

Decision No. 89894 JAN 16 1979

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

Application No. 53587
(Filed September 19, 1972)

And Related Matters.
(Re Tax Reserve Matters)

Application No. 51774
Application No. 55214
Case No. 9503
Case No. 9802
Case No. 9832
Application No. 51904
Application No. 53935
Case No. 9100
Case No. 9504
Case No. 9578

~~ORDER TERMINATING~~
SUSPENSION OF DECISION NO. 87838

On September 13, 1977, the Commission issued Decision No. 87838, which required certain refunds and rate reductions to be made by The Pacific Telephone and Telegraph Company (Pacific) and the General Telephone Company of California (General).^{1/} Pacific and General requested that Decision No. 87838 be suspended pending judicial review. This request was granted by Decision No. 88103, dated November 8, 1977. The suspension was extended by Decision No. 89239, dated August 8, 1978.

In the meantime on July 13, 1978, the California Supreme Court denied Pacific's and General's petitions for writs of review regarding Decision No. 87838. Pacific and General then filed petitions in the Supreme Court of the United States for writs of certiorari. These petitions were denied December 11, 1978.

^{1/} The ordering paragraphs of Decision No. 87838 are attached hereto as Appendix A.

On December 11, 1978, Pacific and General jointly filed a petition to reopen these proceedings, to modify Decision No. 88215, to set hearings for the receipt of further evidence, and to further suspend the ordering paragraphs of Decision No. 87838.

Concurrently, the cities of San Francisco, Los Angeles, and San Diego (Cities) jointly filed their motion to make effective the refunds and rate reductions ordered in Decision No. 87838.

On December 20, 1978, the Cities filed their response in opposition to Pacific's petition. On December 21, 1978, the Commission staff filed its response in opposition to Pacific's petition.

In their petition Pacific and General alleged that they intended to seek rehearing of the denial of their petitions for writs of certiorari. Their petitions for rehearing were filed in the Supreme Court of the United States on January 5, 1979. The Court has not yet acted upon those petitions.

The Commission has considered each and every allegation and argument made by Pacific and General in their petition to reopen these proceedings, to modify Decision No. 88215, to set further hearings for the receipt of further evidence, and to further suspend the ordering paragraphs of Decision No. 87838. The Commission concludes that the petition of Pacific and General lacks merit and should be denied. Accordingly, the suspension of Decision No. 87838, originally granted by Decision No. 88103 and extended by Decision No. 89239, should be terminated.

Pacific, by letter dated January 11, 1979, and General, by letter dated January 12, 1979, reiterated their request to the Commission to continue the stay of Decision No. 87838 and proposed that as an alternative the Commission should consider placing the decision in effect for year 1974 only for Pacific and year 1973 only for General. Such alternative, it is alleged, "might lessen the risk of back tax liability for all of the years and provide a clear cut test of the eligibility issue". The Commission has considered this proposed alternative and concludes that it lacks merit and should not be adopted.

Since the Supreme Court of the United States has not yet acted upon the petitions for rehearing of Pacific and General, the following order should be conditional upon the denial of those petitions. Therefore, the Commission concludes that the effective date of this order should be the date the Supreme Court of the United States denies the petitions of Pacific and General. Decision No. 87838 will be effective on the same date and the refund plans and the new tariffs required thereby must, according to the terms of Decision No. 87838, be filed within 30 days of that date.

IT IS ORDERED that:

1. The petition of The Pacific Telephone and Telegraph Company and General Telephone Company of California is denied.
2. The suspension of Decision No. 87838, made in Decision No. 88103 and continued in Decision No. 89239, is terminated.

The effective date of this order shall be the date the Supreme Court of the United States denies the petitions of The Pacific Telephone and Telegraph Company and of the General Telephone Company of California for rehearing in Cases Nos. 78-606 and 78-607.

Dated at San Francisco, California, this 16th day of JANUARY, 1979.

Robert Batwinich
President

Richard D. Howell

Clare J. DeSilva

Commissioners

APPENDIX A
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O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company shall refund the sum of \$205,586,000 (computed as of December 31, 1977), being the total of the amounts due under the recomputation of accelerated depreciation with normalization, investment tax credit on the service life flow-through basis, and accelerated depreciation for 1968 and 1969 vintage plant addition on a flow-through basis, as determined herein pursuant to Findings 3, 4, and 14. This amount includes interest at the rate of 7 percent per year from the respective effective dates of the rates being refunded.

2. General Telephone Company of California shall refund the sum of \$65,440,000 (computed as of December 31, 1977), being the net total of the amounts due under the recomputation of accelerated depreciation with normalization, investment tax credit on the service life flow-through basis, accelerated depreciation for 1969 vintage plant additions on a flow-through basis, and certain offsets thereto, as determined herein pursuant to Findings 3, 4, 14, and 25. This amount includes interest at the rate of 7 percent per year from the respective effective dates of the rates being refunded.

3. The Pacific Telephone and Telegraph Company and General Telephone Company of California shall prepare and file refund plans for all current (at the time of filing of the plan) subscribers. This plan shall be filed within thirty days after the effective date of this order. This plan must be approved by an order or resolution of the Commission.

4. The methods described in Findings 3, 4, and 14 shall be applied to all future rates of The Pacific Telephone and Telegraph and General Telephone Company of California.

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5. The filings required for the continuous surveillance of earned rate of return as previously ordered in D.83540 and D.83778 are no longer required.

6. The Pacific Telephone and Telegraph Company shall reduce current rates by the sum of \$60,494,000 (computed as of December 31, 1977), being the total of the reductions due under the recomputation of accelerated depreciation with normalization, investment tax credit on the service life flow-through basis, and accelerated depreciation for 1968 and 1969 vintage plant additions on a flow-through basis, as determined herein pursuant to Findings 3, 4, and 14.

7. General Telephone Company of California shall reduce current rates by the sum of \$12,653,000 (computed as of December 31, 1977), being the net total of the reductions due under the recomputation of accelerated depreciation with normalization, investment tax credit on the service life flow-through basis, accelerated depreciation for 1969 vintage plant additions on a flow-through basis, and certain offsets thereto, as determined pursuant to Findings 3, 4, 14, and 25.

8. The Pacific Telephone and Telegraph Company and General Telephone Company of California shall prepare and file tariffs reflecting such reductions on a uniform proportional basis on recurring basic exchange primary service rates, and with respect to central office centrex service the reductions shall be made on the trunk rate per station. Such tariffs shall be filed within thirty days after the effective date of this order and shall not become effective until approved by order or resolution of this Commission.

9. Pacific and General shall not recompute intercompany EAS or other settlement amounts between themselves or with other independent companies as a result of the refunds or rate adjustments ordered herein except for business done on or after the effective date of this order.

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10. In the event the refund plans and tariffs required to be filed by this order are effective after December 31, 1977, the amounts shown in Ordering Paragraphs 1, 2, 6, and 7 shall be recomputed to the appropriate effective date of the refund plan or tariff filing, with interest as computed in Ordering Paragraphs 1 and 2.

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