

# ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 1394

In the matter of the application of THE TULARE HOME TELEPHONE AND TELEGRAPH COMPANY, a corporation, for an order authorizing it to execute its promissory note or notes in the aggregate amount of \$9,000.00.

Application No. 1008.

George F. Gill for applicant.

GORDON, Commissioner.

## O P I N I O N

This is an application by The Tulare Home Telephone and Telegraph Company, owning and operating a telephone system as a public utility in Tulare and adjacent territory, in Tulare county, California, for authority to execute its one-day unsecured note or notes in the amount of \$9,000, which money is to be used for the purpose of making betterments and additions to its system.

The notes, as stated, are to be one-day notes. Section 52 of the Public Utilities Act, while providing in part that no public utility may issue stocks and stock certificates, bonds, notes or other evidences of indebtedness, payable at periods of more than 12 months after the date thereof, without having first secured from this Commission an order authorizing such issue, continues as follows:

"A public utility may issue notes, for proper purposes and not in violation of any provision of this act or any other act, payable at periods of not more than twelve months after the date of issuance of the same, without the consent of the commission, but no such note shall, in whole or in part, be refunded by any issue of stocks or stock certificates, or of bonds, notes of any term or character or any other evidence of indebtedness, without the consent of the commission."

In its General Order No. 35, approved July 30, 1913, this Commission made the following ruling with reference to demand notes:

"As a demand note is payable at any time when demand is made, which time may be more than twelve months after its execution, such note will be considered as being a note payable at a period of more than twelve months after the date of issuance of the same."

The reasoning which prompted this Commission to reach the foregoing conclusion with reference to a demand note does not apply to a one-day note. A one-day note is payable at the end of a specified time, which time is "not more than twelve months after the date of issuance of the same." Accordingly, a public utility may originally issue such note for proper purposes and not in violation of any provision of the Public Utilities Act, without having first secured the consent of this Commission. As it is evident that the purposes for which the proceeds of these notes are to be used in the present proceeding are proper, the Commission's consent to the issue of the notes is not necessary.

Testimony introduced at the hearing of the application in this proceeding raises some question as to whether applicant's rates are not higher than they should be. This matter, however, is not directly involved in the present proceeding and no decision will be reached thereon in this proceeding.

I submit herewith the following form of order:

O R D E R.

THE TULARE HOME TELEPHONE AND TELEGRAPH COMPANY having applied to this Commission, under the provisions of Section 52 of the Public Utilities Act, for an order authorizing it to execute its one-day promissory note or notes, in the aggregate sum of nine thousand dollars (\$9,000) for the purpose of securing funds for making additions and betterments to its telephone system, and a public hearing having been held on said application, and it appearing that said note or notes are to be issued for the definite period of one day, and that under the provisions of Section 52 of the Public Utilities Act this Commission's consent is not necessary to the issue of said notes:

IT IS HEREBY ORDERED that said application be and the same is hereby dismissed, without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 1st day of April, 1914.

H. J. Loveland

W. J. Gordon

W. M. Thelen

Edwin O. Egan

Commissioners.