

Decision No. 92574 January 6, 1981.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on )  
the Commission's own motion into the )  
requirements for bilingual services to )  
be provided to non-English speaking )  
persons by telephone utilities in the )  
State of California. )

Case No. 9976  
(Instituted September 23, 1975)

INTERIM OPINION

On November 7, 1980, a coalition representing certain interested parties (hereinafter referred to as the Hispanic-Chinese Coalition) in the above-docketed proceeding filed a pleading entitled "Motions to A) Integrate and Coordinate Bilingual and Employment Proceedings with PT&T Rate Proceedings, and B) to Secure Data on Bilingual Revenue."

The moving parties request the Commission to take three different and separate actions in the context of Case No. 9976. These actions are: (1) integration of Case No. 9976, the bilingual telephone case, with Application No. 59849, the Pacific Telephone and Telegraph (Pacific) rate increase application; (2) a Commission order directing Pacific to provide specified discovery and reports; and (3) a Commission order directing Pacific to release three Pacific employees for a maximum of 30 workdays to work for the Hispanic-Chinese Coalition.

Both Pacific and the Commission staff counsel filed responsive pleadings urging that the motions be denied in toto. We will individually address the merits of the three requests contained in the Hispanic-Chinese Coalition's motion.

I. The Motion to Integrate Case No. 9976  
with Application No. 59849

By this motion the Hispanic-Chinese Coalition requests that the rate proceedings currently in progress remain open for

evidentiary hearings until thirty days after a final decision is rendered in Case No. 9976. The sole rationale offered in support of such a radical departure from normal Commission practice and procedure is the unsupported fear of the Hispanic-Chinese Coalition that it will be "finessed out" of its day in Court in the absence of integration of the two referenced proceedings. The pleading contains no further elaboration of the manner in which the Hispanic-Chinese Coalition will be prejudiced by any failure to consolidate the two cases. ✓

Simply stated, this is insufficient justification to warrant delay of Pacific's rate proceeding, As well as an interest in the resolution of issues respecting bilingual telephone service, the public has a significant interest in the timely disposition of Pacific's rate case. We feel that the public interest is best served by prompt disposition of the individual proceedings. ✓  
Application No. 59849 was filed on August 1, 1980. Prehearing conferences were held on August 8, 15 and 29, 1980. Evidentiary hearings began on November 3, 1980, and are scheduled to continue through February, 1981. Under the regulatory lag program, the Commission must issue its decision by August 1, 1981. The bilingual telephone case has been divided into two phases:  
(1) the telephone company's compliance with previous Commission orders, and (2) possible future improvements in bilingual telephone service. The first phase of the case is complete. The second phase is scheduled to commence with public witness hearings in January, 1981.

Our commitment to an expeditious resolution of the issues presented in both the rate proceeding and the bilingual telephone case is underscored by the above-referenced schedule. ✓

It is our considered opinion that individual proceedings rather than integration and consolidation of the cases, are the best vehicle to meet that commitment.

II. The Motion for a Commission Order Directing Pacific to Provide Specified Discovery and Reports

The Hispanic-Chinese Coalition requests the Commission to order Pacific to provide the following information:

1. The potential Hispanic revenue market,
2. Potential loss of revenue from failure to tap the Hispanic market such as is set forth in the Los Padrinos Study of Phone Centers, and
3. The substantial unmet needs of the Hispanic community as it is affected by Sections 451 and 453, as well as the potential applicability of the Governmental Bilingual Services Act.
4. Overbilling and potential overbilling among Spanish and Chinese-speaking subscribers due to language barriers.
5. An appropriate rebate to Spanish and Chinese-speaking subscribers due to the loss of bilingual services.

It is alleged that in the absence of such information the Commission cannot make a well-informed decision.

Pacific, in its responsive pleading, represents that it is currently preparing a group of studies entitled "Hispanic Market Segmentation" which are scheduled for completion in January, 1981. Pacific expects this series of studies to present a complete and comprehensive picture of the Hispanic market and its potential for revenue. Pacific is apparently endeavoring to comply with the first part of the Hispanic-Chinese Coalition's data request, and we will await presentation of the promised studies to determine if they provide adequate information.

With respect to the remainder of the information sought by the Hispanic-Chinese Coalition, the requests are flawed since they are based on premises to which Pacific does not subscribe. As staff counsel has noted, it would be unfair to require Pacific to accept as "true" premises and assumptions which the Hispanic-Chinese Coalition embraces but which have yet to be proven by evidence. More realistically, no useful "information" could be expected from Pacific regarding allegations which it does not hold to be true. This is particularly true with respect to requests for studies concerning overbilling of Hispanic-Chinese customers and rebates for such customers due to the loss of bilingual services. Since Pacific does not believe there is an overbilling problem nor does it believe rebates are appropriate, it is unlikely that any useful information could be gleaned from these requests.

Pacific maintains that it is well-aware of the Hispanic market and will continue its efforts to tap the potential market. Further, Pacific has agreed to provide studies which will demonstrate what can be done to increase revenue from the Hispanic market and how much revenue can be anticipated. With respect to alleged "substantial unmet needs of the Hispanic community," Pacific has commissioned a study, due in January, 1981, which is designed to obtain information about the experiences which Hispanic customers have in using Pacific's services and facilities, to obtain ratings of telephone service, and to learn of Hispanic customers' interest in and willingness to pay for additional services and/or items of equipment.

Pacific has indicated its readiness to present studies respecting relevant issues in Case No. 9976. We will not order them to provide data which will be of little or no probative

value to the Commission. Rather, we will await presentation of the promised studies and make an appropriate determination, at that time, of the adequacy of the proffered information.

III. The Motion for Commission Order Directing Pacific to Release Three Pacific Employees to Work for the Hispanic-Chinese Coalition in Gathering Information

The Hispanic-Chinese Coalition moves to release three Hispanic Pacific personnel to work for the coalition for a maximum of 30 workdays in developing information on the "Hispanic market, Hispanic and Chinese needs, and the operation of Pacific Telephone as it relates to untapped and substantial revenue bases from the Hispanic and Chinese markets."

We agree with the position of staff counsel in this matter. It is inappropriate to require a party to lend its employees to another party, while continuing to pay them, so that a position adverse to the first party may be developed. There is an inherent and unescapable conflict of interest between the duties of employees towards Pacific and their actions in developing contrary positions.

This ruling does not inhibit the Hispanic-Chinese Coalition's ability to develop information on the issues of this case. They may utilize discovery under the Commission's rules to assist them in gathering information. The Hispanic-Chinese Coalition may depose Pacific personnel, and it may make formal requests for production of documents. They have the right to subpoena witnesses at hearings and to cross-examine other witnesses. Further, the coalition may work with Pacific employees during nonwork hours in order to develop its evidence.

Findings of Fact

1. Resolution of Case No. 9976 and Application No. 59849 will be expedited by their treatment in individual rather than consolidated proceedings.

2. Pacific will provide relevant information in Case No. 9976 respecting the potential Hispanic revenue market, as well as the telephone service needs of Hispanic-speaking customers.

3. Requiring Pacific to lend its employees, at full pay, to aid a party in developing positions adverse to Pacific involves an inherent conflict of interest.

Conclusions of Law

1. Integration and consolidation of Case No. 9976 with Application No. 59849 is not in the public interest

2. It is reasonable for Pacific to provide information regarding the potential Hispanic revenue market.

3. An order directing Pacific to release three employees, for a maximum of 30 days, to work for the Hispanic-Chinese Coalition in gathering information is not in the public interest.

INTERIM ORDER

IT IS ORDERED that the motions of the Hispanic-Chinese Coalition is denied. *dl*

The effective date of this order is the date hereof.

Dated JAN 6 1981, at San Francisco, California.

*John E. Burns*  
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President  
*Michael J. Doyle*  
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*Samuel M. Spang*  
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Commissioners