

ORIGINAL

Decision No. 92542 DEC 16 1980

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. 59849
(Filed August 1, 1980)

Application No. 59269
(Filed November 13, 1979;
amended November 15, 1979)

Application No. 59855
(Filed July 31, 1980)

Application No. 59858
(Filed August 1, 1980)

Application No. 59888
(Filed August 19, 1980)

OIR No. 63
(Filed December 18, 1979)

OIR No. 81
(Filed August 19, 1980)

And Related Matters.)

OPINION ON PARTIAL REHEARING
OF RESOLUTION NO. T-10292,
ADVICE LETTER FILING NO. 13641

On July 10, 1980, The Pacific Telephone and Telegraph Company (Pacific) filed Advice Letter No. 13641 requesting permission to increase rates by about \$30.1 million annually for Key Telephone Service (KTS).

On July 11, 1980, the city of Los Angeles, city and county of San Francisco (San Francisco), city of San Diego (San Diego), California Retailers Association, and Telecommunications Association filed a protest to the increase and requested a hearing; also, protests were filed by California Interconnect Association (CIA) July 10 and 25, 1980, and by Telephone User's League July 15, 1980.

On July 29, 1980, the Commission, without hearing, granted Pacific's request by Resolution No. T-10292 effective July 30, 1980.

On August 19, 1980, San Francisco and San Diego filed Application No. 59888 and on August 1, 1980, CIA filed Application No. 59858 for rehearing and stay of Resolution No. T-10292.

On November 4, 1980, by Decision No. 92408, the Commission granted rehearing but denied a stay of the order.

The rehearing was assigned to Administrative Law Judge (ALJ) Albert C. Porter who is hearing Pacific's current general rate case (Application No. 59849 et al.). On November 14, 1980, after consultation with all interested parties, the ALJ, by ruling, consolidated the rehearing ordered by Decision No. 92408 with the pending rate proceeding and bifurcated the matter into legal issues and reasonableness of the rates; the legal issues were to be briefed by the parties no later than December 9, 1980, and the rate issues would be addressed in the course of hearing the general rate case.

The legal issues phase has been briefed by the parties through written and oral argument; it was submitted December 3, 1980 and is ready for decision.

The cities of San Francisco and San Diego, jointly, and the California Interconnect Association filed Petitions for Writ of Review with the California Supreme Court on October 21 and October 27, 1980.

On December 10, 1980 the California Supreme Court directed the Commission to respond to the Petitions for Writ of Review by December 30, 1980. The Commission's next Conference is not until December 30, 1980. In order to allow the Commission the opportunity to respond in a timely fashion to the Supreme Court's directive, it is necessary that the Commission consider this matter today without its being listed on the public agenda, in accordance with Government Code Sections 11120, et. seq. and Section 306(b) of the Public Utilities Code.

Finding of Fact

The Commission has considered the arguments of the parties and finds that because of lack of proper notice, no showing by Pacific, and no hearing, good cause has been shown for rescinding the KTS increase of \$30.1 million authorized by Resolution No. T-10292.

Conclusion of Law

Due process, as required by Public Utilities Code Sections 454, 491, and 1708, and General Order No. 96-A, was not provided all parties to this proceeding.

O R D E R

IT IS ORDERED that:

1. The increase in Key Telephone Service rates requested by Advice Letter No. 13641 and authorized by Resolution No. T-10292 is rescinded.

2. The Pacific Telephone and Telegraph Company (Pacific) shall, within sixty days after the effective date of this order, refund to its customers all increased rates and charges assessed pursuant to Resolution No. T-10292. Within ten days after the effective date of this order Pacific shall submit a refund plan to the Commission, and serve it on all appearances in the general rate proceeding. After approval or modification by the Commission refunds will be made accordingly.

3. Pacific shall amend its tariffs, as required by Ordering Paragraph 1, no later than ten days after the effective date of this order.

4. The reasonableness of Key Telephone Service rates shall be considered in the hearings scheduled for these proceedings.

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

Dated DEC 16 1980, at San Francisco, California.

John E. Byrne

Robert D. Howell

Clair J. Debnick

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Leonard M. Crimes, Jr. being necessarily absent, did not participate.