

ORIGINAL

Decision No. 37038

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
James J. Dulcich, Owner of the MARIPOSA
TELEPHONE EXCHANGE, to sell to Charles
W. Roome and Dorothy E. Roome, husband
and wife, as joint owners.

Application No. 25951

BY THE COMMISSION:

OPINION AND ORDER

In this application James J. Dulcich, owner of a telephone utility commonly known as Mariposa Telephone Exchange, furnishing service in the town of Mariposa and vicinity in Mariposa County, California, requests an order authorizing the transfer of his telephone properties to Charles W. Roome and Dorothy E. Roome, husband and wife.

James J. Dulcich desires to be relieved of the responsibility of operating the Mariposa Telephone Exchange on account of the demands upon his time by other business in which he is engaged.

Charles W. Roome and Dorothy E. Roome reside in Mariposa where they own their home into which they plan to move the telephone switchboard which will be operated by them. It is expected that the purchasers would be able to devote more time to the telephone business and to the improvement of the service.

The property consists of the following items in approximately the amounts given:

- 80 Telephones installed and in service
- 9 Telephones in storeroom
- 54 Twenty-five foot poles installed with 10-pin crossarms complete with pins and insulators
- 11 Thirty foot poles installed with 16-pin crossarms complete with pins and insulators
- 40 Miles of wire including twisted pair wire
- 300 Feet 50-pair cable with terminal
- 1 Western Electric switchboard with 56 working lines and connecting rack
- 1 Operator's chair
- 2 Telephone booths
- Miscellaneous materials and supplies
- Miscellaneous tools

The Commission has been supplied with an appraisal of the properties which shows a total value of \$5,098.90.

If the application to transfer the properties of Mariposa Telephone Exchange is granted, the Roomes desire authority from the Railroad Commission to enter into an agreement with James J. Dulcich whereby they would pay the seller \$2,000 upon the execution of the agreement and the remainder of the purchase price of \$3,000 at the rate of \$50 per month plus interest at 6% per annum, payable monthly on the deferred payments, all as set forth in the proposed sale agreement attached to the application.

Reference is made in the application to the annual reports filed by Mariposa Telephone Exchange with the Railroad Commission. The 1943 annual report shows accounts payable in the amount of \$1,982.30. We are advised that James J. Dulcich will pay this debt and that the properties will be transferred free of all indebtedness.

From a review of the application and the proposed agreement of sale, it is evident that upon receiving authorization from this Commission to dispose of its public utility property, the present owner and operator of the Mariposa Telephone Exchange would turn over such property to the purchasers and direct his attention to other activities. However, the plan of purchase - a conditional sales transaction - would retain legal title in James J. Dulcich until its terms might be fully complied with by the Roomes, some time in 1949 or later. Under these circumstances, it appears that owner Dulcich should not be permitted to divest himself of his existing public utility responsibility until such time as the payments contemplated by the agreement have been made by the Roomes and they are entitled by the terms of the agreement to a bill of sale conveying the telephone exchange.

Accordingly, we will authorize the owner and the prospective purchasers to enter into a conditional sales agreement contemplating a prospective transfer of the Mariposa Telephone Exchange. Under our authorization, owner Dulcich must continue to occupy his present responsibility for the rendition of adequate telephone service at reasonable rates. He may, however, permit the

Roomes to conduct the business in his behalf, they to act as his agents for the duration of the agreement. The Roomes, in turn, may file tariff schedules and reports with the Commission, but must do so as "Agents for James J. Dulcich, Owner." In short, this authorization contemplates a dual responsibility to the public for continued telephone service.

At such time as the Roomes may have complied with the terms of the conditional sales agreement herein authorized, and owner Dulcich is prepared to execute a bill of sale covering the property involved, the parties may, by supplemental application, apply to the Commission for a final order authorizing the sale and transfer of the property. Until such final order shall have been made by the Commission, owner Dulcich shall continue to be responsible for the operation of the Mariposa Telephone Exchange, and the possession of the Roomes will be only that of agents of said owner and proposed seller.

In the event that the parties do not wish to take advantage of the authorization herein granted, they should feel free to present to the Commission a request to transfer the properties, based upon an agreement vesting legal title in the purchasers, and, if they so desire, protecting the seller's interest by requiring that an appropriate note and mortgage be executed in his behalf. Such a transaction, we believe, is contemplated under Sections 51 and 52 of the Public Utilities Act, the latter section being applicable in that an indebtedness extending over a period of years is contemplated.

This appears to be a matter in which a public hearing is not necessary, and that, subject to the conclusions set forth in the foregoing opinion, the application should be granted.

WHEREFORE, IT IS ORDERED:

(1) That James J. Dulcich and Charles W. Roome and Dorothy E. Roome be and they are hereby authorized to enter into a conditional sales agreement. by the terms of which James J. Dulcich agrees to sell, and Charles W. Roome and Dorothy E. Roome agree to purchase, the Mariposa Telephone Exchange for the sum of Five Thousand Dollars (\$5,000), to be paid in accordance with the terms and conditions set forth in Exhibit "A" of Application No. 25951.

(2) That during the pendency of the agreement authorized by the preceding ordering paragraph and until supplemental authorization to effect the sale and transfer of said telephone exchange is sought and obtained, Charles W. Roome and Dorothy E. Roome may take possession of said exchange and shall operate it as "Agents for James J. Dulcich, Owner."

(3) That within twenty (20) days after taking possession of said exchange, Charles W. Roome and Dorothy E. Roome shall file with the Railroad Commission a notice that they have adopted the tariff schedules in effect on the date of taking possession, and that said notice and subsequent tariff filings and reports shall be filed with the Commission by said Charles W. Roome and Dorothy E. Roome as "Agents for James J. Dulcich, Owner."

(4) That within thirty (30) days after the execution of the agreement herein authorized, a true and correct copy of said agreement shall be filed with the Railroad Commission.

Dated at San Francisco California, this 9th day of

May, 1944.

Richard K. Baker

Francis R. Harvener
Frank W. Don

Earl A. Harvener

Commissioners