GO 96-A is to provide the smaller independents a simplified procedure to expedite rate changes by advice letter filings and the measurement test used should increase as the companies grow.

Staff's Evidence

James C. McVicar, a senior utilities engineer in the Commission's Communications Division testifying for the staff, claims that the proposed change in GO 96-A would not be limited to telephone companies but would apply to all utilities covered by the general order. He stated that GO 96-A has kept pace with inflation over the years and gave the following history in support of his contention:

GO 96-A was adopted by Commission Resolution (R.) U-1038 January 2, 1962, effective March 1, 1962 and included no provision for general rate increases.

R. A-3597, May 14, 1968, effective June 14, 1968, provided for smaller water companies with revenues less than \$25,000 to file for general rate increases by advice letter.

R. A-3792, May 19, 1970, effective June 18, 1970, raised revenue limit to \$50,000 and included all gas, electric, telephone, telegraph, water, and heat utilities.

R. A-4313, September 24, 1974, effective October 24, 1974, raised revenue limit to \$150,000.

R. M-4701, August 8, 1978, effective September 7, 1978, raised revenue limit to \$750,000.

R. T-10408, May 19, 1981, effective June 18, 1981, amended general order to exclude telephone utility toll revenues when determining revenue subject to the \$750,000

limit. For the smaller independents subject to this motion, intrastate nontoll revenue represents about 30% of total intrastate revenue. The effective revenue limit for telephone utilities was thereby raised to \$2,500,000.

Based on this history, McVicar maintains that the revenue limit for telephone utilities has been raised fiftyfold since 1970 and should not be adjusted any further at this time. He stated that the proposal to limit the revenue for the test to Account 500 would deflate the revenue used for the test by another 17%, because coin phone, burglar, fire alarm and data circuits, and directory advertising revenues would be deleted.

McVicar testified that if the Commission were to adopt the proposal, the CPI would not be an appropriate adjustment factor because it does not represent telephone revenue levels. However, he had no other index to suggest.

McVicar pointed out that in R. M-4701 the Commission's goal in approving Section VI of GO 96-A was to create the means for granting expeditious general rate increases to small utilities. The Commission stated further that only one general rate increase every two years should be filed under this procedure. McVicar claims that no telephone company has ever filed an advice letter under Section VI for a general rate increase. The major reason is that they receive increases each time The Pacific Telephone & Telegraph Company receives a toll increase. They also receive increases to a lesser extent from other Commission decisions such as the recent one in Order Instituting Investigation 84 to offset expensing of inside wiring.

As a measure of the effect of the proposed change, McVicar was asked if any of the smaller independents would not qualify for exemption under the present limit in GO 96-A and he stated that only three would not; however, under movant's proposal, all would qualify.

#### Discussion

This record shows that no telephone company eligible under the revenue limitation of Section VI, GO 96-A has ever filed for a

general rate increase under the provisions of that section. We have to wonder what purpose is served by having telephone companies subject to the limitation.

Perhaps it is best to start by reviewing just what GO 96-A allows concerning general rate increases. The law provides that no utility may increase its rates or charges until a showing has been made before the Commission and a finding by the Commission that such increase is justified. Normally this procedure requires a formal application in accordance with rules established by the Commission. Section VI of GO 96-A provides that where the proposed increases are minor in nature the Commission may accept a showing through the advice letter procedure provided justification is fully set forth in the filing. The \$750,000 limitation previously discussed sets the guideline under which the filing by advice letter can be made. The procedure in no way excuses a utility from making an adequate showing and justification. Procedures for processing such a filing have been established by the Executive Director who may, where necessary, require a utility to file a formal application. Also, the Commission may accept, reject, or modify a general rate increase requested by advice letter filing. All of the above are clearly set forth in Section VI. Other safeguards against unreasonable rate increases are provided in other sections of GO 96-A. Section III.G. provides for proper notice; Section III.H. provides for protests; Section IV.B. provides for a 30-day effective date unless otherwise shortened by the Commission; and, as noted above, under Section VI the Commission may reject the filing and must take formal action before the increase can become effective. Also, Section VII provides for rejection of tariffs which do not conform to the specific requirements of GO 96-A.

It appears from the evidence and the safeguards built into GO 96-A that having the smaller independent telephone companies subject to a revenue limitation in the general order is serving no useful purpose. All but three of them could file under the present provision; but, more importantly, none of those eligible have ever

used the provisions of Section VI for a general increase. We conclude that having the smaller independent telephone companies subject to a revenue limitation which may automatically determine whether the revenue increase requested is minor in nature serves no useful purpose. It appears far better to judge each filing on its own as to whether the increase is of such a minor nature that it can be handled by the advice letter procedure be it a general rate increase or a more narrow change. We note that in the case of many other utilities, notably Class C and D water companies, we have approved general rate increases by the advice letter procedure where the increase to the individual consumer is clearly not minor in nature even though the total dollar increase authorized is minor relative to \$750,000. The question that deserves an answer is whether the limitation serves a useful purpose for regulation in general. Our staff should consider this and advise us accordingly.

By letter dated March 22, 1982 West Coast Telephone Company of California (West Coast) requested that although it was not named in movant's petition, it wants to be included in the group of utilities able to file for rate relief by advice letter. Additionally, we note from a review of the annual reports submitted to the Commission that there are two other small independent telephone companies currently eligible under Section VI. Neither Tuolumne Telephone Company nor California-Oregon Telephone Company participated in movant's petition. Given the above discussion, we find it reasonable to include these three independents with the others for the purpose of this decision only.

We believe the most expeditious way to handle this petition is to exempt the smaller independent telephone companies by name from the \$750,000 provision of Section VI.

#### Findings of Fact

1. GO 96-A provides that where proposed increases in rates are minor a utility may file for such increases by the advice letter procedure if the annual operating revenues of the utility, including the requested increase, are no greater than \$750,000, excluding toll revenues for telephone companies.



2. The smaller independent telephone companies petition the Commission to raise the \$750,000 limit to \$1,000,000, that amount being measured by exchange revenue only, and further, to adjust the \$1,000,000 annually to reflect inflation.

3. The advice letter rate increase provisions of GO 96-A provide the same safeguards against unwarranted increases as, and require justifications and showings similar to, those set up for formal applications.

4. The test of whether a rate increase for a smaller independent telephone utility is minor in nature can be made independently of the annual operating revenues of the utility.

5. Requiring the smaller independent telephone companies to be subject to the \$750,000 limitation in Section VI of GO 96-A serves no useful purpose and they should be exempted from it.

6. The proposal of the independent telephone companies, as shown in Appendix B, is not reasonable for other utilities and is not adopted.

#### Conclusion of Law

Based on the foregoing findings of fact and under Public Utilities Code § 454 this Commission may exempt the smaller independent telephone companies from the revenue limitation contained in Section VI of GO 96-A.

#### INTERIM ORDER

IT IS ORDERED that:

1. The following independent telephone companies are exempt from the revenue limitation contained in Section VI of GO 96-A:

Calaveras Telephone Company  
California-Oregon Telephone Company  
Capay Valley Telephone System, Inc.  
Dorris Telephone Company  
Ducor Telephone Company  
Evans Telephone Company  
Foresthill Telephone Co.  
Happy Valley Telephone Company  
Hornitos Telephone Company  
Kerman Telephone Company  
Livingston Telephone Company  
Mariposa County Telephone Company, Inc.  
Pinnacles Telephone Company  
Sierra Telephone Company, Inc.  
The Ponderosa Telephone Co.  
The Siskiyou Telephone Company  
The Volcano Telephone Company  
Tuolumne Telephone Company  
West Coast Telephone Company of California

2. In all other respects the October 1, 1981 motion of the smaller independent telephone companies is denied.

This order becomes effective 30 days from today.

Dated     AUG 18 1982    , at San Francisco, California.

JOHN E. BRYSON  
President  
RICHARD D. GRAVELLE  
LEONARD M. GRIMES, JR.  
VICTOR CALVO  
Commissioners

Commissioner Priscilla C. Grew,  
being necessarily absent, did  
not participate

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY.

  
Joseph E. Bodovitz, Executive Director

APPENDIX A

Section VI of GO 96-A

VI. PROCEDURE IN FILING INCREASED RATES

The tariff schedules of a utility may not be changed whereby any rate or charge is increased, or any condition or classification changed so as to result in an increase, or any change made which will result in a lesser service or more restrictive conditions at the same rate or charge, until a showing has been made before the Commission and a finding by the Commission that such increase is justified.

A formal application to increase rates shall be made in accordance with the Commission's Rules of Procedures, except where the increases are minor in nature. In cases where the proposed increases are minor in nature the Commission may accept a showing in the advice letter provided justification is fully set forth therein, without the necessity of a formal application. If the Commission grants an application the utility shall prepare and file appropriate tariff sheets, accompanied by an advice letter as provided in Section III herein.

Any utility or district of a utility may request authority for a general rate increase by an advice letter filing if the projected annual operating revenues, including the requested increase, are no greater than \$750,000, excluding toll revenues for telephone utilities. The advice letter must include an adequate showing and justification. Procedures for processing such filing will be established by the Executive Director who may, where necessary, require the utility to file a formal application. The Commission may accept, reject or modify such general rate increase by advice letter filing.

The filing of any tariff sheet which will result in any increase in any rate or charge or in a more restrictive condition shall be by the advice letter designated in Section III.

(END OF APPENDIX A)

APPENDIX B

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Proposed Changes to Section VI of GO 96-A

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The tariff schedules of a utility may not be changed whereby any rate or charge is increased, or any condition or classification changed so as to result in an increase, or any change made which will result in a lesser service or more restrictive conditions at the same rate or charge, until a showing has been made before the Commission and a finding by the Commission that such increase is justified.

A formal application to increase rates shall be made in accordance with the Commission's Rules of Procedures, except where the increases are minor in nature. In cases where the proposed increases are minor in nature the Commission may accept a showing in the advice letter provided justification is fully set forth therein, without the necessity of a formal application. If the Commission grants an application the utility shall prepare and file appropriate tariff sheets, accompanied by an advice letter as provided in Section III herein.

Any utility or district of a utility may request authority for a general rate increase by an advice letter filing if the projected annual operating revenues, including the requested increase, are no greater than \$1 million adjusted by the change in Consumer Price Index for all urban consumers-U.S. City Average (All Items), since December 31, 1980. Annual operating revenues for telephone utilities are defined as F.C.C. Account 500, Subscriber Station Revenue.

For purposes of applying this General Order, adjusted operating revenue shall be determined by multiplying \$1 million by the percentage increase in such Index from December 31, 1980, provided, however, that if such calculation produces a figure less than \$1 million, the measurement of annual operating revenue shall remain at \$1 million. If the Index is changed so that the base year differs from that used as of December 31, 1980, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term, such other governmental index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

The advice letter must include an adequate showing and justification. Procedures for processing such filing will be established by the Executive Director, who may, where necessary, require the utility to file a formal application.

APPENDIX B  
Page 2

The Commission may accept, reject or modify such general rate increase by advice letter filing.

The filing of any tariff sheet which will result in any increase in any rate or charge or in a more restrictive condition shall be by the advice letter designated in Section III.

NOTE: The changes in the above are underlined.

(END OF APPENDIX B)