

ORIGINAL

Decision No. 41606-

Decision No. \_\_\_\_\_

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Colorado River Telephone Company,  
a corporation,

Complainant,

Vs.

California Southern Railroad Company,  
a corporation, and,

Western Union Telegraph Company, a  
corporation,

Defendants.

Case No. 1005.

James O. Phillips, for the Complainant.

Willis I. Morrison, for California Southern  
Railroad Company, Defendant.

E. B. Harrington, for Western Union Telegraph  
Company, Defendant.

BY THE COMMISSION:

OPINION

Colorado River Telephone Company, complainant in this proceeding, operates a telephone system in the town of Blythe and adjacent territory in Riverside County, under authority granted by the Railroad Commission in its decision No. 3435, approved June 17, 1916, Opinions and Orders of the Railroad Commission, Vol. 10, Page 349. It also owns and operates a toll line for long distance telephone toll and telegraph purposes between the town of Blythe and Blythe Junction, purchased from Mrs. Jessie Brown under authority granted by the Railroad Commission in its decision No. 3434, approved June 17, 1916, Opinions and Orders of the Railroad Commission, Vol. 10, Page 348. Defendant, California Southern Railroad Company, operates a line of

railroad between Blythe and Blythe Junction. When constructing its railroad it also built a telephone line between these points for its own use in the operation of its railroad business.

One of the conditions of the Commission's order permitting Colorado River Telephone Company to operate a telephone system required that before it should operate a toll line for long distance telephone toll and telegraph purposes between Blythe and Blythe Junction, it should first purchase from Mrs. Jessie Brown, under conditions to be approved by the Commission, the toll line above referred to. Complainant has complied with this condition. Subsequent to the purchase of this line, California Southern Railroad Company has entered into an arrangement with defendant, Western Union Telegraph Company, under which the railroad company's agent at Blythe and the joint agent of California Southern and Santa Fe Railroads at Blythe Junction, acting also for the telegraph company, transmit Western Union Telegraph business by telephone over the telephone line of the railroad company between Blythe and Blythe Junction. Prior to this arrangement, telegraphic business to and from Blythe was interchanged between complainant's line and Western Union at Blythe Junction, but since this arrangement between defendants, telegraphic business has been diverted to the railroad company's line.

The complainant alleges in its complaint that its line between Blythe and Blythe Junction was purchased under the assurance that its business between these points would be protected, and that the telephone line of defendant, California Southern Railroad Company, was intended to be used only for the business of the railroad company in the operation of its railroad business. It alleges further that the diversion of telegraphic business to the railroad company's line will have the effect of rendering complainant's line of no value.

The Railroad Commission is, therefore, asked to issue its order requiring defendants to discontinue transferring telegraphic

messages to and from Blythe and Blythe Junction, that the telegraph company be required to deliver all telegraph messages received at Blythe Junction for Blythe to complainant, and that the railroad company discontinue receiving telephone or telegraphic messages at Blythe for all points except that it transmit messages for its own business over its own private line.

The complaint was heard at Blythe on March 16, 1917, before Examiner Harry A. Encell, and the case submitted with permission to file briefs. Counsel for complainant and defendants having subsequently waived permission as to filing of briefs, the matter is now ready for decision.

The defendants, relying upon the provisions of Section 50 of the Public Utilities Act, which prior to its amendment by chapter 120, Laws of 1917, effective July 27, 1917, did not include telegraph corporations among those corporations which are required to seek and obtain the authority of the Railroad Commission to make extensions into new territory, have taken the position that neither of them requires Commission authorization to carry on a telegraphic business in the territory which complainant purports to serve. Defendants admit that they are without authority to conduct a telephone business, but maintain that they are not conducting and do not at present intend to conduct any such business. The evidence shows and the fact is admitted that telegraph instruments and operators are not employed by defendants either at Blythe or at Blythe Junction for the transmission of telegraphic messages over the railroad company's line, but that all such messages are handled at both of these points entirely by telephone. It is quite apparent that this is a telephone line and is operated as such even though it may be used in handling telegraphic business. It appears that its use for this purpose was started subsequent to the time when the Commission authorized complainant to operate in this territory. It follows, therefore, that

defendant, California Southern Railroad Company is rendering telephone service to a portion of the public, to-wit, Western Union Telegraph Company <sup>and its patrons</sup> without authority of the Commission, in a portion of territory heretofore served by complainant.

It appears under the circumstances that complainant's petition that defendants, California Southern Railroad Company and Western Union Telegraph Company, be required to discontinue transferring telegraphic messages to and from Blythe at Blythe Junction, and that California Southern Railroad Company be required to discontinue receiving telegraphic messages at Blythe for transmission to other points, except that it be permitted to transmit messages relating to its own business over its own line, should be granted. As to complainant's prayer asking that Western Union Telegraph Company be required to deliver all telegraph messages received at Blythe Junction for Blythe to complainant, the telegraph company has stated that telegraph service at Blythe Junction is now available to complainant. The testimony shows, however, that defendants' agent at Blythe Junction was instructed, after the arrangement above referred to was entered into by defendants, to turn over all business received at this point for Blythe to California Southern Railroad Company. However, the discontinuance by the railroad company of handling this business should automatically take care of this matter, and an order to this effect does not for the present appear to be necessary.

#### O R D E R

Complaint having been filed with the Railroad Commission by Colorado River Telephone Company, a corporation, Complainant, vs. California Southern Railroad Company, a corporation, and Western Union Telegraph Company, a corporation, Defendants, asking that said defendants be required to discontinue the transmission of telegraphic busi-

ness over defendant, California Southern Railroad Company's, line between Blythe and Blythe Junction, except that said defendant, California Southern Railroad Company, be permitted to transmit messages relating to its own business over its own line between Blythe and Blythe Junction, and a public hearing having been held, and the Railroad Commission being fully apprised in the premises,

IT IS HEREBY ORDERED that the defendants herein, California Southern Railroad Company and Western Union Telegraph Company, discontinue transferring telegraphic messages by telephone to and from the town of Blythe over the defendant, California Southern Railroad Company's line, between Blythe and Blythe Junction, and that defendant, California Southern Railroad Company, discontinue receiving telegraphic messages at Blythe for transmission by telephone to other points; provided that California Southern Railroad Company is permitted to transmit messages relating to its own business and to the operation of its railroad over its own line between Blythe and Blythe Junction.

Dated at San Francisco, California, this 30th day of August, 1917.

Max Thelen

Max Gordon

Frank R. Devlin  
Commissioners.