

Saw

Decision No. 91789

MAY 6 1980

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

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. 58223
(Filed July 14, 1978)

Investigation on the Commission's own
motion into the rates, tolls, rules,
charges, operations, costs, separations,
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.

OII No. 21
(Filed July 25, 1978)

Investigation on the Commission's own
motion into the effect of the enactment
of the Revenue Act of 1978 on the rates
of the California public utilities and
transportation companies subject to the
ratemaking power of the Commission
named in Appendices A and B attached
hereto.

OII No. 33
(Filed December 12, 1978)

ORDER MODIFYING DECISION NO. 91337
AND DENYING REHEARING OF DECISIONS
NO. 91337 AND 91338

Petitions for rehearing of Decisions No. 91337 and 91338 in these proceedings have been filed by Toward Utility Rate Normalization (TURN) and, jointly by the Cities of Los Angeles and San Diego and the City and County of San Francisco (Cities). A response to TURN's petition has been filed by California Retailers Association and responses to both petitions have been filed by the Pacific Telephone and Telegraph Company (PT&T) and by General Telephone Company of California (General). All these responses ask that the petitions be denied.

We have carefully considered all the allegations of error in TURN's and the Cities' petitions and are of the opinion that good cause for granting rehearing has not been shown.

As to the question of the refund plans adopted in Decision No. 91337, for all the reasons stated therein, we are satisfied that these plans are fair and reasonable and conform to the law in all respects.

As to the decision to continue to assess future rates on the basis of Bell normalization, subject to refund, we repeat what we emphasized in Decision No. 91337. We are convinced that this course is the fairest to all concerned. It offers the best hope of capping PT&T's and General's potential tax liabilities while preserving our ability to consider other ratemaking alternatives for this period if the use of AAA and AA is ultimately held to cause a loss of eligibility. In so doing, we believe we have complied with the California Supreme Courts's order in Los Angeles v. Public Utilities Comm., (1975) 15 C 3d 680 and with our obligation to act prudently and responsibly in the exercise of our jurisdiction.

Although we deny rehearing, we are of the opinion that our determinations can be clarified by adding a finding of fact, a conclusions of law and an ordering paragraph to Decision No. 91337; therefore,

IT IS HEREBY ORDERED that

1. Decision No. 91337 shall be modified to add the following:

Finding of fact on rate reduction issue:

10(a) Our review of the pertinent tax statutes and consideration of the testimony and argument on this issue, referred to in this opinion, leads us to conclude that setting rates in this manner will best insure that this potential tax liability will not extend beyond the effective date of this decision.

Conclusion of Law:

6. This Commission lacks jurisdiction to award attorneys fees in this ratemaking proceeding (CLAM, et al., v. Public Util. Comm., (1979) 25 C 3d 891). Therefore, the requests of TURN and the Cities for such fees should be denied.

Ordering paragraph No. 7

The requests by TURN and the Cities for award of attorney fees are denied.

2. Rehearing of Decision No. 91338 and Decision No. 91337 as modified is denied.

The effective date of this order is the date hereof.

Date MAY 6 1980 at San Francisco, California.

I abstain.

LEONARD M. CRIMES, JR., Commissioner

John E. Bryson
President

Vermon L. Steinberg

Richard W. Hoobler

Clair T. DeWitt

Commissioners