

ORIGINAL

Decision 93592 OCT 6 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension)
and Investigation on the)
Commission's own motion of)
Proposed Access Charge Tariff)
filed under Advice Letter)
No. 13822 by The Pacific)
Telephone and Telegraph Company.)

(I&S)
Case 10948
(Filed February 18, 1981;
extended May 19, 1981)

James S. Hamasaki, Attorney at Law, for
The Pacific Telephone and Telegraph Company,
respondent.

Jose E. Guzman, Jr. and Richard S. Kopf, Attorneys
at Law, for Southern Pacific Communications
Company; and Randall B. Lowe, Attorney at Law
(New York), for United States Transmission
Systems, Inc.; protestants.

George P. Agnost, City Attorney, by Leonard L.
Snaider, Attorney at Law, for City and County
of San Francisco; George Y. Tice, Director,
by James M. Nelson, for Los Angeles County
Department of Communications; and Ira Reiner,
City Attorney, by Ed Perez, Deputy City
Attorney, for City of Los Angeles; interested
parties.

Richard Rosenberg, Attorney at Law, and Emily T.
Marks, for the Commission staff.

O P I N I O N

This proceeding arose out of the separations phase of
Application (A.) 55492. On September 25, 1979, the Commission concluded
that phase with Decision (D.) 90861. In it, the Commission found that
although private line customers originate and terminate calls
in the local exchange network, their rates do not reflect an
allocation of the costs of local exchange plant. The Commission

ordered The Pacific Telephone and Telegraph Company (Pacific): (1) to modify its separations practices so that exchange plant costs would be properly allocated to the interstate jurisdiction and to the intrastate toll category; (2) to report to the Commission on the effects of the revised allocation procedures; (3) to file a plan of reduced exchange rates reflecting the reduced exchange costs resulting from the revised allocation procedures and revised access charges; and (4) to file a plan of access charges for each type of private line terminating in a local exchange network.

By letter dated February 23, 1980, Pacific transmitted to the Commission its filing in compliance with D.90861. In the letter of April 3, 1980, the Commission rejected the compliance filing, and directed Pacific to make certain changes and to file the revised plan by June 2, 1980. The Commission later extended the filing date to August 1, 1980, and on that date Pacific filed its revised plan.

The Executive Director by letter of November 4, 1980 accepted the revised plan and directed Pacific to file tariffs within 90 days of, and to make them effective no later than one year from, the date of the letter. On January 30, 1981, Pacific filed its Advice Letter 13822 attaching the tariff sheets required to implement the access charge.

On February 18, 1981, the Commission suspended the tariffs filed with Advice Letter 13822 and began this proceeding to investigate their propriety and reasonableness. As reasons for this action, the Commission cited several protests to the tariffs and a question whether the tariffs may introduce charges to privately owned communications systems in a manner not contemplated by D.90861. The suspension was to terminate May 31, 1981, by the terms of the order; but on May 19, 1981, the Commission issued D.93047 extending the suspension period to November 30, 1981.^{1/}

^{1/} Since the rates, charges, and conditions were not to go into effect until November 3, 1981, the Commission has the discretion under Public Utilities Code § 455 to extend the suspension period for 120 days plus 6 months past that date.

A prehearing conference was held April 3, 1981. Evidence was received from Pacific, Southern Pacific Communications Company (SPCC), and the Communications Division (staff) during public hearings on June 11, 12, and 24 before Administrative Law Judge Robert T. Baer and the matter was submitted without oral argument or briefs.

Issues

The evidence presents but one issue and that is whether Pacific's access charge plan complies with the Commission's directives in D.90861. Pacific believes it does; staff and SPCC believe it does not. The resolution of this dispute turns upon the propriety of Pacific's assumption that private lines use the local exchange network an average of 650 minutes per month. We will now examine the evidence on this point.

Pacific's Evidence

One of Pacific's witnesses testified that its access charge has four rate elements, three of which are based on usage of local exchange plant, specifically the number of incoming and outgoing conversation minutes associated with private line calls that are directly or indirectly connected to local exchange plant. The witness explained how usage of local exchange plant enters into the calculation of the rate level for each of the elements by citing D.90861, Conclusion of Law 7:

"Because of difficulties in measuring private line minutes of use on the local exchange network, it is reasonable to permit Pacific to make sample studies of average usage for each type of private line and apply such averages to the development of factors for the allocation of exchange plant."
(D.90861, mimeo. p. 39.)

Pacific has not completed the usage studies contemplated by the Commission in D.90861 but has used as the basis for its single access charge, applicable to all private line services, what it terms

a "surrogate usage level". The witness explains how he developed this figure:

"Until such studies are complete, I am proposing a surrogate usage level of 650 minutes of conversation per private line service termination per month. The 650 minute figure is the number of incoming and outgoing minutes in the local exchange of the average single line measured business customer. The source of this data is the Subscriber Line Usage Study for the period April 1, 1978 through March 31, 1979.

"This usage level was selected as a reasonable starting point because the toll alternative services to which an access charge would apply are used predominately by business customers rather than residence customers. It is a reasonable expectation that the actual average minutes of use of exchange plant by toll alternative services is not less than the minutes of local calling of the average single line measured business customer." (Exhibit 13, pp. 12-13.)

On cross-examination of Pacific's witness, it became clear that the studies contemplated by the Commission would not be completed until the first quarter of 1982. Moreover, the studies now in progress are related only to interstate and intrastate foreign exchange services (FEX) and off-net access lines (ONAL) and local off-net access lines (LONAL) of common control switched arrangement (CCSA).^{2/} These are private line services directly connected to a local exchange and are known collectively as direct connects. Although Pacific's access charge would apply to certain indirectly connected private line services (the so-called indirect connects), no studies of these services have been initiated. Pacific is assessing the feasibility of gathering usage data from the indirect connects.

^{2/} CCSA is a system sold to large customers which involves switching devices at several locations with trunks interconnecting those locations.

Staff Evidence

The staff witness recommended:

"...that the Commission reject Pacific's Advice Letter No. 13822 and the tariff revisions contained therein and that the Commission direct Pacific to file a revised advice letter and associated tariff sheets establishing access charges and basic exchange rate reductions at such time as the level of usage of the local exchange network by private line services has been determined."

This recommendation was based upon Pacific's failure to comply with the intent of the Commission in D.90861. D.90861 required Pacific to develop a procedure to allocate local exchange costs to private line services consistent with the current separations procedures used to allocate exchange costs to toll services. In those procedures the relationship of toll minutes of use (weighted) to the total minutes of use of the local exchange is used to develop the allocation to toll service of the exchange plant and related expenses. Even though the Commission permitted Pacific to make studies of private line use of the local exchange network as a basis for its allocations, Pacific has not completed those studies and instead seeks to base its allocation and thus its access charge upon an assumed level of use. The staff witness testified that it is unreasonable to permit Pacific to assess an access charge, the purpose of which is to recover the costs of the local exchange network allocated on a usage basis, until the usage characteristics of private line services are determined.

SPCC Evidence

SPCC's witness testified that Pacific's assumption of 650 minutes of use per month of local exchange plant by private lines is arbitrary and does not reflect actual minutes of use of the local exchange network by the various private line services to which an access charge would apply. From his experience with private line sales and after reviewing usage studies, it was his opinion that many private line services use the local exchange more than and others less

than 650 minutes per month. He assumed that FEX services generate 2,400 minutes of use per month, that CCSAs that access the local exchange through FEX lines generate 4,200 minutes of use per month, and that certain indirect connects generate about 90 minutes of use per month. Using Pacific's method he then recalculated the access charge and showed that the charges for the three services would each vary significantly from the single access charge proposed by Pacific. He stated that the usage levels he assumed were consistent with his experience with the types of services he listed. He also attached to his testimony a copy of a letter from James N. McGowan, American Telephone and Telegraph Company's (AT&T) director for State Regulatory Matters, to John Kissel, chairman of National Association of Regulatory Utility Commissioners' staff subcommittee on separations. The letter, dated March 8, 1978, shows that AT&T recognizes that usage levels for various private line services vary greatly from Pacific's assumed 650 minutes of use per month. The letter reports preliminary results of an AT&T study of the amounts of private line traffic originating or terminating in the local exchange network for three types of inter-state private line services that access the exchange network, as follows:

1. FEX services generate an average of 80 conversation minutes per day of exchange network usage.
2. Traffic from CCSA that accesses the exchange network through FEX lines averages about 140 conversation minutes per day per FEX line.
3. Tandem tie trunk network (TTN) traffic that accesses the exchange network is about 3 minutes per day per trunk.

The SPCC witness multiplied each daily figure times 30 to obtain his assumed monthly usage figures for the purposes of his analysis.

Discussion

A reading of D.90861 shows that Pacific was to have made "sample studies of average usage for each type of private line and apply such averages to the development of factors for the allocation of exchange plant." (D.90861, Conclusion 7, p. 39; emphasis added.) The emphasized language demonstrates unequivocally that the Commission contemplated different studies of the various private line services, resulting in several average usage figures. The language of Ordering Paragraph 4, p. 42, moreover, requires Pacific to "prepare and file a plan of access charges to be applied to each type of private line terminating in a local exchange network..." (D.90861, p. 42; emphasis added.) Despite the clear language of D.90861, Pacific has presented one access charge applicable to all private line services, direct and indirect connects, and based upon studies not of private line usage but of business customer usage. We believe, as do the staff and SPCC, that Pacific's access charge is unreasonable and would, if authorized, result in subsidies of some private line services by others, as SPCC argues. We agree with the staff that Advice Letter 13822 should be rejected and that Pacific should be ordered to file a new advice letter when its private line usage studies are completed.

Staff and SPCC have argued that it is inappropriate to include indirect connects in Pacific's access charge plan. Since the following order will reject Advice Letter 13822, that point is moot. Whether or not Pacific is allowed to apply its access charge to indirect connects will depend at least in part upon the results of Pacific's studies and its showing by future advice letter or application.

Findings of Fact

1. Pacific based its access charge upon the assumption that private line usage of the local exchange network was not less than the average minutes per month use of the local exchange network of measured business lines.

2. In D.90861 the Commission intended that Pacific should study the average usage of the local exchange network for each type of private line service and that it should make its allocations based upon those averages.

3. Pacific failed to follow the intentions of the Commission in preparing and filing its access charge plan and tariffs.

4. The access charge as proposed by Pacific would result in unreasonably high or low charges for some private line services, relative to the average use by those services of the local exchange network.

5. The proposed access charge, if authorized, would result in subsidies between private line services.

Conclusions of Law

1. The access charge is unreasonable.

2. Advice Letter 13822 should be rejected.

3. Pacific should be ordered to file a new advice letter or application when usage data for the various types of private lines are available.

4. A new advice letter or application should be filed no later than April 30, 1982. ✓

O R D E R

IT IS ORDERED that:

1. Advice Letter 13822 and the accompanying tariff pages are rejected.

2. The Pacific Telephone and Telegraph Company (Pacific) shall file a new advice letter or application proposing access charges for private line services, and concurrent basic exchange rate reduction, when usage data for the various types of private lines are available. ✓

3. Pacific shall provide status reports on the progress of this program and review the status with the Communications Division staff monthly. The first report shall be made on November 6, 1981 and monthly thereafter.

4. The new advice letter or application shall be filed on or before April 30, 1982 and shall be served on all parties to this proceeding.

This order becomes effective 30 days from today.

Dated October 6, 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

I certify that this decision was approved by the above Commissioners
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