

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
The Pacific Telephone and Telegraph
Company for permission to install
telephone plant and to publish, file
and put into effect rates for ex-
change and interchange service at
Herndon, Fresno County, California.

Application No. 7820

C. J. Stephens, et al.,

Complainants,

vs.

The Pacific Telephone and Telegraph
Company, a corporation,

Defendant.

Case No. 1719.

F. L. Mc Nelly, for applicant and defendant.
Louis C. Levy, for complainant and protestants.
P. B. Thornton, for Fresno Irrigation District.

BY THE COMMISSION:

O P I N I O N

The Pacific Telephone and Telegraph Company, applicant and defendant respectively herein, conducts a general telephone business throughout California, including the territory involved in these proceedings, and elsewhere. Complainants and protestants are residents of Herndon and Fresno and adjacent territory.

In its application The Pacific Telephone and Telegraph Company asks the Commission to make its order granting it a certificate that the present public convenience and necessity require the establishment of a telephone exchange in Herndon and authorizing it to make effective a schedule of rates for local exchange service and long

distance toll rates for interchange service. In the complaint of Stephens, et al., the Commission is asked to deny the application of The Pacific Telephone and Telegraph Company for authority to establish its proposed local exchange in Herndon and to require it to provide service from its Fresno exchange to complainants. The two matters were accordingly consolidated for hearing and were heard before Examiner Satterwhite in Fresno on June 20th, 1922.

Complainants represent and applicant admits that there is now a limited number of persons located within the territory which applicant desires to serve from the proposed exchange in Herndon who are provided with service direct from the Fresno exchange. It is not the plan to withdraw this service but to connect any additional service which may be required hereafter within this particular territory with the proposed exchange. Testimony of witnesses for applicant is to the effect that by reason of the location of the town of Herndon with respect to distance from Fresno, where its nearest exchange is located, and by reason of the present and estimated future development of the town and the territory adjacent to it the demand for telephone service can best and most economically be met by the establishment of a local exchange located within the town; that the rates which it can offer and which it proposes in its application to establish will make the cost of service to subscribers within this territory very much less than the cost of similar service furnished from its Fresno exchange would be and that the cost of constructing and maintaining necessary lines from Fresno, if required to provide service from that exchange, would be excessive and unreasonable. Complainants urge however that there is not now sufficient development and that there is not now any indication that the future development of Herndon and vicinity will be such as to render a local service necessary or of any value whatever to the community; that their business, social and other community interests center in Fresno; that their need for telephone serv-

ice is chiefly with Fresno and that not only would the cost of service, with the payment of toll charges for calls between Herndon and Fresno as applicant proposes, be greater than the cost of service connecting directly with Fresno would be, but the service itself would be less satisfactory by reason of being less direct if applicant were permitted to establish its proposed local exchange in Herndon.

Present subscribers within this territory who are served directly from Fresno object to the discontinuance of Fresno service and the substitution of Herndon service. If a local exchange were established in Herndon and toll rates established for calls between Herndon and Fresno, these toll charges would apply to all calls between these subscribers, if their Fresno service were continued, and subscribers hereafter served from the Herndon exchange even though located within the same territory. The toll charges would not apply to calls between subscribers within this territory and connecting with the Fresno exchange or to calls between subscribers connecting with the Herndon exchange. Furthermore subscribers located in Fresno would be permitted, without payment of the toll charge, to call subscribers within the Herndon service area whose lines connect with Fresno, but for calls to all subscribers within the same area but whose lines may connect with the Herndon exchange they would be required to pay toll. If, notwithstanding these facts, it were shown that the public interest could best be served by the establishment of a local telephone exchange in Herndon, its establishment might properly be authorized and the conditions here referred to allowed to continue until in the natural course incident to development of the community and shifting of population the situation would eventually adjust itself. With the growth of communities such conditions are frequently unavoidable. In this case however applicant has failed to show and it does not appear to the Commission that the present public convenience and necessity require the establishment of the proposed local exchange. On the

contrary it does appear, as to the present needs of this community, that direct service to Fresno is a necessity.

In its filed answer to the complaint asking that defendant be compelled to provide service to complainants from its Fresno exchange, defendant avers, among other things, that the extension of the desired service would be unwarranted from a standpoint of cost. The testimony appears to sustain this contention and, under the circumstances, it would be unreasonable to ask that defendant bear the entire cost of extending service. Defendant has an established rule, made effective with the approval of the Commission, providing that any extension which is not to be made at its sole cost shall be covered by a written agreement between it and the person desiring the extension, defining the terms and conditions under which such extension is to be constructed, subject to appeal to the Commission. Complainants may demand the service which they are here seeking, subject to the rule here referred to and, in the event of failure to agree as to terms and conditions, the Commission will by further order define the terms and conditions under which the necessary extensions shall be constructed. Applicant's petition for an order declaring that public convenience and necessity require the establishment of a local exchange in Herndon must be denied.

O R D E R

Application having been filed by The Pacific Telephone and Telegraph Company with the Railroad Commission, asking that the Commission make its Order granting applicant a certificate that present public convenience and necessity require said applicant to begin the construction of a plant or system for the purpose of establishing a telephone exchange in the Town of Herndon, California, and to publish, file and place in effect, rates therefor; and complaint having been filed by C. J. Stephens, et al., vs. The Pacific Telephone and Telegraph

Company, asking that said application be denied and that said company be compelled to provide complainants with suburban service from its Fresno exchange, a public hearing having been held, the Commission being fully apprised and both matters being ready for decision,

The Railroad Commission Hereby Finds, that the present public convenience and necessity do not require the construction of said plant or system or the establishment of said telephone exchange in the Town of Herndon, California.

Basing its conclusions on the foregoing finding and on the other findings referred to in the Opinion preceding this Order,

IT IS HEREBY ORDERED that the application herein be and it is hereby denied.

AND IT IS HEREBY FURTHER ORDERED that Defendant, The Pacific Telephone and Telegraph Company shall, upon proper application therefor duly filed by the Complainants herein, proceed forthwith with the construction of such extension or extensions of its lines, plant or system as may be necessary to provide Complainants with telephone service to and from its Fresno exchange, subject however to Defendant's established rules and regulations governing the construction of extensions in such cases, on file with the Railroad Commission and in effect; provided, that in the event of Complainants and Defendant failing to agree upon the terms and conditions under which said extension or extensions are to be constructed the Commission will by supplemental order herein prescribe said terms and conditions.

Dated at San Francisco, California, this 17th day
of August, 1922.

Wm. H. Matthews
Charles H. Jones
J. J. [unclear]

Commissioners.