

Decision No. 38787

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

WILLIAM MICHEL,  
Complainant  
vs.  
THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation, and KERMAN  
TELEPHONE COMPANY, a corporation,  
Defendants.

Case No. 4790

Iener W. Nielsen, and Milo Popovich for Complainant;  
Lawrence W. Young, for Defendant Kerman Telephone Company;  
James G. Marshall, for Defendant The Pacific Telephone and  
Telegraph Company; Frank V. Rhodes, for California Independent  
Telephone Association, Sanger Telephone Company, Kerman  
Telephone Company, Raymond Telephone Company, and San Joaquin  
Associated Telephone Company; Richard D. Crowe, for Dos Palos  
Telephone Company.

O P I N I O N

In this complaint William Michel, with other residents in the northeastern section of the Kerman exchange, Fresno County, request that the Commission order the enlargement of the Fresno exchange area of The Pacific Telephone and Telegraph Company to include therein a portion of the Kerman exchange area of Kerman Telephone Company. Both of these defendants object to any alteration of the existing boundary between the two exchanges.

A public hearing in this proceeding was held before Examiner Wessells at Kerman on October 17, 1945. That hearing was well attended by residents and telephone users interested in this proceeding. The matter was submitted on briefs.

Kerman Telephone Company owns and operates a telephone system serving the unincorporated territory in Fresno County known as the Kerman-Biola-Vinland Tract, including the towns of Kerman and Biola. This company operates one exchange only, the Kerman exchange, which contains about 128 square miles of territory, includes 130 miles of pole line and 374 stations. Continuous 24-hour service is provided under magneto manual operation.

The territory in Kerman exchange within which the complainants desire Pacific Company to furnish service is set forth in Exhibit 1 and may be termed "disputed area." This area is primarily agricultural in character. It includes approximately 14 square miles of territory lying generally east of Kerman and Biola and approximately 11 miles west of downtown Fresno. It is approximately 1/11 of the total area served by Kerman Company and it contains over 200 homes, includes nine miles of telephone pole line, and 14 telephone stations.

Fresno exchange is owned and operated by the Pacific Company. That exchange serves in excess of 33,000 stations in an area of approximately 321 square miles, including downtown Fresno and adjacent territory within Fresno and Madera Counties. Continuous 24-hour service is provided under dial operation.

The question of the rights of Kerman Company and Pacific Company to furnish service within the disputed area has been before the Commission several times. On April 29, 1922, Kerman Company filed its Application No. 7807 for a certificate covering the extension of its service into the town of Biola and adjacent territory which includes the disputed area. It appears that Kerman Company occupied the territory as early as 1915 and that in 1919 Pacific Company purchased the farmers' portion of a line which had been constructed about 1911, connected to Fresno and served some subscribers in the disputed area and elsewhere in and around Biola.

At the hearing in the 1922 proceeding, it was indicated 79 business firms and residents of Biola and vicinity desired Pacific Company service furnished from a local exchange. Kerman Company's application was denied, the Commission ordering Kerman Company not to discontinue its service within the territory until authorized so to do by supplemental order and expressing its opinion that Pacific Company should establish a separate exchange at Biola. (Decision No. 10905). That decision was affirmed on rehearing. (Decision No. 11308, dated December 5, 1922).

Owing to the fact the boundary lines proposed for the Biola exchange to be established by Pacific Company were not satisfactory to residents of the territory and adjacent areas; 126 of them signed a petition requesting that the matter be reopened. On March 19, 1923, Kerman Company presented that petition to the Commission and renewed its request for a certificate covering the extension of its service into Biola and adjacent territory. (Application No. 8815).

By Decision No. 12398, dated July 27, 1923, Kerman Company was issued a certificate as applied for, and the boundary between Kerman and Fresno exchanges was fixed at 500 feet west of Dickerson Avenue, the present boundary. Pacific Company was authorized to discontinue its service west of that boundary line and Kerman Company was authorized to discontinue its service east of that line. That decision indicates that at the hearing held in Kerman on May 9, 1923 numerous witnesses expressed the same desire to have the entire Kerman and Biola district served from one exchange and Pacific Company stated its agreement to establishing Dickerson Avenue as the boundary between the services of the two companies.

On September 2, 1924, J. J. Becker, applied to the Commission for a change in the boundary line between the Fresno and Kerman exchanges. (Application No. 10443). A petition containing the signatures of 101 persons desiring the service of Pacific Company was presented. The Commission, by Decision No. 14235, dated November 3, 1924, refused to grant the petition.

The Kerman-Fresno exchange boundary has remained unchanged from 1924 up to the present time. On May 1, 1945, the Commission received a petition in which 166 residents in the disputed area requested the inclusion of the territory in Fresno exchange and 109 residents requested service from the Pacific Company. That petition was followed several months later by the formal complaint in this proceeding.

Testimony was given on behalf of the complainants by three subscribers to Kerman service and by five others who were not subscribers. The testimony of A. E. Sciacqua, who resides in the disputed area, shows that he took a leading part in circulating several petitions introduced at the hearing as

Exhibits 2, 3, and 4. He stated he had never been a subscriber to Kerman Company service and that his primary business was with Fresno and not with Kerman. He, together with four other nonsubscribers and three Kerman Company subscribers, testified concerning unsatisfactory telephone service furnished by Kerman Company involving primarily slow answer by the operator and noisy lines. It was stipulated that 66 residents of the disputed area who signed the petitions referred to above would testify substantially the same as A. E. Solacqua.

Opposed to the requested transfer of territory, two Kerman subscribers in the disputed area testified that they desired to continue Kerman service. These two witnesses, together with six additional subscribers to Kerman Company service, stated that their telephone service was satisfactory. The president of the Kerman Chamber of Commerce and the editor of the Kerman News, the local newspaper, expressed the view that the removal of the disputed area from the Kerman exchange would be injurious to the town of Kerman as well as to the surrounding territory. Mr. Voorhees, a businessman of Biola, stated that the transfer of territory would jeopardize the business of Biola and its expansion.

Thomas A. Dawson, President and Manager of Kerman Company, gave testimony concerning the general service conditions at Kerman and listed the service improvements which he had made subsequent to the date he had acquired stock ownership of Kerman Company. He outlined a program for further improvements to be made, particularly for Biola and adjacent territory, including the disputed area. He stated that he had made 29 new telephone installations and replaced 12, resulting in the replacement of 45 poles and 22,000 feet of drop wire and the construction of five miles of pole line. He has 59 orders for service which must be held awaiting availability of materials. Dawson testified that a dial switching unit costing approximately \$4,000 has been ordered for installation at Biola and that he plans to establish a base rate area at Biola as part of Kerman Company's service improvement program. He stated the entire program involves an expenditure of approximately \$10,000.

Telephone service is available in the disputed area from the Kerman exchange at local exchange rates and from the Fresno exchange on a foreign exchange basis.<sup>(1)</sup> Toll telephone and telegraph services also are available between the Kerman exchange, including the disputed area, and the Fresno exchange as well as other toll telephone and telegraph points in California and elsewhere.

Testimony was presented as to the rates which would apply for service if the territory were transferred to the Fresno exchange. Individual, two- and four-party line grades of service are furnished in the base rate area of the Kerman exchange at a rate level lower than that effective in the base rate area of the Fresno exchange. Suburban ten-party line service is furnished outside the base rate areas without mileage charges. For the higher grades of service furnished outside the Kerman and the Fresno base rate areas, air-line mileage charges are added to the base rates as follows: Individual line, each quarter mile or fraction, \$0.50; two-party line, \$0.35; and four-party line service, \$0.25 per quarter mile per month. As the air-line distance from the Kerman base rate area boundary to the disputed area generally is much less than the distance from the Fresno base rate area boundary to the disputed area, it follows that the mileage charges added to Kerman base rates would be considerably less than such charges added to Fresno base rates.

Foreign exchange Fresno residence ten-party service recently has been offered jointly by the two utilities to residents of the disputed area as well as to others within the Kerman exchange. One subscribing to this type of service would be connected directly to the Fresno exchange, receive a Fresno number, and be able to call a Fresno subscriber without the payment of a toll charge. However, such a foreign exchange subscriber would pay a toll charge if he called a number in the Kerman exchange, just as other Fresno subscribers now have to pay such toll charges under present rates. The charge for foreign exchange Fresno residence ten-party wall set service is the Fresno residence ten-party exchange rate of \$3 a month, plus mileage inside the Kerman exchange

(1) Rates for Fresno residence suburban foreign exchange service were filed by Kerman Company on August 21, 1945, and became effective on September 21, 1945.

at a rate of \$0.25 a quarter mile for the first two quarter miles, and \$0.50 for each additional quarter mile. Accordingly, the rate for this foreign exchange service in the disputed area would vary from \$3.25 to \$6.50 a month, depending upon the distance a subscriber's premises were removed from the common exchange boundary.

Toll rates applicable to Fresno calls made by a Kerman subscriber who does not desire the above-described foreign exchange service are as follows: Station-to-station, \$0.15 for the first five minutes and \$0.05 for each additional two minutes; and person-to-person, \$0.20 for the first three minutes and \$0.05 for each additional minute.

An illustration of the effect on subscribers' charges at approximately the midpoint of the disputed area under the requested Fresno service is set forth in the tabulation following:

Class and Grade of Service	Exchange Service Charges, Per Month With a Wall Set Station, Applicable at Approximately the Midpoint of the Disputed Area*		
	Under Present Kerman Rates	Under Fresno Rates If Territory Were Transferred	Amount Fresno Exceeds Kerman
<u>Business Service</u>			
Individual Line	\$13.25	\$21.50	\$8.25
Two-Party Line	9.60	15.95	6.35
Four-Party Line	5.25#	**	**
Suburban Ten-Party Line	2.25	3.50	1.25
<u>Residence Service</u>			
Individual Line	12.75	19.00	6.25
Two-Party Line	9.35	13.70	4.35
Four-Party Line	7.00	10.00	3.00
Suburban Ten-Party Line	2.00	3.00	1.00

\* Intersection of Dakota and Jameson Avenues.  
 \*\* Business four-party line service is not offered in Fresno.  
 # Biola special rate plus mileage.

From the above comparison, it is clear that the transfer of the disputed area to Fresno exchange would result in higher monthly charges for service furnished at approximately the midpoint of the area ranging from \$1 to \$8.25. A difference in monthly charge of \$1, for example, would permit a Kerman subscriber to place 6-2/3 five-minute station-to-station toll calls a month to Fresno. Similarly, a differential of \$8.25 would permit a Kerman subscriber to

place 55 toll calls to Fresno a month. If the requested transfer of the disputed area were made, subscribers in the area would have their toll charges to Fresno numbers eliminated, but they would pay higher exchange monthly charges and they would also pay toll charges on calls placed to Kerman numbers.

An analysis made of the actual toll usage to Fresno of 12 subscribers in the disputed area for the 30-day period, June 21 to July 20, 1945, (Exhibit 5) indicates the following results: Three subscribers placed no calls to Fresno, two subscribers placed three calls each, one subscriber placed nine calls, another placed ten, two placed 18 calls each, another placed 19 calls, while the remaining two subscribers placed 30 and 48 calls, respectively, to Fresno.

In establishing the limits of a given telephone exchange area, the Commission has always endeavored to so fix the boundaries as to best serve the majority of those using telephone service. However, it is inevitable that either at the time exchange areas are established or thereafter as population changes take place, some subscribers within the area would better be served were they afforded direct connections with a neighboring exchange. To meet such a need by particular telephone users, foreign exchange service has been made available. The Commission has not looked favorably upon the reestablishment of exchange boundaries unless it appeared that by this means only could satisfactory service be afforded the greatest number of subscribers at reasonable cost. When the issue raised involves a proposed readjustment of the established service areas of two separate telephone corporations, the Commission may not properly direct one or the other company, without its consent, to cease furnishing telephone service within a given area unless the legal authority for such action clearly appears.

Upon the record made in the instant complaint, the Commission cannot conclude that an order, directing a part of the Kerman exchange be added to the Fresno exchange of the Pacific Company, would really afford a more satisfactory telephone service to the majority of the subscribers of the Kerman Company. The evidence presented by the complainants related to a considerable extent to

their dissatisfaction with the quality of the service now supplied by this company. However, the evidence does not reveal that the Kerman Company cannot provide reasonably adequate facilities to supply satisfactory service at reasonable rates, to the majority of the residents within the disputed area. To grant the request of the plaintiffs at this time would in fact not be of material aid to them in obtaining telephone service for the reason that there would be indefinite delay on the part of the Pacific Company to make the requisite installations. Although there would also be some delay on the part of the Kerman Company in carrying to completion its program of improving service, the Commission will expect this company to proceed as rapidly as possible to make such changes as are necessary to provide adequate telephone service and to furnish the Commission periodic reports of its progress.

O R D E R

This case, being at issue upon complaint and answers on file, a public hearing having been held, briefs filed, the matter fully considered, and the Commission finding that the relief prayed for in this petition should be denied, therefore,

IT IS ORDERED that the above-entitled proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 26<sup>th</sup> day of March, 1946.

Harold Rudman  
Justice F. C. Green  
Francis Deane  
Irving Lawrence  
Harold S. Kula  
Commissioners.