

L/SE/SR/WPSC

ORIGINALDecision 83 03 066

MAR 16 1983

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

Application 53587
(Filed September 19, 1972)

And Related Matters.)

Application 51774
Application 55214
Case 9503
Case 9802
Case 9832

(Re Tax Reserve Matters))

Application 51904
Application 53935
Case 9100
Case 9504
Case 9578

and

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

Application 59849
(Filed August 1, 1980)

And Related Matters.)

Application 59269
Application 59855
Application 59858
Application 59888
OII 63
OII 81

ORDER REOPENING APPLICATION (A.) 53587
AND RELATED MATTERS AS TO REFUNDS

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By Decision (D.)93896 issued December 30, 1981 in these proceedings, the Commission determined that a refund of equal amount made to all current customers was the least costly and most expeditious method of refunding unclaimed amounts in the amount of \$5,946,027 remaining from the approximate \$381 million refund ordered by the Commission in D.91337, issued February 13, 1980, related to accelerated tax depreciation, and the approximately \$39,000 remaining from a refund of six months of an annual \$30.1 million increase in key telephone service rates ordered refunded by D.92717 on February 18, 1981. A refund plan as contained in Appendix A of the decision was ordered to be instituted. By D.82-03-113 issued March 16, 1982, the decision was modified to reflect adjusted figures provided by Pacific and to include in the refund order undisbursed amounts in the amount of \$137,887 relating to the ZUM refund ordered in D.93127 issued June 2, 1981.

D.93896 was subsequently challenged in the California Supreme Court by Kenneth Cory, the State Controller. That Court, in Kenneth Cory v. Public Utilities Commission, _____ Cal 3d _____ (S.F. 24418, order filed March 3, 1983) annulled D.93896. The Court found that unclaimed utility refunds fall within the provisions of the Unclaimed Property Law and that the Commission is not authorized to forfeit the refunds of the unlocated customers by

ordering a pro rata distribution to its current customers. The Court's decision stated that "the property should be held for the benefit of the unlocated customers and for the use of the State in accordance with the Unclaimed Property Law." (mimeo, at page 12).

The Unclaimed Property Law (UPL), contained in Section 1500 et seq. of the Code of Civil Procedure, provides that specified property which has remained unclaimed by the owner for more than seven years after it became "payable or distributable" escheats to the State. The funds at issue did not become payable or distributable until the Commission ordered these refunds. Therefore, the seven year escheat period has not yet run with respect to the unclaimed refunds.

By a Petition for Modification filed June 30, 1982, during the pendency of the proceedings in the State Supreme Court, Pacific Telephone sought authorization from the Commission to issue refunds to customers who originally could not be located but who have been located since the Commission issued D.82-03-113, modifying D.93896. Pacific also indicated that some customers have been unable to cash outstanding drafts because the drafts are deemed out-of-date by banks. The petition raised the issue whether if more diligent efforts were made, more former customers

to whom refunds are due, could be located. The problem of out-of-date drafts is also raised. No action was taken on that petition, pending the outcome of the judicial challenge.

We are of the opinion that these proceedings should now be reopened for the purpose of resolving these issues and, consistent with the Court's opinion, insuring that all reasonable efforts are made to locate those customers whose drafts have been returned as undeliverable.

Pacific shall be ordered to file with the Commission within twenty days of the effective date of this decision a revised refund plan which comports with the Court's decision in Cory v. Public Utilities Commission. This plan should specify in detail the additional efforts that the utility proposes to undertake to locate those to whom refunds are due but who have not claimed them. The State Controller, other interested parties and the Commission staff are invited to file comments on the revised plan within twenty days after the date of Pacific's filing.

Pacific shall also be directed to submit a report within twenty days of the effective date of this decision documenting its past efforts to locate customers entitled to a refund in these proceedings and providing updated information on the total amounts unclaimed from each of the three refunds, detailing the amounts

previously credited on bills, credited on drafts, delivered and uncashed amounts, drafts sought to be cashed but deemed out of date, drafts reissued and drafts returned as undelivered.

Pacific's request in its Petition for Modification of D.82-03-113 that the Commission order it to honor outstanding drafts or reissue drafts when the holder provides appropriate identification, and to transmit drafts returned to Pacific as undeliverable to the payees who have been subsequently located, should be granted.

In order to have these refunds made without further delay, the order should be effective immediately.

Findings of Fact

1. Unclaimed refunds remain from refunds ordered by the Commission in Decision Nos. 91337, 92717, and 93127.
2. Pacific has reported that since the issuance of D.82-03-113, modifying D.93896, additional customers have been located whose drafts were previously returned as undeliverable and that some customers have been unable to cash outstanding checks because the checks are deemed out-of-date by banks.
3. The California Supreme Court has annulled D.93896.

Conclusions of Law

1. These proceedings should be reopened.

2. Pacific shall be required to honor outstanding drafts or reissue such drafts where customers provide appropriate identification, and to transmit drafts returned to Pacific as undeliverable, to the payees who have been located since the issuance of Decision 82-03-113.

3. All reasonable efforts should be made to locate those to whom refunds are due who have not been located.

4. Those refunds which remain unclaimed shall escheat to the State in accordance with the Unclaimed Property Law.

5. In order to have these refunds made without further delay, the effective date of this order shall be the date hereof.

O R D E R

IT IS ORDERED that:

1. These proceedings are reopened;
2. The Pacific Telephone and Telegraph Company (Pacific) shall, within twenty days after the effective date of this order, submit an original and 12 copies of a revised refund plan to the Commission which comports with the decision of the California Supreme Court in Cory v. Public Utilities Commission (SF 24418, order filed March 3, 1983). This plan should specify what new efforts the utility proposes to make to locate those whose refunds in these proceedings remain unclaimed.

3. The State Controller, other interested parties and the Commission staff are invited to file comments with the Commission's Docket Office on the revised plan within twenty days after the date of Pacific's filing. Such filings shall include an original plus 12 copies.

4. Pacific shall submit an original and 12 copies of a report also with the Commission's Docket Office within twenty days after the effective date of this decision documenting its past efforts to locate customers entitled to a refund in these proceedings and providing updated information as to the total amounts unclaimed from each of the three refunds, detailing the amounts previously credited on bills, credited on drafts, delivered and uncashed amounts, drafts sought to be cashed but deemed out of date, drafts reissued and drafts returned as undelivered.

5. Pacific is ordered to honor outstanding drafts or reissue such drafts where customers provide appropriate identification, and to transmit drafts returned to Pacific as undeliverable, to the payees who have been located since the issuance of Decision 82-03-113.

6. The Executive Director shall serve a copy by mail of this order on the State Controller.

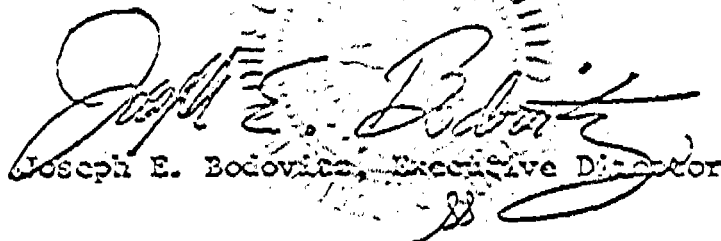
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The effective date of this order is today.

Dated March 16, 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

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


Joseph E. Bodovitz, Executive Director

2. Pacific shall be required to honor outstanding drafts or reissue such drafts where customers provide appropriate identification, and to transmit drafts returned to Pacific as undeliverable, to the payees who have been located since the issuance of Decision 82-03-113.

3. All reasonable efforts should be made to locate those to whom refunds are due who have not been located.

4. Those refunds which remain unclaimed shall escheat to the State in accordance with the Unclaimed Property Law.

5. In order to have these refunds made without further delay, the effective date of this order shall be the date hereof.

O R D E R

IT IS ORDERED that:

1. These proceedings are reopened;
2. The Pacific Telephone and Telegraph Company (Pacific) shall, within twenty days after the effective date of this order, submit a revised refund plan to the Commission which comports with the decision of the California Supreme Court in Cory v. Public Utilities Commission (SF 24418, order filed March 3, 1983). This plan should specify what new efforts the utility proposes to make to locate those whose refunds in these proceedings remain unclaimed.

3. The State Controller, other interested parties and the Commission staff are invited to file comments on the revised plan within twenty days after the date of Pacific's filing.

4. Pacific shall submit a report within twenty days after the effective date of this decision documenting its past efforts to locate customers entitled to a refund in these proceedings and providing updated information as to the total amounts unclaimed from each of the three refunds, detailing the amounts previously credited on bills, credited on drafts, delivered and uncashed amounts, drafts sought to be cashed but deemed out of date, drafts reissued and drafts returned as undelivered.

5. Pacific is ordered to honor outstanding drafts or reissue such drafts where customers provide appropriate identification, and to transmit drafts returned to Pacific as undeliverable, to the payees who have been located since the issuance of Decision 82-03-113.

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3. All reasonable efforts should be made to locate those to whom refunds are due who have not been located.

4. Those refunds which remain unclaimed shall escheat to the State in accordance with the Unclaimed Property Law.

5. In order to have these refunds made without further delay, the effective date of this order shall be the date hereof.

O R D E R

IT IS ORDERED that:

1. These proceedings are reopened;
2. The Pacific Telephone and Telegraph Company (Pacific) shall, within twenty days after the effective date of this order, submit ^{an original and 10 copies of} a revised refund plan to the Commission ^{which} comports with the decision of the California Supreme Court in Cory v. Public Utilities Commission (SF 24418, order filed March 3, 1983). This plan should specify what new efforts the utility proposes to make to locate those whose refunds in these proceedings remain unclaimed.

Such filings shall include an original plus ~~three~~ copies

3. The State Controller, other interested parties and the Commission staff are invited to file comments on the revised plan within twenty days after the date of Pacific's filing.

with the Commission Book Office
Such filings shall include an original plus three copies
(10/24/82)
12

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