

ORIGINAL

In the matter of the application of the Bear Valley Utility Company for authority to sell two hundred shares of its capital stock, and for a certificate of public convenience and necessity for the acquiring of a long distance telephone line, rights of way, necessary lands and offices, and the construction of telephone lines throughout the vicinity known as Big Bear Valley, California.

Application No. 7495.

Mc Kabb & Hodge, by R. E. Hodge, for applicant.
James Erwin, in propria persona.
J. L. Adams, for The Pacific Telephone and Telegraph Company.
Dad Skinner, for Pine Knot Company, protestants.

BY THE COMMISSION:

O P I N I O N

The Bear Valley Utility Company, petitioner herein is a corporation organized under the laws of this State for the purpose, among other things, of acquiring, constructing, owning and operating telephone lines and necessary appliances and to conduct a general telephone business in portions of San Bernardino County, and, in particular, in the territory known as Big Bear Valley. In this application the petitioner is seeking a certificate of public convenience and necessity authorizing it to exercise the rights and privileges conferred upon it by the Board of Supervisors of San Bernardino County, on Nov. 21, 1921, in Ordinance No. 198, entitled "An Ordinance granting a franchise to the Bear Valley Utility Company, a corporation, for a period of fifty years, to erect, construct, operate and maintain an electric pole, tower and wire system for the purpose of the transmission of telephone messages upon and along the highways of the County of San Bernardino and outside

of any incorporated city or town." It is also seeking an order of the Commission, authorizing it to issue and sell two hundred shares of its common capital stock for the purpose of acquiring a privately owned telephone line extending from Big Bear Valley to Highland and for the purpose of constructing and establishing a telephone exchange and telephone lines and other necessary telephone equipment in Big Bear Valley, San Bernardino County, California.

Public hearings in the matter were held at Pine Knot on June 1 and June 2, 1922, before Examiner Williams.

In its application, petitioner asks authority to issue and sell two hundred shares of its common capital stock at par value \$100.00 per share. At the hearing on June 1 it asked and was granted permission to amend its application to ask for authority to sell its stock at not less than \$85.00 per share. As shown in the previous proceeding before this Commission, Application No. 7005, it is of record that the Bear Valley Utility Company was organized on June 30, 1921, with an authorized capital stock of \$100,000.00, divided into 1,000 shares each.

In its Decision No. 9396, decided August 23, 1921, in the proceeding referred to above, the Commission authorized the issuance and sale by petitioner of 400 shares of its common capital stock at not less than 85% of par value, for the purpose of financing the proposed construction of an electric distributing system in Big Bear Valley, and for working capital. Of this amount it has issued and sold 243 shares. Of the amount obtained from the sale of this stock, it has expended \$19,479.60. The purposes for which it is desired to obtain funds by the sale of the 200 shares, for which application is now made, are the purchase of necessary equipment and material for the construction of telephone lines and the installation of central office and subscriber station apparatus, and, for the purchase of an existing line.

The application sets forth, in effect, that the territory within which it proposes to construct and operate its telephone system is a rapidly developing section of mountain, summer and winter camps; that the only telephone service now available is inadequate and inefficient being that which is provided by a line extending from the Pine Knot Hotel, at Pine Knot, to Redlands, owned and operated by the Pine Knot Corporation, and the privately owned line, which petitioner desires to acquire, extending between Big Bear Valley and Highland; that the public convenience and necessity require the establishment of a telephone exchange in Big Bear Valley, connecting the various camps, residences and business houses located therein; and that the purchase and operation of the line, which it desires to acquire, and the establishment of the proposed telephone exchange, will not interfere with the lines of any existing public utility of like character.

The monthly rates which petitioner desires to establish are set forth in the following table. The rates proposed for long distance telephone, toll and telegraph service are the same as those now in effect for similar service over the toll lines of The Pacific Telephone and Telegraph Company, with which lines, it is proposed to establish connection at San Bernardino for service to and from outside points.

Table of Proposed Rates

				<u>Business</u>	<u>Residence</u>
Individual One Party Line, well set, per month,				\$ 4.25	\$ 3.50
Two Party Line	"	"	"	3.75	3.00
Four Party Line	"	"	"	-	2.50
Eight Party Line	"	"	"	-	2.25
Suburban Ten Party Line	"	"	"	3.50	3.50
Extension Sets	"	"	"	1.00	1.00
Farmer Lines			per year	24.00	12.00

Primary Rate Area:

All rates except suburban line rates to apply inside a two miles radius from the central office - outside that area additional mileage

rates to apply as follows:

Mileage Rates.

For each quarter mile or fraction thereof:

One Party Line	\$0.50	per month
Two Party Line	.35	" "
Four Party Line	.25	" "
Eight Party Line	.15	" "

Auxiliary Service.

Desk Sets instead of wall sets	\$0.25	per month
Extra Bells	.50	" "
Additional Listings	.50	" "
Joint Users	1.50	" "

Farmer Line Service:

Farmer line service will be furnished at the rates listed above for not less than five subscribers per line. Under these rates subscribers will be required to furnish and maintain at their own expense the necessary lines from the subscribers' premises to the boundary of the primary rate area, complete telephone sets and substation protection. The company will furnish and maintain at its own expense the necessary connecting lines from the switchboard to the boundary of the primary rate area, and switchboard service, farmer line stations not to be located within the primary rate area.

Moves and Changes.

1. Charges for changes of location of telephone equipment or wiring on the subscriber's premises:
 - a. For moving a telephone set from one location to another on the same premises, a charge of \$3.00.
 - b. For moving any other equipment or wiring from one location to another on the same premises, a charge based on the cost of labor and material.
2. Charges for changes other than moves in wiring and equipment on the subscriber's premises made on the initiative of the subscriber.
 - a. For change in type or style of telephone set, a charge of \$3.00.

- b. For other changes in equipment or wiring, a charge based on the cost of labor and material.
3. The charges specified above not to apply if the changes or moves are required for the proper maintenance of the equipment or service.
4. The charges specified above not to apply if the changes are required because of a change in class or grade of service.

Petitioner has also submitted suggested rules and regulations covering the installation and operation of service, etc., which, in some respects, differ from the standard rules and regulations heretofore adopted by this Commission in its Decision No. 2879, governing these matters and which are generally in operation throughout this State. Since this Commission will require the petitioner to adopt rules and regulations in conformity with those provided for in that Decision, the rules and regulations submitted by petitioner need not be set forth in this Opinion.

The Pine Knot Company, referred to above as Pine Knot Corporation, protests the granting of a certificate of public convenience and necessity to petitioner on the grounds that it has, for about twelve years, operated a telephone line between Pine Knot in Big Bear Valley and the City of Redlands; that, except at intervals of interruption, due to storms or other causes beyond its control, it has furnished adequate service and that it is willing and ready to provide additional facilities if required to maintain adequate and efficient service. It gave notice also that the Southwestern Home Telephone Company of Redlands, with which system its line connects for toll service, desires to file a similar protest. By stipulation, it was agreed that eight days should be allowed the Southwestern Home Telephone Company, within which to file this protest and seven days allowed the petitioner to file its answer. The Southwestern Home Telephone Company, however, has failed to file its protest.

Protestant has heretofore filed with the Railroad Commission, its rates for toll service between the City of Redlands and points on its line, including Pine Knot, thus being of record with the Commission as a public utility, providing a toll service only within a portion of the territory involved in petitioner's application. It has not furnished, and does not now furnish, service in or between different points within Big Bear Valley. At Pine Knot it has one telephone operated as a toll station on the line extending to Redlands. The private line which petitioner proposes to purchase and operate as a toll line, connecting Big Bear Valley with the toll lines of The Pacific Telephone and Telegraph Company, was originally constructed for private use but has been permitted by its owners to be used by the public without the payment of toll charges for its use. It has been in operation, except during interruptions due chiefly to weather conditions, for approximately eight or ten years. The only telephones connecting with it in Big Bear Valley are those maintained by its private owners, who are willing to transfer it to the petitioner.

The Commission has here before it a case wherein public convenience and necessity clearly require a telephone service, which, until now, when petitioner is willing, able and ready to provide it, neither the protestant nor the owners of the private line apparently have been able or have made an effort to provide. In so far as an encroachment upon, or interference with, the use by the public of protestant's toll line to Redlands is concerned, it does not appear that the operation by petitioner of the existing private line which, under such operation would be subject to the payment of toll charges for its use, would detract any more, if indeed as much, from the use of protestant's line, as it would if its operation under private ownership were to be

continued.

The issue here appears rather to be in the establishment of service which petitioner proposes to place ^{at} the convenient disposal of residents and others throughout the Valley. This, protestant has heretofore shown no disposition to provide. Had it done so, in good faith, its right to extend service would be recognized and protected, but it is now urging a superior right to serve a territory which it has not already entered. The project in which petitioner desires to engage is not one in which there is any needless duplication of investment involved, hence there will be no economic waste to be borne through rates by the public. On the contrary, petitioner has already provided and is continuing to extend facilities for its electric distributing system which it is intended to use jointly in the construction of telephone lines, thus effecting a means of curtailing invested capital.

Applicant has obtained and presented a petition, signed by a substantial number of interested business men and other persons, endorsing the enterprise. A canvass for prospective telephone users, conducted by petitioner, indicates that there will be approximately ninety telephones awaiting installation within Big Bear Valley as soon as facilities can be provided. It is our opinion, therefore, that petitioner's application should be granted, subject, however, to the issuance by the Commission of its Supplemental Order, as hereinafter provided, with reference to the issuance and sale of petitioner's capital stock.

Petitioner is seeking authority to purchase the private line, heretofore referred to, known as the Talmadge Line, for the sum of \$4,700.00, payable in stock of the company. According to incomplete information now available, this line consists approximately of fifty or fifty-two miles of grounded iron circuit, constructed for the most part on trees but partly on redwood poles. For the purpose of apprais-

ing the property, to determine its reasonable value for purposes of sale and transfer, the Commission's engineers recently made a trip to Big Bear Valley, but, due to the fact that the section of country through which the line is constructed was ^{at} the time heavily covered with snow, they were unable to make an inventory and appraisal of the line. This it will be necessary to do before it can be determined whether the proposed purchase price is reasonable and before the Commission can pass upon the issuance of stock in payment for the same. This will be done as soon as circumstances will permit. In the meantime the Commission must withhold authority for the issuance of this portion of petitioner's stock. As to the balance of the proposed stock issue, since the purposes for which it is desired to make use of the proceeds obtained from the sale of stock are for proper capital purposes the Commission is willing to authorize its issuance at not less than 85% of par value.

In the matter of rates proposed by petitioner to be charged for the service involved, as set out in the preceding, except as to the rate for suburban residence service, and, except in certain other minor respects, there appears to be no objection to their present adoption. The proposed rates are somewhat higher than the rates ordinarily charged in exchanges of the size which petitioner estimates will be in operation when service first is established. Conditions in this locality are such that a rate higher than would ordinarily obtain, under more favorable conditions, would appear to be justified. If, after the proposed system has been in operation for a sufficient time to determine the ultimate reasonableness of the rates hereinafter authorized, it might appear that these rates are excessive, they may then be modified by a subsequent filing, upon

The initiative of petitioner or upon the further order of the Railroad Commission. In order to conform more nearly with the rates proposed for other classes of service, the rate for suburban residence service should not exceed \$3.00 per month. Under the circumstances, we are willing that the rates herein proposed and as modified in this suggestion be made effective upon the establishment of service.

The order, contained in the Commission's Decision No. 9396, Application No. 7005, heretofore referred to, authorized applicant to issue and sell, on or before February 28, 1922, at not less than 85% of par value, 400 shares of its common capital stock. It has since come to the notice of the Commission that 85 shares of the stock therein authorized to be issued and sold have been pledged to the San Bernardino National Bank as security for a loan aggregating \$8,500.00, issued upon the notes of three individuals.

The authority to issue and sell stock, above referred to, does not permit the Bear Valley Utility Company to hypothecate any of its stock. This matter having been called to the attention of petitioner, it states that this amount of stock was not pledged by it as security but that, so far as it is concerned, the stock has actually been sold and is no longer the property of the utility. This is not a matter of direct importance in the present proceeding, but the Commission suggests that if this amount of stock has actually been sold by the utility, it be issued in the name of and sold to the persons giving their notes to the San Bernardino National Bank, whereupon they, as individuals, may, if they so desire, transfer it to the Bank as security.

O R D E R

Application having been filed with the Railroad Commission by Bear Valley Utility Company for authority to sell 200 shares of its common capital stock and for an order granting a certificate declaring that public convenience and necessity require the acquisition, construction and operation of telephone lines, rights of way, necessary lands and offices in and throughout the vicinity known as Big Bear Valley, California; public hearings having been held and the matter being now ready for decision; and it appearing to the Railroad Commission that the application should be granted and that the money, property or labor to be procured, or paid for, by such issue of stock, is reasonably required for the purposes specified herein, and, that the expenditures for such purpose, or purposes, are not in whole or in part reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED, that the Bear Valley Utility Company be and it is hereby authorized to issue and sell ^{for cash} on or before November 1, 1922, at not less than 85% of par value, 153 shares (\$15,300.00) of its common capital stock.

The authority herein granted to issue stock is subject to the conditions following:

1. The proceeds from the sale of the stock herein authorized to be issued and sold shall be used by applicant to finance the proposed construction work and for working capital, as described in Exhibit No. 4, filed with this application.

The petitioner, Bear Valley Utility Company, shall not issue and sell any of its stock for the purpose of acquiring the telephone line known and designated in the preceding Opinion as the Talmadge line, until it shall have been determined by this Commission the reasonable amount of stock which petitioner may be permitted to issue and sell for said purpose and until this Commission shall have issued its supplemental order herein authorizing such issuance and sale.

2. Applicant shall keep such record of the issuance and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this Order.

The Railroad Commission hereby declares that public convenience and necessity require the exercise by the Bear Valley Utility Company of the rights and privileges granted by the Board of Supervisors of San Bernardino County on Nov. 21, 1921 in Ordinance No. 198, provided that the Bear Valley Utility Company, within thirty (30) days from the date of this Order, shall file with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that it, its successors and assigns will not claim before the Railroad Commission or any court or other public body, a value for such rights and privileges in excess of the amount actually paid to the County of San Bernardino as the consideration for the grant of such franchise, which amount shall be stated in this stipulation.

Before the schedule of rates herein authorized may become effective petitioner shall first have filed for the approval of the Railroad Commission its schedule of rates as set forth and modified in the Opinion preceding this Order, together with its rules and regulations governing the same.

Dated at San Francisco, California, this 22d day of June, 1922.

H. P. Condit
James W. Smith
Chas. D. Brown

H. P. Condit
Commissioners.