

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Special Meeting

January 24, 1973
5:00 P.M.

Council Chambers, City Hall

Mayor Butler announced that this was a called meeting for further discussion, and a hearing on the application of Southwestern Bell Telephone Company for a rate increase. Quite a bit of information from different citizens had been heard; and this time he called for a report from the Telephone Rate Committee, who on Council's instructions, had held another meeting since the last one.

Mr. David Shanks, Chairman, read the report citing that the Committee had conducted an additional hearing and had held further deliberations striving to arrive at a recommendation regarding the Telephone Company request for 21.6% and \$3.9 million raise. The Committee urged the favorable consideration of the recommendations submitted on January 11.

Mr. Shanks listed the recommendations which were unanimously submitted:

1. Adoption of appropriate procedures by the City within the limits of its legal authority to monitor the Company's operations and to enforce service standards.
2. Prior City approval of tariffs for all the various kinds of services.
3. That the Telephone Company be required to submit reports at least annually, which would reflect all additions to and deductions from facilities, during the reporting period with the current fair market valuation thereof such reports to be in accordance with applicable laws of the State governing the procedures for establishing a fair market value, proper depreciation for rate purposes, and other appropriate computations.
4. In view of the variance in the value of the Company's property between the tax rolls and its claim for fair value rate base, considerations should be given to determining the method of evaluating the company's properties for ad valorem tax purposes.

The Committee had given consideration to all evidence presented regarding fair value rate base, fair rate of return, income and expenses. Based on the evidence, the Committee unanimously recommends the following:

1. That the company's fair value rate base be set at \$56.8 million.
2. That the Company be allowed a rate of return on such rate base of 7.25%.
3. That based on such fair value rate base and fair rate of return, the company be allowed an increase in its present rate structure.
4. Based on the evidence presented, the above findings and appropriate consideration of company revenues and expenses, the Committee recommends an increase of rates of 9.5%.

Councilmen reviewed and discussed the recommendation, including the items of which the City has jurisdiction, including the area within the Metropolitan Exchange, and those which it does not -- long distance calls and certain types of equipment.

Discussion covered the fair value rate base of \$56.8 million at a rate of return on this rate base of 7.25%; and on that rate base and return, the company should be allowed to increase its present rate structure.

Mr. Frank Denius, Attorney for Southwestern Bell Telephone Company commended the Committee and the Council in their approach, stating, however he did not agree with the results of the Rate Study Committee; nor did he take lightly filing a rate case for the first time in 13 years. He declared a 9.5% increase was not fair.

Mr. Denius read Section 6 of the Charter, Regulation of Rates, part of which provided no legal action to contest any rate fixed by Council until such franchise holder had filed a motion for rehearing with the Council, setting out its complaint against the rate charge. He pointed out it appeared the Company would have to file a motion for rehearing with the Council. In answer to Mayor Butler's inquiry, Mr. Denius stated he would not recommend the acceptance.

Mayor Pro Tem Love moved that the City Attorney be asked to draw up an ordinance reflecting a given increase to the Telephone Company which would incorporate specifically two things outside of the percentage increase, whatever that figure might be, one of which has to do with the distribution within the framework of the Telephone Company's to the business sector as opposed to the residential sector that there would be a greater increase to the business sector than there would be to the residential, (amount to be determined later). He suggested 2/3 to 1/3; that the City have total responsibility to regulate all telephone expenses, all equipment, all services to that it would be impossible for the Telephone Company or any of its representatives to ask this body for an increase without that type of proof, and that a 14.95% increase be recommended.

Councilman Nichols asked that the submission of certified reports be required annually; those reports to be filed with the Internal Revenue; that the fair value rate base be established, that the profit be set out; the fair value of return on the rate base; in that any ordinance having to do with an increase should incorporate all of this information where the Council could have it from now on as a beginning point; also what was set up on the tax rolls should be set up in an ordinance which establishes once and for all and would continue to establish annually these facts that are necessary to find a fair rate of return.

Councilman Lebermann offered an addition that the fair value be established at a 50-50, and that the percentage of replacement cost be established this to be included in the ordinance and be carried forward annually. Mayor Pro Tem Love accepted this addition and included this also as a part of his motion.

Councilman Nichols wanted all of this information set out in an ordinance which would be carried forward annually with a certified report of some description that gives the Council this information annually.

In discussion, Mayor Pro Tem Love stated in contrast, the Telephone Company's request was 21.7%, the rate analyst's recommendation was 18%, and his motion was 14.95% on gross revenue. Councilman Dryden seconded the motion.

Substitute Motion

Councilman Friedman offered a substitute motion, and moved that in line with the Committee's recommendations, that the Council set the fair value rate base at \$56.8 million; that the Company be allowed a rate of return of 7.25 percent; that the Council include those comments by Councilman Nichols about the regulation of all within the City jurisdictions curtailments, and that an increase in the rates be permitted of 9.5 percent, including Councilman Lebermann's suggestion of 50-50; and that if the Council is going to give a rate increase, he preferred to go along with the Committee's recommendation plus the other material from Councilmen Nichols and Lebermann on structuring the future rate. Councilman Handcox seconded the motion.

Discussion was held on Councilman Nichols' suggestion that the motion include "for immediate acceptance of the Telephone Company" or that the rate increase would not be effective until accepted. Councilman Lebermann suggested that a time limit be established.

Mayor Butler opened the hearing to those in the audience who wished to be heard. Mrs. Edith Buss was concerned over the Telephone Company's delay in moving utility lines when the City decides to widen a street.

Mr. Ed Wendler, President of the Austin Reform Council interested in local politics, stated after discussing the application, the group could not determine by figures submitted whether the company was entitled to an increase or not. Mr. Wendler was General Counsel and Director of Research for the Texas Municipal League and he suggested that the Council should go on record as wishing to create a state utilities commission.

Mr. Michael Eakin, member of the City Council Lobby Group for the University of Texas alleged discrepancies and made observations about lack of information.

Mr. Charles Fitzsimmons and Mr. Lloyd Doggett made technical comments as to aspects of a rate hearing.

Mrs. Decourcy Kelly, Chairman of Travis County Democratic Women, spoke on rates and suggested that the Council approve the Committee's original recommendation of 5.5%.

Mr. Bob Lusk likewise discussed rates and the technical aspects of rate making.

Mr. Denius, in conclusion, brought out certain facts to the Council and to the public, concerning the Southwestern Bell Telephone in its rate application.

Roll call was held on the Substitute Motion by Councilman Friedman, seconded by Councilman Handcox. The motion, carried by the following vote:

Ayes: Councilmen Nichols, Lebermann, Friedman, Handcox, Mayor Butler
Noes: Councilman Dryden, Mayor Pro Tem Love

Councilman Friedman stated his motion brought the best of all four suggestions, including the work of the Rate Study Committee.

Mayor Butler stated the ordinance, if it passed all three readings, would be effective on February 16th.

Mr. Denius stated it would be necessary for rehearing before this Council before they could appeal to the Court.

Mr. Doggett commended the Citizens Committee, particularly the City Attorney and the Chairman of the Committee, Mr. Shanks, stating they deserve a great commendation. Councilman Nichols' suggestion of getting this data each year would be a substantial advance. They had received responses to additional questions they had asked the Company, but they still do not know what happened between 1959 and 1970. In conclusion, he suggested that the Council weigh heavily in considering both proposals and that the suggestion of Dr. Hooper of the 5.5% increase be so also.

Mrs. Kelly stated the first four recommendations of the Committee were very good, but she questioned the 7.25% rate.

Mr. Lusk stated the Company was emphasizing the increased costs and inflation during the past 13 years on numerous items. He pointed out radios, photographic equipment, etc., were 10% less than they were in 1959. Mr. Denius answered on that reply that these were foreign made items. Mr. Lusk discussed hypothetical formulas. Mr. Denius brought out facts as to the hypothetical

questions and allegations, and made conclusive statements on the various items discussed.

ADJOURNMENT

The Council then adjourned.

APPROVED:

Ray Butler
Mayor

ATTEST:

Graeme Monroe
City Clerk