

In the matter of the application of
 POMONA VALLEY TELEPHONE AND TELEGRAPH UNION
 for order authorizing and directing that
 suitable connections be made between the
 telephone lines of the said POMONA VALLEY
 TELEPHONE AND TELEGRAPH UNION and the
 PACIFIC TELEPHONE AND TELEGRAPH COMPANY
 for the purpose of transferring toll
 messages and that toll service be given
 all in accordance with a certain proposed
 agreement providing for the sale of the good
 will and business of the PACIFIC COMPANY to
 the POMONA COMPANY.

Application No. 111

OPINION

Edgerton, Commissioner.

This is an application by the Pomona Valley Telephone and Telegraph Union, joined in by the Pacific Telephone and Telegraph Company, for an order authorizing and directing that suitable connections be made between telephone lines of the Pomona Valley Telephone and Telegraph Union and the Pacific Telephone and Telegraph Company for the purpose of transferring toll messages between the exchange system of the former and the toll system of the latter, and that toll service be given in accordance with the terms of a proposed contract, copy of which was submitted with the application, and that the consent of the Commission be given to the execution of said contract between the Pomona Valley Telephone and Telegraph Union and the Pacific Telephone and Telegraph Company.

Under this agreement it is proposed by the Pacific Company to terminate the exchange service now given citizens of Pomona by it and to abandon this field to the Pomona Company.

It is the proposed action of the Pacific Company in abandoning this service now given by it that makes this matter the proper subject of an order as ordinarily this Commission will not pass upon contracts or arrangements between public utilities except in cases in which, under the Public Utilities Act, the Commission's approval is necessary. However, a withdrawal from a field now served by a

utility is a disposition of its plant or system, or a part thereof, within the meaning of the Public Utilities Act and can not be done without the sanction of the Commission.

The Pomona Valley Telephone and Telegraph Union is now rendering a long distance or toll service by virtue of contract relations with the United States Long Distance Telephone and Telegraph Company. This service is valuable to the public and it should not be disturbed.

Under the proposed consolidation the Pacific Telephone and Telegraph Company withdraws from the local field and the subscribers of that company will suffer no loss of service and no inconvenience, as they will have access to the exchange service of the Pomona Valley Telephone and Telegraph Union, and the subscribers to the consolidated exchange service will have access to two long distance systems instead of one, as in the past. To insure efficient service to the subscribers certain standards of service should be kept and maintained and these standards have been embodied in conditions attached to the granting of this order.

It appears that the consolidation of the exchanges in Pomona is for the public interest and the connection of this consolidated exchange with the long distance or toll service of the Pacific Telephone and Telegraph Company must work to the advantage of the subscribers, and therefore should be approved.

The contract filed with this application and for which the approval of this Commission is sought was probably prepared before the effective date of the Public Utilities Act, as it contains provisions which, if effective, would determine matters now properly within the jurisdiction of the Commission. Paragraph 4 of that proposed contract provides in effect that all telephone messages originating in the Pomona exchange shall be routed over the Pacific Company's line where the party called for has a telephone connection with such line, unless otherwise requested by the subscriber

or unless other routing be agreed to by the Pacific Company. Manifestly this is a question of service over which the Commission has control and the assent to this provision at this time would mean that in advance of any investigation we had given our approval to an exclusive routing over the Pacific Company. Paragraph 5 provides that a commission of 15 per cent of all tolls collected by the said Pomona Company on messages originating on the lines of the Pomona Company and going over the lines of the Pacific Company shall go to the Pomona Company and the remaining 85 per cent of such messages shall go to the Pacific Company. The Commission has not as yet determined whether this division of revenue as between the local exchange and the toll service is fair, and, with the understanding that the approval of this clause will not in the future bind the Commission in any consideration of this or kindred matters, I am not disposed to oppose the approval of this part of the contract. Paragraph 6 also provides for the exclusive connection between the Pacific and the Pomona Company and the United States Long Distance Company, and provides a penalty of \$50,000 to be paid by the Pomona Company in the event that it connects with any company other than those named. For the reasons heretofore stated the Commission should not give its assent to this clause of the contract. Paragraph 7 provides penalties for the failure to carry out the provisions in the clauses to which the assent of the Commission should not be given, and, therefore, paragraph 7 should not be approved. Paragraph 10 provides that the Pacific Company shall have the prior right of purchase of the Pomona plant upon terms equally as favorable as those offered to any other prospective purchaser. Considering the fact that it will be necessary at the time of any sale of the Pomona plant that this Commission give its consent thereto, based upon an investigation, it would be improper for the Commission to assent to the right of the Pacific Company to purchase as against any other proposed pur-

chaser at a time long in advance of any sale of this plant. Paragraph 11 contains an agreement by the Pacific Company that it will not enter and operate a telephone service in certain territory which is specifically described in this paragraph. The Power has been given the Railroad Commission to compel extension of service by a utility and the approval of this paragraph at this time by the Commission will be the approval of a declaration by a company that it would not extend its service into certain territory. Paragraph 16 provides for a termination of the contract upon thirty days notice by either party. This might be construed to mean that either party had the right upon thirty days notice to disconnect the long distance from the exchange service, and as the power to determine whether or not such disconnection shall be made is clearly vested in this Commission this paragraph is objectionable. The other paragraphs of this contract are without objection, and I recommend with the objectionable paragraphs as named eliminated, the contract be approved.

With the exception of those clauses in the contract to which I have called attention and which I recommend be not approved, I recommend that the application be granted.

The following form of order is herewith submitted:

O R D E R

Application having been made to the Railroad Commission of the State of California by the Pomona Valley Telephone and Telegraph Union for an order authorizing and directing that suitable connections be made between the telephone lines of the Pomona Valley Telephone and Telegraph Union and the Pacific Telephone and Telegraph Company for the purpose of transferring toll messages and that toll service be given in accordance with the terms and provisions of a form of contract filed with the application and that the consent of this Commission be given to the execution and

carrying into effect of such contract, under which contract it is proposed by the Pacific Company to terminate the exchange service now given citizens of Pomona by it and to abandon this field to the Pomona Company, and the Pacific Telephone and Telegraph Company having joined in said application;

And a hearing having been duly held and it appearing to the Commission that it would be to the public interest that said application with certain exceptions be granted;

IT IS HEREBY ORDERED by the Railroad Commission of the State of California as follows:

1. That permission is hereby given for the withdrawal of the Pacific Telephone and Telegraph Company from the local exchange field of Pomona, California, and for the interchange of service between the exchange system of the Pomona Valley Telephone and Telegraph Union and the toll system of the Pacific Telephone and Telegraph Company.

2. That the contract submitted with said application is hereby approved with the exception of paragraphs 4, 5, 6, 7, 10, 11 and 16, which said last mentioned paragraphs are expressly disapproved. With the elimination of said disapproved paragraphs consent is hereby given to the execution of said contract by the Pomona Valley Telephone and Telegraph Union and the Pacific Telephone and Telegraph Company.

This order is made subject to the following conditions:

(A) Long distance toll service shall be maintained and be at all times available to all present or future telephone subscribers who may be subscribers to the consolidated exchange area to be rendered in Pomona exchange, Pomona, California, so that any subscribers may have incoming service from or outgoing service to the toll system or systems of the Pacific Telephone and Telegraph Company and the United States Long distance Telephone and Telegraph Company. It shall be optional to the subscribers over which toll

system their messages shall be sent.

In particular both toll companies shall be on a parity in the matter of the physical conditions under which the interchange of service between their respective toll systems and the local exchange systems shall be effected. The physical connections between the long distance apparatus and equipment of both toll systems and the local plant shall be made in a manner suitable to carrying on of such long distance business to the advantage of the respective long distance operating companies.

All messages, both incoming and outgoing, over the respective long distance lines shall be handled with equal promptness by the operators of the local company. Both long distance companies shall have the right to designate the name by which the respective services shall be called, providing that such names do not violate the accepted significance of terms ordinarily used in defining such service.

If new or additional equipment or alteration in equipment is made by the local company, both long distance companies shall be given the information at the earliest possible date and both shall be permitted to do anything necessary to bring their respective equipment into proper relation with the proposed change, and no delays or hindrances shall be made by the local company in this connection with respect to either long distance company in the event that either shall find it necessary or advantageous to make changes in or additions to their own apparatus.

The rentals charged the subscribers of the Pomona exchange and the service given and facilities afforded by the Pomona Valley Telephone and Telegraph Union shall conform with the following requirements:

The minimum rate for the several classes of service now prevailing in the system of the Pomona Valley Telephone and

Telegraph Union, and the maximum radius of service under the said several rates now existing in the said system, shall in the several instances prevail as the minimum rate and the maximum radius until the further order of this Commission.

The average time for answering line signals shall not exceed 4.3 seconds.

The percentage of line signals answered in ten seconds or under shall not be less than 95%.

The average time for the disconnection of calls shall not exceed four seconds.

The percentage of disconnections within eight seconds shall not be less than 95%.

The calls not affected by operators' errors shall not be less than 98%.

The above service requirements shall apply under normal conditions, and at no times shall the ratio of operators to traffic handled be less than is necessary to the maintenance of these standards under normal conditions.

The proposed elimination of the exchange service rendered by the Pacific Telephone and Telegraph Company shall be completed within sixty days from the date of this order, and the availability of both toll systems to the subscribers of the consolidated exchange service shall be made available previous to such withdrawal from the local field by the Pacific Telephone and Telegraph Company.

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 30th day of July, 1912.

H. L. Loveland
Mark Thelen
Edwin O. Edgerton
Commissioners