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Decision No. 86678

ORIGINAL

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 telephone)
service rate increases to cover)
increased costs in providing telephone)
service.)

Application No. 55492

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

Case No. 10001

ORDER GRANTING REHEARING

On November 2, 1976, the Commission issued Decision No. 86594, which, among other things, ordered The Pacific Telephone and Telegraph Company (Pacific) to terminate all residential single message rate timing (SMRT) and to waive the \$11 residential regrade charges through June 30, 1977. Decision No. 86594 was effective on the date of issuance.

On November 5, 1976, Pacific filed an application for an order staying the effect of Decision No. 86594 pending rehearing and judicial review of the decision. On November 8, 1976, we issued Decision No. 86602 in which we denied the stay but extended the effective date of Decision No. 86594 to 20 days after November 2, 1976. The effect of Decision No. 86602 was to permit Pacific to invoke the automatic stay provisions of Public Utilities Code Section 1733(a), if Pacific filed its petition for rehearing on or before November 12, 1976.

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A.55492, C.1001

On November 9, 1976, TURN filed its petition for an immediate order "staying the effect of or rescinding Decision No. 86602 and/or requesting immediate rehearing." On November 12, 1976, Pacific filed a petition for rehearing and stay of Decision No. 86594, as amended by Decision No. 86602. On November 16 and 18, 1976, respectively, TURN and the City of San Diego filed their replies in opposition to the petition of Pacific for rehearing and stay of Decision No. 86594.

According to the terms of Section 1733(a), Pacific's petition automatically suspends Decision No. 86594 between its effective date^{1/} and the date the Commission either grants or denies rehearing. The period of automatic suspension ends when the Commission either grants or denies the petition for rehearing.

The order granting rehearing which follows will continue in part the suspension of Decision No. 86594 until rehearing is completed in order to preserve the rights of all parties. Until the Commission issues its decision on rehearing herein, Pacific will continue SMRT in those areas wherein it has been heretofore implemented^{2/} and Pacific will not extend SMRT to any other part of its service area. However, the rates charged by Pacific for timed single message residential calls during the period of suspension will be subject to refund with interest in the event the Commission affirms Decision No. 86594.

The Commission has considered each and every allegation of the petitions of Pacific and TURN. The Commission concludes that Pacific has shown good cause for rehearing and suspension of

^{1/} Pursuant to Decision No. 86602, the effective date of Decision No. 86594 is November 22, 1976.

^{2/} Orange County, the East Bay ~~region~~ of San Francisco-East Bay extended area, and San Diego.

Decision No. 86594, except as to monitoring. Pacific does not challenge Decision No. 86594 as it relates to monitoring. The Commission further concludes that TURN has shown good cause for rehearing of Decision No. 86602.

THEREFORE, IT IS ORDERED that:

1. Rehearing of Decision No. 86594 is granted;
2. Rehearing of Decision No. 86602 is granted;
3. Pending rehearing, Ordering Paragraphs No. 2 and No. 3 of Decision No. 86594 are suspended; however, Ordering Paragraphs No. 1, No. 4, No. 5, No. 6 and No. 7 of Decision No. 86594 shall remain in full force and effect^{3/};
4. Until further order of the Commission, all monies collected by Pacific for timed single message residential calls shall be held by Pacific subject to refund, with interest at the rate of seven percent per annum. Pacific shall maintain adequate records to facilitate any refund required by the Commission;
5. The temporary prohibition of further installation by Pacific of residential SMRT, ordered by Decision No. 86248, dated August 17, 1976, shall continue in full force and effect until further order of the Commission; and,
6. The petition of TURN for rescission or stay of Decision No. 86602 is denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 23rd day of NOVEMBER, 1976.

I dissent
Leonard Ross
I will file a concurring opinion
William Squares Jr.
I dissent Robert Rabinovich

William Squares Jr.
 President
Robert Rabinovich
 Commissioners

3/ Ordering Paragraph No. 1 denied the motion of CAUSE for further Los Angeles hearings on residential SMRT. Ordering Paragraphs No. 4 through No. 7 relate to monitoring.

A. 55492, C. 10001 - D.

COMMISSIONER WILLIAM SYMONS, JR., Concurring

This Commission would be best advised to heed its own tradition and the spirit of Public Utilities Code Section 1705, which provides that Commission orders normally "... take effect and become operative 20 days after the service thereof ..."

If no good reason for instantaneous effect is shown, which was the case on November 2, 1976 when the majority went forward anyway and ordered Decision No. 86594 effective immediately, nothing but trouble can arise. Parties are cut off from Public Utilities Code Section 1733(a) provisions allowing a suspension while their application for rehearing is reviewed. Whistling decisions through this Commission is hardly judicious, and unfortunately sets the stage for those who would enjoy making a circus of Commission proceedings.

San Francisco, California
November 23, 1976

William Symons, Jr.
WILLIAM SYMONS, JR.
Commissioner