

Decision No.           **ORIGINAL**

Decision No. 2029

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application )  
of the Whittier Home Telephone & )  
Telegraph Company for an order )     Application No. 1334  
authorizing the extension of ser- )  
vice. )

A. Wardman for applicant.  
Arthur Wright for Covina Home Telephone  
and Telegraph Company.  
A. B. Shaw and John G. Mott for Pacific  
Telephone and Telegraph Company.

EDGERTON, Commissioner.

O P I N I O N

This is an application by Whittier Home Telephone and Telegraph Company for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise heretofore granted by the County of Los Angeles for the installation and operation of a telephone system in territory in Los Angeles County which is known as North Whittier Heights, Montebello and Protrero Heights.

As respects the North Whittier Heights territory, Covina Home Telephone and Telegraph Company objects to the granting of the application, and as to the Montebello territory Pacific Telephone and Telegraph Company objects.

North Whittier Heights is a tract of land recently cut up into lots and is located about three miles from the town of Whittier, and about a mile and one-half from the town of Puente.

Covina Home Telephone and Telegraph Company has extended its lines to Puente and is ready and willing to serve with telephone service the territory here involved. It strenuously

objects to Whittier Home Telephone and Telegraph Company coming into this territory.

Whittier Home Telephone and Telegraph Company operates principally in and about the town of Whittier and it proposes to extend its lines into this new territory, and claims that it will satisfy a pronounced demand for service if it be allowed to do this.

There is not here involved the question of whether an invading company shall be allowed to enter the territory of another, thus duplicating an existing telephone system, but rather we have presented rival claims of two companies to a given territory, neither of which have really entered this territory with service.

It is true that the Covina Company has extended its lines to the town of Puente, a mile and one-half from this tract, and is anxious and willing to get customers in this tract, but it cannot be said that it now has a plant installed and is serving this territory.

There are not over 25 possible consumers located in the disputed territory, but the evidence shows that this tract has been promoted largely through the efforts of residents of Whittier and there seems to be a very active sentiment on the part of the Whittier people in favor of the Whittier Company being allowed to enter this territory.

There was considerable evidence and much argument as to whether this tract was really economically and in a business sense connected with Whittier, Covina or Puente and one of the questions that the Commission was asked to decide was which of these towns was topographically most connected with this tract.

The Covina Company urges upon our attention an order heretofore made by the Commission authorizing it to issue stocks and bonds for the purpose of building a plant in Puente, the authorization providing for the expenditure of \$10,000 for such plant. This plant has since been built and we are asked to

refuse the Whittier Company permission to come into the tract a mile and a half from the town of Puente, as the Commission has by its authorization encouraged the Covina Company to make the above expenditure, and in effect this company has been led to believe that it will be protected in serving this territory.

This latter contention may be disposed of at once, as even conceding that the Commission's action in permitting the issuance of stocks and bonds can be considered an indication of the Commission's willingness to protect the company in serving a given community, still the authorization as to the expenditure in Puente cannot be held to indicate a willingness to protect this company in serving an unlimited or indefinite territory. Coupled with this is the fact that the Covina Company has not actually extended into this tract.

It is conceded that the service offered this territory by the Covina and the Whittier Companies is different, at least in this respect, that the Whittier Company offers a service for a local rate to the town of Whittier. This, of course, is not done by the Covina Company, for if the Covina Company's service is used, Whittier could only be reached through a long distance service which would involve an additional rate.

The Covina Company urges that even though this service to Whittier at local rates is offered, the offer is economically unsound, and that unless telephone companies in Southern California are checked in their present course of providing telephone service over long distance at local rates, bankruptcy will result, or at least serious financial difficulties. We are further urged to consider that the Commission ought to lay down some rule or standard upon which to base a distinction between long distance and local service so that for a given distance long distance service should be provided with a proper rate therefor, and for other given distances local service should be provided, thus drawing a proper distinction between long distance and local service.

Before any rules could be laid down for this purpose, however, a very thorough inquiry would have to be made and there has not been sufficient evidence offered in this case upon which to act in this very important matter of distinguishing between long distance and local service.

If this could be done at this time, I believe much difficulty would be avoided and a more equitable spreading of the burden of paying for telephone service would be brought about at once. But it must not be overlooked that we are here confronted with an offer from a responsible telephone company to give local service at local rates to this territory, and it cannot be concluded from the evidence in this case that the rates here proposed are of necessity unremunerative, and that the present consumers would have to bear an undue burden in order to support this new service.

Really the objection to the granting of this application must be based on the belief that the extension of this local Whittier service to this territory will result in a loss of prospective long distance tolls. Because if the Whittier Company is kept out and the Covina Company covers this territory with its service the subscribers in this tract will have to use the long distance in order to reach Whittier.

I am not impressed with the contention that the difference between either the service or rates of local and long distance telephoning will determine whether Whittier, Covina or Puente is the city most closely tied to this community in a business way. Surely residents of this tract desiring to maintain business connections with Whittier will do so, regardless of a comparatively slight increase in telephone toll. The difference between long distance and local rates for business communications between Whittier and this tract will not be sufficient to direct the stream of business. There are so many other potent and influential factors influencing the course of this business that this element would be inconsiderable.

I believe, therefore, that where the Whittier Company offers to enter this territory not now actually occupied by any other telephone company and to produce to subscribers there a service connected with the Whittier exchange at the local rates that it should be allowed to do so, and, of course, it would follow that if the Covina Company can find subscribers of this same tract willing to take its service connected directly with the towns of Puente and Covina that it also should be allowed to serve this territory.

It must be understood that what has heretofore been said does not in any way conflict with the doctrine heretofore laid down by this Commission that where a public utility company is properly serving a given territory at reasonable rates, another company offering a like service will not be allowed to enter and compete. The distinction here made is that the service offered is a different service at lower rates than that which is offered by the Covina Company, and furthermore, it must be remembered that the Covina Company does not now actually serve this territory.

Applicant is now serving a part of the town of Montebello, but it has not had a franchise permitting it so to do.

It has now obtained such a franchise and we are asked to authorize the exercise of the rights and privileges thereunder. Pacific Telephone and Telegraph Company objects to applicant being allowed to extend its service to new subscribers or new territory within the town of Montebello, in other words, to increase its business in this territory. Pacific Telephone and Telegraph Company now serves the major portion of this town with its telephone service, applicant only having a few phones in use. Applicant was willing that its business be confined to present subscribers and it was stated that it was not its intention to compete with Pacific Telephone and Telegraph Company in the town of Montebello, and that its principal purpose was to legalize its present business in that town by obtaining the franchise and the permission of this Commission to exercise rights and privileges thereunder.

I recommend that this application be granted with the proviso that as to the town of Montebello the rights and privileges under the franchise obtained by applicant from the County of Los Angeles shall be limited to the present business being done by applicant in said town.

Herewith a form of order:

O R D E R

Application having been made by Whittier Home Telephone and Telegraph Company for a certificate of public convenience and necessity, and a public hearing having been held, and it appearing to the Commission that said application should be granted under the conditions hereinafter set out,

IT IS HEREBY ORDERED AND DECLARED by the Railroad Commission of the State of California that public convenience and necessity require and will require the exercise of rights and privileges by Whittier Home Telephone and Telegraph Company under

