

Decision No. _____

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of
 Frank Pellissier and E. S. Moore for
 a Certificate of Public Convenience
 and Necessity.

Application No. 3000.

Decision No. 3167

I. B. Potter, for Applicants.

BY THE COMMISSION.

OPINION

This is a petition by Frank Pellissier and E. S. Moore, of Benton, Mono County, California, hereinafter referred to as the petitioners, asking that the Railroad Commission make its order declaring that public convenience and necessity require the exercise by petitioners of the rights and privileges granted to them by Ordinance No. 120 by the Board of Supervisors of Mono County, adopted on April 4, 1917, and of similar rights and privileges granted to them by Ordinance No. 159 by the Board of Supervisors of Inyo County, adopted on July 12, 1917, involving the construction and operation of lines for telephone and telegraph purposes, and the collection of rents, tolls and charges for the public use thereof.

A public hearing was held in Bishop, California, on August 22, 1917, in the matter of the Mono County franchise, and a further hearing was held in San Francisco on November 26, 1917, in the matter of the Inyo County franchise. No one appeared in opposition to the granting of this petition.

Ordinance No. 120 of the Board of Supervisors of Mono County, adopted on April 4, 1917, granted to the petitioners, their successors and assigns, for a period of fifty years from and after

the fourth day of May, 1917, the right to erect, construct, operate and maintain a telephone and telegraph line, together with the necessary appurtenances thereto, and the right to receive and transmit telephone and telegraph messages and to collect, rents, tolls and charges therefor, over, along and upon all of the public roads and highways, outside of incorporated cities and towns, in the following townships in Mono County, to wit:

Townships 1 N., 1 S., 2 S., 3 S., 4 S.,
Range 32 East., and Townships 4 S., and
5 S., Range 33 East, Mount Diablo Base
and Meridian.

Ordinance No. 159 of the Board of Supervisors of Inyo County, adopted on July 12, 1917, grants similar privileges to those granted by Ordinance No. 120 of Mono County, continuing for a period of twenty-five years from and after August 12, 1917, over, along and upon all of the public roads and highways, outside of incorporated cities and towns, in the following townships in Inyo County, to wit:

Townships 6 S., and 7 S., in Range 33 East,
Mount Diablo Base and Meridian.

Each of these ordinances contains provisions with reference to the location of poles and wires and to the payment, after a period of five years, of 2% of the gross receipts to the respective counties. The franchises also contain other provisions to which it is not necessary here to refer.

The cost to petitioners of securing each of these franchises was as follows:

Mono County Franchise:

Advertising	\$ 43.00
(No publication of ordinance cost)	
Price of Franchise	<u>5.00</u>
Total -	\$ 48.00

Inyo County Franchise:

Advertising	\$ 38.00
Publication of Ordinance	28.00
Payment for Franchise	<u>10.00</u>
Total -	\$ 76.00

Petitioners desire to construct a "single" or "grounded" toll line on poles of suitable dimensions, extending from the town limits of Bishop in Inyo County, through Chalfant, Hamill Station, Benton Station and Pellissier Ranch in Mono County, to a point on the California-Nevada state line opposite the town of Queens, the latter town being within the State of Nevada, and to establish public toll stations at each of these points, except at Bishop. It is also desired to construct, in addition to this toll line and on the same line of poles, a sufficient number of subscribers' lines to provide service for the various ranchers and others along its general route. It is proposed to connect these proposed lines at the town limits of the town of Bishop with the system of Interstate Telegraph Company, a corporation doing a general telephone and telegraph business, for service to and from Bishop and points beyond. Interstate Telegraph Company is willing to establish this connection with petitioners' lines.

The rates which petitioners desire to place in effect for toll switching between these various stations and for service for ranchers and others along this route are set forth in petitioners' schedules of proposed rates dated October 27, 1917, and filed with the Railroad Commission.

Petitioners state that there are no other telephone lines now operated by other public utilities with which the proposed lines will compete in any portion of the territory through which it is proposed to construct and operate their lines. They admit that there is now a telegraph line operated by The Western Union Telegraph Company along the line of railroad of the Nevada-California branch of Southern Pacific Company, and which will be paralleled for some distance by the proposed toll line, but state that the proposed line will not compete with this Western Union line since ^(the Western Union line) it is not used as a toll line.

Petitioners' reasons for desiring to construct and operate telephone lines within the territory heretofore described are that this territory is now without telephone or telegraph service, that it is remotely located from centers of population, not only in miles but in time required to cover the distance, occasioned by poor roads and present available means of communication, that there is a considerable population throughout this territory, and that the proposed service is for the public convenience and necessity. Petitioners do not intend now to incorporate, but propose to provide the necessary finances from their personal funds. They propose to personally construct the necessary lines, material for which it is estimated will cost approximately \$1000.00 to \$1200.00. Petitioners estimate that, due to weather and climatic conditions which are encountered in the mountains where the necessary poles must be secured, the proposed lines will not be completed before the latter part of the year 1913.

With reference to the rates which petitioners propose to make effective, the schedules above referred to include rates between points within California and the town of Queens within the State of Nevada. This Commission is, of course, without jurisdiction to authorize rates for interstate business. As to the remaining rates provided for in the proposed schedules, it cannot be determined whether they are just and reasonable until petitioners' lines shall have been in operation for a sufficient time to determine the result of applying them. They are similar to the rates now charged for similar service in adjacent territory, however, and we see no objection at this time to permitting them to be made effective.

Under the circumstances, this petition should, in our opinion, be granted, subject to the conditions contained in the following order.

ORDER

Frank Pellissier and E. S. Moore, petitioners herein, having filed the above entitled application asking the Railroad Commission to

make its order as specified in the opinion herein, and public hearings having been held on said application.-

THE RAILROAD COMMISSION HEREBY DECLARES that public convenience and necessity require the exercise by Frank Pellissier and E. S. Moore, their successors and assigns, of the rights and privileges conferred by Ordinance No. 120 adopted by the Board of Supervisors of Mono County on April 4, 1917, entitled "An ordinance granting to Frank Pellissier and E. S. Moore, their successors and assigns, a right, franchise and privilege to erect, conduct, operate and maintain for a period of fifty years a telephone and telegraph line over, along and upon the public roads, streets and highways of the County of Mono, State of California, outside of incorporated cities and towns thereof".

AND THE RAILROAD COMMISSION HEREBY FURTHER DELCARES that public convenience and necessity require the exercise by Frank Pellissier and E. S. Moore, their successors and assigns, of the rights and privileges conferred by Ordinance No. 159 adopted by the Board of Supervisors of Inyo County on July 12, 1917, entitled "An ordinance granting to Frank Pellissier and E. S. Moore the right, franchise and privilege to erect, operate and maintain for a period of twenty-five years a telephone and telegraph line consisting of poles and wires and all other apparatus and appliances necessary or convenient for transmitting telephone and telegraph messages over, along, upon all public highways in Townships 6 S. and 7 S., in Range 33 E., M.D.B.M., in Inyo County, State of California".

✓ PROVIDED that the said Frank Pellissier and E. S. Moore shall first have filed with the Railroad Commission their stipulation agreeing for themselves, ^{and their} ~~xxxxxx~~ assigns, that they will never claim before the Railroad Commission of the State of California or any other public authority, any value for the rights and privileges

conferred by Ordinance No. 120 of the Board of Supervisors of Mono County and by Ordinance No. 159 of the Board of Supervisors of Inyo County, above referred to, in excess of the amount actually paid to the County of Mono and the County of Inyo, respectively, as the consideration for the grant of such franchise, and shall have secured from this Commission a supplemental order or orders herein declaring that such stipulation in form satisfactory to this Commission has been filed.

AND IT IS HEREBY ORDERED by the Railroad Commission that the applicants herein, Frank Pellissier and E. S. Moore, be and they hereby are permitted to publish, file and place in effect on or before the thirty-first day of December, 1918, a schedule of rates and charges heretofore filed with this Commission on October 27, 1917, and more specifically referred to in the opinion preceding this order.

PROVIDED that the authority herein granted to publish, file and place in effect the schedule of rates hereinabove provided for is not to be taken as approval of the rates referred to, since this Commission has not as yet passed upon their reasonableness.

Dated at San Francisco, California, this 25th day of February, 1918.

Mary Thelen
H. B. Cleveland
W. C. Brown

Frank R. Brown

Commissioners.