ALJ/amm/jc

ORIGINAL

Decision   S3 12 002   DEC 7 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE PACIFIC TELEPHONE AND TELEGRAPH)   Application 59849
COMPANY, a corporation, for authority)   59269
to increase certain intrastate rates)   59858
and charges applicable to telephone)   59888
services furnished within the State)
of California.)   OII 63
)   81
And related matters.)   84
)

ORDER DENYING EMERGENCY PETITION FOR MODIFICATION OF
DECISION 93367

On August 23, 1983, Toward Utility Rate Normalization (TURN)
filed an Emergency Petition for Modification of Decision 93367 request-
ing an order from this Commission keeping the rates of The Pacific
Telephone and Telegraph Company (Pacific) authorized in Decision (D.)
93367 subject to refund, and scheduling hearings to determine the
refund due Pacific's ratepayers for the reduction in Pacific's labor
expenses resulting from a strike by Pacific's union employees. TURN
also asked that we investigate Pacific's alleged violation of Public
Utilities Code Section 491 by its having reduced service during the
strike without the required 30 days' notice.

TURN alleged that the strike, which lasted approximately
3 weeks, reduced Pacific's labor expense by approximately $40 million
per week, or $120 million. It alleges that because Pacific's rates
have not been reduced accordingly, the savings in labor expenses
accrue directly to the utility as higher earnings.

On September 2, 1983, Pacific filed a response stating that
the modifications are unjustified, illegal and unnecessary. It argues
that the 1981 test year results of operation which were adopted in
D. 93367 would have to be completely relitigated to determine the extent
of the impact of the 21-day work stoppage. It alleges that this is

not only impractical and unjustified but also would constitute retro-
active ratemaking.

TURN responded to Pacific's memorandum in opposition to
TURN's emergency petition by letter dated October 17, 1983 sent to
Administrative Law Judge Martin Mattes. Copies were served on
Pacific but on no other parties to the captioned matters. Because
this letter does not constitute a properly filed pleading in this
matter, we have not considered its contents in reaching our decision.

Discussion

We will deny TURN's request. The matter of labor expense
is only one element of many evaluated to reach the revenue requirement
authorized in D. 93367. Any review of a single element without review
of the remainder would only serve to distort the relationship among
elements and conceivably the entire revenue requirement. We are
unwilling to do this. TURN is essentially asking that for something
that could well be the first step towards offset treatment for an
incremental change in an expense category which is ordinarily set
by test year ratemaking.

Were we to grant TURN's petition, we could be opening the
door to the utilities' coming in with similar petitions for each
expense item on which there had been an increase over the test year
estimate. We have neither the staff nor the time to process such
petitions. Nor are they necessary, in our view. Test year ratemaking
provides utilities with an incentive to operate efficiently. When they
spend less than authorized, they retain the difference between the
amount authorized and the amount spent and their shareholders benefit.
When they spend more than authorized, their shareholders, not the
ratepayers, bear the burden. Setting rates prospectively for a two-
year period is not an exact science. We know that the utility may
ultimately spend more for some items and less for others. We feel
confident that, in most cases, these items roughly balance each other
out and the ratepayer would not benefit if each element of the revenue

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requirement were adjusted on a regular basis for changes between the amount estimated and the amount actually spent.

TURN's allegation that Pacific violated PU Code Section 491 by reducing service during the strike without the required notice confuses changes in "tariffs and/or rules" with noncompliance with such tariffs or rules.   Pacific may have failed to comply fully with all requirements of its tariffs and rules during the recent strike.   Any specific failure which has injured any ratepayer may properly be the subject of a complaint filed with this Commission. However, no need appears for the broad-ranging investigation proposed by TURN, particularly in the absence of any specific allegations of tariff or rule violations.

Findings of Fact

1.   Pacific incurred a labor strike in August 1983 lasting 21 days.

2.   Labor expense for union personnel is only one component of total labor expense, which in turn was only one factor among many considered when the revenue requirement was established in D. 93367.

3.   Adjustment of one element of expense without examination of the remaining elements comprising the revenue requirement could distort the relationship among such elements and skew the revenue requirement.

4.   Under test year ratemaking, recorded expenses will vary, either up or down, from adopted estimated expenses.

5.   No specific allegations of reduction in telephone service by Pacific during the 1983 strike were made by TURN or by anyone else in this proceeding.

Conclusions of Law

1.   TURN's emergency petition for modification of D. 93367 and motion for further hearing should be denied.

2.   Reductions of service during the 1983 strike, to the extent they may have occurred, did not constitute violations of Public Utilities Code Section 491.

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IT IS ORDERED that the emergency petition of Toward Utility
Rate Normalization for modification of D.93367 and its motion for
further hearing are denied.

This order becomes effective 30 days from today.

Dated _____DEC 7 1983_____, at San Francisco,
California.

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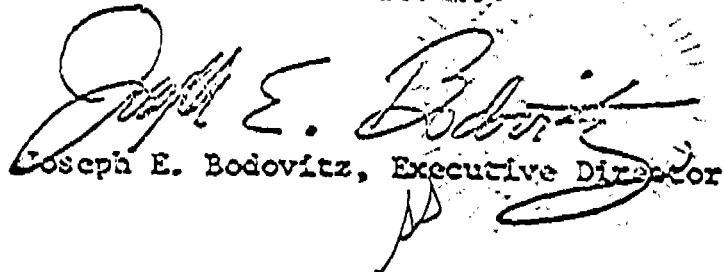   President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
                Commissioners

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

Joseph E. Bodovitz, Executive Director