

Decision No. _____

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

J. O. McIntire, et al.,
Complainants,

Vs.

The Pacific Telephone and Tele-
graph Company, a corporation,

Defendant.

Case No. 1074.

Decision No. 4512

R. Justin Miller, for Complainants.
Sidney J. W. Sharp,

James T. Shaw, for Defendant.

GORDON, Commissioner.

OPINION

The complainants herein are farmers residing in a section of country located along the Kings River and between the city of Hanford in Kings County and the towns of Laton and Riverdale in Fresno County. The complaint alleges that during the month of March, 1917, or thereabouts, complainants proceeded, after certain representations had been made to them by defendant's representative at Hanford, with the preliminary organization of a co-operative association and subscribed a certain sum of money for the purpose of constructing telephone lines and connecting telephones at their various farms with defendant's telephone exchange in the city of Hanford. The money which was subscribed for this purpose has been deposited in a local bank. The complaint also recites that since these preliminary steps were taken connection at Hanford has been denied for the alleged reason that defendant has arbitrarily fixed certain boundary lines dividing the territory between Hanford, Laton and Riverdale, within

which boundaries it will not permit the connection of lines except from the exchange located within its prescribed territory. The Railroad Commission is, therefore, asked to issue its order requiring defendant, upon completion of the proposed lines, to permit the desired connection, and fixing rates to be charged for the service.

Defendant, The Pacific Telephone and Telegraph Company, has filed its formal answer making general denial of all of the principal allegations of the complaint.

A hearing was held by the Commission on July 6, 1917, at Hanford and the case submitted. Since the hearing, counsel for complainants has requested and been granted permission to file a brief of authorities. This brief and defendant's answering brief have since been filed and the matter is now ready for decision.

The Pacific Telephone and Telegraph Company operates a separate telephone exchange at each of these points, viz., Hanford, Laton, and Riverdale. Hanford is the county seat of Kings County. In point of population and commercial and other development, it is considerably in advance of Laton and Riverdale. On May 31st of this year, the total number of telephones connected with the Hanford telephone exchange was 1,474 as against 65 at Laton and 67 at Riverdale. Continuous service during the twenty-four hours of each day is maintained at the Hanford exchange, while at Laton and Riverdale service is maintained during only a portion of these hours. Prior to the filing of this complaint the hours of service at Laton were from 8.00 A. M. to 8.00 P. M., Sundays and holidays excepted. On Sundays and holidays, the office was closed. Since the complaint was filed, the hours have been extended from 7.00 A. M. to 10.00 P. M., Sundays and holidays excepted, when the office is open from 10.00 A. M. until noon and from 2.00 to 3.00 P. M. Testimony was offered by complainants to the effect that by reason of this difference in hours of service

and by reason of the fact that their business is transacted chiefly at Hanford, service at either Laton or Riverdale is not desirable. It is also alleged that operators at Laton do not promptly answer calls and that considerable time is lost in completing long distance calls, and that for these reasons also service at Laton is not satisfactory.

The Kings River, along which complainants' farms are located, extends in a southwesterly direction through the territory in which telephone service is provided by defendant from these three exchanges and forms a natural boundary for the territory lying between it and Hanford and the territory lying between it and Laton and Riverdale. Following the agricultural and commercial development of the entire section of country surrounding these communities, the defendant has established a telephone exchange at each of these places and has adopted the line of the river as a dividing line between the territory on either side. That portion of the territory north and west of the river is served partly from Laton and partly from Riverdale. That on the south and east is served from Hanford. All of defendant's lines and all farmer lines heretofore serving these communities have been laid out and constructed in accordance with this territorial division.

A number of the complainants are located in territory which is now served from the Hanford exchange. As to this number defendant offers no objection to the desired connection at Hanford. The majority, however, are located within territory which is now served from the Laton exchange. As to these the defendant is unwilling that connection be allowed except from Laton. Of the latter number, the one located nearest to Hanford is located approximately four miles nearer to Laton than he is to Hanford, while the farthest from Laton is located about three miles nearer to Laton than he is to Hanford. The remaining complainants, other than those whom defendant is willing

should connect at Hanford, are correspondingly nearer to Laton than to Hanford. Except as to the circumstances which complainants urge as justifying the demand for direct Hanford connection, viz., the hours of service and other objectionable service conditions at Laton, there is apparently no reasonable doubt as to the justice of the position which the defendant has taken. The necessity inherent in the telephone business of maintaining reasonable territorial boundaries, not only for the economical distribution and maintenance of facilities, but in the interest of the service itself is, we believe, so apparent that it will hardly be questioned.

The efficiency and adequacy of the service are matters of vital importance to the merits of this case. As to the hours during which service is available at Laton, it has been pointed out that since this complaint was filed with the Commission, defendant has extended the hours previously maintained. Defendant maintains, however, that neither the present income from this exchange nor the present necessity for continuous twenty-four hour service is sufficient to justify the expense which a continuous service would involve, but has given its assurance that it is ready and willing to meet all reasonable service requirements.

Since this case was heard, five additional telephones, lines for which were then under construction, have been connected with the Laton exchange. Defendant has also informed the Commission that there are 14 other parties, exclusive of complainants, who desire Laton service. These telephones, if connected, will bring the total connected at Laton up to 82 telephones. Considering only the amount of increased revenue which these additional telephones would produce, it is perhaps doubtful whether it would be sufficient to justify the additional expense for operators' salaries which the establishment of twenty-four hour service would entail. However, considering the

present income, together with this probable increase, it does not appear that an unreasonable burden would be added to the present expenses of operation if the defendant were required to provide twenty-four hour service.

If adequate and efficient service were made available at Laton, it seems entirely reasonable to assume, as to those of complainants who are located within the territory which defendant now serves from Laton, that all reasonable service requirements would be satisfied if Laton service were provided. The contention of complainants that direct connection at Hanford is necessary by reason of the fact that their business is transacted chiefly at that place does not appear to be fully justified, at least so far as those of complainants who are within the Laton exchange area are concerned. The defendant operates toll lines between Laton and Hanford and service to Hanford would be available by this means if their lines were connected at Laton. It is, of course, true that in that event they would be required to pay toll charges for this service, but in cases such as the one here under consideration, this is not a reasonable objection. If, however, efficient and adequate service is not available at Laton, it would be unreasonable to deny complainants the right to access to better service which is available elsewhere. While at other exchanges similar in number of subscribers to Laton exchange, other conditions may not be such as to justify the additional expense incident to extending the hours of service, and while for this reason the order herein should not be considered as establishing a precedent to be followed in other cases, provision will be made herein requiring the establishment of twenty-four hour service at Laton as soon as conditions will reasonably justify.

Regarding the general effect which the connection of complainants' lines at Hanford would have upon service and rates of the Hanford and Laton exchanges: There are now numerous farmer line sub-

scribers of Laton exchange who are located within that portion of territory situated north and west of the Kings River in which a majority of the complaints are located. With comparatively few exceptions, it is the universal practice among telephone companies to provide unlimited or so-called "free switching" between subscribers paying flat rates within the same exchange service area, and in most instances to charge tolls between subscribers of one exchange service area and those of another. In this case, if the desired connection at Hanford were to be made a discriminatory exception to this general practice would result, both with reference to unlimited switching and to the payment of toll charges. Unlimited "free switching" between subscribers connecting at Laton would continue, but for switching between complainants who are within the Laton exchange area and others within the same area but connected at Laton, tolls would be charged. For switching between complainants who are within the Laton exchange area and subscribers at Hanford, free switching would be had, but for switching between other stations within the same area and Hanford tolls would be charged. In like manner, dissimilar toll charges as between these particular complainants and others within the same area would result on all long distance calls to and from all points beyond Hanford and Laton.

Complainants' brief as filed refers, among other things, to three other matters heretofore decided by the Railroad Commission, as follows:

"George E. Small, et al., vs. The Pacific Telephone and Telegraph Company", Opinions and Orders of the Railroad Commission of California, Volume 7, Page 552;

"M. Farrell, et al., vs. The Pacific Telephone and Telegraph Company", Opinions and Orders of the Railroad Commission of California, Volume 3, Page 1182, and,

"Application of Deer Creek Rural Telephone Company to sell, and of The Pacific Telephone and Telegraph Company to purchase telephone property at Terra Bella", etc., Opinions and Orders of the Railroad Commission, Volume 4, Page 75.

The two latter cases cited, viz., Farrell vs. Pacific Tel. and Tel. Co., and Deer Creek Rural and Pacific Tel. and Tel. Co., are not in point since they presented issues entirely dissimilar to the issues which are presented in the present case. In the case of Small vs. Pacific Tel. and Tel. Co., the point directly at issue, viz., the establishment and maintenance of exchange service boundaries, was identical to that involved in the present case. In that case, the Commission recognized the reasonableness of maintaining such boundaries.

Under all of the circumstances hereinbefore referred to, the following order is recommended.

O R D E R

Formal complaint having been filed with the Railroad Commission by J. O. McIntire, et al., Complainants, vs. The Pacific Telephone and Telegraph Company, a corporation, Defendant, asking that the Railroad Commission issue its order requiring defendant to permit the connection at its Hanford exchange of certain farmer telephone lines which complainants desire to construct, and to provide telephone service thereby through said Hanford exchange, and further asking that the Railroad Commission fix the rates to be charged therefor, and a public hearing having been held, and the Commission being fully apprised in the premises, it is hereby ordered as follows:

(1) That as to those complainants who are located in that section of territory lying south and east of Kings River, within which territory telephone service is now provided by defendant from its Hanford telephone exchange, the defendant herein shall, upon the completion by said complainants of the necessary connecting lines and upon receipt from complainants of applications for service in the

form provided for in defendant's rules and regulations now on file with the Railroad Commission, provide the said complainants with connection and service through its Hanford telephone exchange.

(2) That defendant herein shall, within not less than fifteen days after there shall have been connected and receiving service through its Laton exchange not less than eighty subscribers' telephone stations, exclusive of extension telephones, establish and place in effect continuous twenty-four service during each day, Sundays and holidays not excepted, and shall employ a sufficient number of competent operators to maintain such continuous service.

(3) That within ten days immediately following the establishment of service in accordance with the provisions of paragraph number two of the order herein, the defendant herein shall file its written statement, satisfactory to the Railroad Commission, declaring that the service herein provided for has been established, whereupon the Commission will issue its supplemental order or orders dismissing this complaint as to the remaining complainants; provided that, in the event of the failure by defendant, after sixty days from the date of this order, except for good and sufficient cause shown, to connect at its Laton exchange the minimum number of subscribers' telephone stations hereinabove provided for, the Commission will issue such further order as to it may appear to be proper.

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 21st day of August, 1917.

Max Thelen
H. H. Stand
Elmer Gordon