

Decision No. 23212.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of

LEONARD P. WIKOFF,

for a certificate that public convenience and necessity require or will require the exercise of certain franchise rights and the construction of a plant and system for supplying exchange telephone service and electric energy for purposes of light, heat and power in the unincorporated town of 29 Palms, and territories adjacent thereto in the county of San Bernardino, California.

ORIGINAL

Application No. 20642.

Paul Overton, for Applicant.  
Bacigalupi, Elkus and Salinger,  
by Claude Rosenberg, for  
California Water and Telephone Company,  
Protestant.

BY THE COMMISSION:

O P I N I O N

In this application Leonard P. Wikoff requests the Railroad Commission to grant a certificate that public convenience and necessity require him to furnish and supply electric service and exchange telephone service in the unincorporated Town of 29 Palms and adjacent territory in San Bernardino County, California, described as township one north, ranges eight, nine, and ten east and township one south, ranges eight, nine and ten east, San Bernardino Base and Meridian.

Public hearings in the proceeding were held before Examiner Fry in Los Angeles on August 4 and August 13, 1936,

when evidence was presented and the matter was submitted for decision.

The area proposed to be served by applicant is eighteen miles long and twelve miles wide and is primarily a winter resort although there also exists considerable activity in the community during the summer months. Mr. Wikoff estimates that the population of the community is 600 during the winter months. Apparently the success of the project depends upon the future development of the territory and is not predicated upon present conditions.

There was filed at the hearing on August 4, 1936, as Exhibit 1, a copy of Ordinance No. 437, passed by the Board of Supervisors of San Bernardino County on August 3, 1936, granting to applicant a franchise to install and maintain the equipment and facilities necessary for the operation of an exchange telephone system and an electric system in the territory designated and described in the application herein. The application, therefore, is for authority to operate two utility services quite different in character. These will be discussed in turn generally in the order of the testimony given.

On June 27, 1936, at the time this application to the Railroad Commission for a certificate was filed, there was no exchange telephone service available in the 29 Palms area. However, the Commission had, on June 8, 1936, made its Decision No. 28875 in Application No. 20572, granting to California Water and Telephone Company authority to establish a telephone exchange in an area which includes that described in the present application to the Commission and to file and make effective certain rates and charges which were set forth in its application. At the present

time those rate schedules are on file with this Commission with an effective date of August 21, 1936. The 29 Palms Exchange of California Water and Telephone Company is now in operation. California Water and Telephone Company entered vigorous objection to the granting of a certificate to applicant for telephone service but did not oppose the granting of the certificate for the electric service. Applicant proposes to install an unattended automatic or dial system and to limit his responsibility to exchange service. Southern California Telephone Company, as of the date of the filing of this application, had three toll stations in the area but these have since been closed. There is but one telephone toll line available for service to and from the area. Mr. Wikoff would have no operator to supervise the handling of toll calls at 29 Palms. Under the conditions described, it is doubtful if adequate service to and from the territory would be furnished. Mr. Wikoff had made no arrangement with any other telephone utility to furnish the interexchange or toll telephone service to and from 29 Palms. Consequently, the record in this proceeding does not show that his subscribers would be enabled to have any telephone service to points outside of his proposed exchange area. After a very careful consideration of all the facts adduced relative to the proposed establishment of telephone service by applicant, we conclude that this application for a certificate to operate exchange telephone service in the 29 Palms area should be denied.

The situation in regard to the furnishing of electric service by applicant at 29 Palms is somewhat different. At the present time, no public utility supplies electric service in the community. There are in operation about fifteen privately-owned Kohler and

similar type units in the territory. In the event applicant furnishes public utility electric service practically all of this privately-owned electric equipment and apparatus would be abandoned as the owners are said to have indicated that they would prefer the proposed service.

Mr. Wikoff proposes to install an electric generating plant consisting of two 50 K.W., 60 cycle alternating current generators direct-connected to two 80 H.P. Diesel engines. He would construct an electric distributing system which would provide electric service to approximately 102 consumers the first year. Of these services, sixty would be residential; thirty-seven, hotels and stores; and five, pumping plant, ice plant, etc. Applicant estimates a consumption of 454,425 kilowatts the first year.

The testimony received at the hearing clearly shows that the territory to be served is sparsely settled. However, the townsite has been subdivided and considerable activity in the community as a whole has taken place as evidenced by other applications to the Railroad Commission for authority to furnish public utility service, some of which have been granted. Applicant is willing to pioneer the territory, feeling that there will be considerable health resort business in the 29 Palms community.

While it is the policy of the Commission to encourage public utility development in California in order that the public may enjoy the convenience of utility service, it should be borne in mind that 29 Palms is in the development stage and is isolated from the service of major electric companies and that, therefore, the success of the utility and the continuance of the service in

the future depend greatly upon the growth of the community and the ability of Mr. Wikoff to finance the construction, operation and maintenance of the electric plant.

Mr. Wikoff agreed to submit for filing with the Railroad Commission rates and charges for the service which would in no case be higher than those now effective in the nearby Palm Springs area of The Southern Sierras Power Company. Rules and regulations for line extensions and other operations would conform to those of the same company.

Mr. Wikoff testified that the enterprise would be financed by himself and his associate, Ralph P. Winston. The record indicates that the latter would furnish the greater part of the funds needed to pay the cost of the project. However, no agreement obligating Mr. Winston to supply the money needed was produced nor has been filed since the hearing. While the order herein will grant Mr. Wikoff a certificate of public convenience and necessity to construct, maintain and operate an electric plant, such order will not become effective until there has been filed with the Commission a statement showing that the money needed to pay the cost of constructing said plant is on deposit with a bank in the name of Leonard P. Wikoff and may be withdrawn only for the purpose of paying for said electric plant and also showing the name of the person or persons who provided said money and their interest in the project.

Mr. Wikoff stated, in answer to a question at the hearing, that in the event the Commission did not grant him a certificate for the operation of a telephone utility, he would still desire to proceed with the furnishing of electric utility service.

Since there appears to be a demand for electric service in this community and no opposition to the granting of this portion of the application was heard, the Commission is of the opinion that the certificate for electric utility service should be granted, subject to the conditions of the following order.

O R D E R

Leonard P. Wikoff having made application to the Railroad Commission for a certificate that public convenience and necessity require the exercise by him of certain franchise rights and the furnishing of exchange telephone service and electric service in the territory of 29 Palms and vicinity, hearings having been held in the proceeding, and the matter having been submitted for decision,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity to exercise the rights and privileges pertaining to the construction, maintenance and operation of facilities used in the furnishing of electric service granted to Leonard P. Wikoff, his successors and assigns, by the Board of Supervisors of San Bernardino County, State of California, under Ordinance No. 437, on August 3, 1936, be and the same hereby is granted to Leonard P. Wikoff, subject to the following conditions and not otherwise:

1. The authority herein granted will become effective when applicant has filed with the Railroad Commission a statement showing that the money needed to pay the cost of acquiring and constructing the property necessary to establish the electric service herein mentioned is on deposit with a bank in the name of Leonard P. Wikoff and may be withdrawn only for the purpose of paying for said electric plant, such statement also to show the name of the bank with whom the money has been deposited, the name or names of those who provided said money, together with a copy of the agreement defining their interest in said enterprise and their responsibilities in financing the same.

2. Applicant shall file with the Railroad Commission within sixty (60) days from the date hereof, but prior to the commencement of work on the project, a written acceptance of the certificate herein granted.
3. Applicant shall file with the Railroad Commission, in quadruplicate, within sixty (60) days from the date hereof, but prior to the establishment of service, a tariff or tariffs constructed in accordance with the requirements of the Railroad Commission's General Orders, and containing rates which in volume and effect shall be the same as or no higher than the Palm Springs rates of The Southern Sierras Power Company's Schedules L-1 for lighting service, C-5 for heating and cooking service, and P-1 for power service, except for extremely large installations, and rules and regulations similar to those of The Southern Sierras Power Company and satisfactory to the Railroad Commission.
4. The authority herein granted shall apply only within that particular area specified in Ordinance No.437 of San Bernardino County, as follows:

Township One North, Range Eight East;  
 Township One North, Range Nine East;  
 Township One North, Range Ten East;  
 Township One South, Range Eight East;  
 Township One South, Range Nine East;  
 Township One South, Range Ten East;  
 San Bernardino Base and Meridian,

in the community generally known as 29 Palms; provided, however, that the Railroad Commission may hereafter by appropriate orders, revoke or limit as to territory then served by Leonard P. Wikoff, his successors or assigns, the authority herein granted.

5. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred or assigned, unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.
6. The authorization herein granted shall lapse and become null and void if not exercised within one year from the date hereof.
7. Leonard P. Wikoff shall file, within sixty (60) days from the date hereof, a statement in which he agrees that he, his successors and assigns will never claim before the Railroad Commission or any other public authority, a value for the franchise above referred

7.(Cont'd).

to in excess of the actual cost thereof, which cost shall be set forth in the stipulation.

IT IS HEREBY FURTHER ORDERED that Leonard P. Wikoff be and he is hereby denied authority to construct and operate an exchange telephone system in the area specified in (4) above.

For all other purposes the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 26th day of October, 1936.

M B Linn  
Leonard P. Wikoff  
M J Linn  
Phil Linn  
Frank R. Linn  
 COMMISSIONERS.