

ORIGINAL

Decision No. 47613

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of DOS PALOS TELEPHONE CO. INC.,)
a corporation, for authority:)
1. To enter into a loan agree-)
ment with the United States of)
America under and pursuant to the)
Rural Electrification Act of 1936,)
as amended, acting through the)
administrator of the Rural)
Electrification Administration (REA);)
2. To execute its promissory)
note to said United States of)
America in the sum of \$254,000.00)
said obligation to bear interest)
at the rate of 2% per annum;)
3. To execute and deliver a)
mortgage of realty and chattels)
covering all of the properties)
of applicant as security for the)
payment of said obligation;)
4. To apply the proceeds de-)
rived from said note to the ex-)
pansion, rehabilitation and)
improvement of the plant, plant)
facilities, and of said system,)
and to discharge certain obliga-)
tions of the company.)
-----)

Application
No. 33380

Linneman, Burgess, Telles & Van Atta, by
L. M. Linneman, for applicant; W. W. Dunlop
and J. F. Donovan, for the staff of the
Commission.

O P I N I O N

In this application the Commission is asked to make an order authorizing Dos Palos Telephone Co., Inc. to enter into a loan contract with the United States of America under the Rural Electrification Act of 1936, as amended, to execute and deliver to the United States of America, acting through the Rural Electrification Administration, a promissory note, or notes, in the aggregate principal amount of not exceeding \$254,000, and to execute and deliver to said government agency a mortgage of its properties as

security for the payment of said note, or notes.

A public hearing in this matter was held in San Francisco on June 19, 1952, at which time it was taken under submission with leave being granted applicant to file with the Commission, at a later date, any modification in the terms of the loan contract which might result from further negotiations with the Administrator of the Rural Electrification Administration. Under date of August 14, 1952, counsel for applicant filed additional information with the Commission and the matter now is ready for decision.

Dos Palos Telephone Co., Inc. is engaged in operating a telephone system in and about the City of Dos Palos, in the County of Merced, with lines extending into the County of Fresno. It reports its investment in its properties and assets as of December 31, 1951, and its outstanding liabilities and net worth as follows:

Assets

Fixed assets -		
Telephone plant and equipment	\$257,402.80	
Less-depreciation reserve	<u>35,538.96</u>	
Net fixed assets		\$221,863.84
Current assets -		
Cash	(4,814.83)	
Accounts receivable	6,669.92	
Unbilled toll revenue	4,339.67	
Materials and supplies	<u>9,844.38</u>	
Total current assets		16,039.14
Prepayments and deferred charges		<u>2,559.56</u>
	Total	<u>\$240,462.54</u>

Liabilities and Net Worth

Long-term debt		\$ 76,533.29
Current liabilities -		
Notes payable	\$ 7,000.00	
Accounts payable	9,732.96	
Accrued liabilities	<u>4,682.36</u>	
Total current liabilities		21,415.32
Contributions of telephone plant		4,646.38
Preferred stock		50,000.00
Equity capital -		
Common stock	48,495.00	
Surplus	<u>39,372.55</u>	
Total equity capital		<u>87,867.55</u>
	Total	<u>\$240,462.54</u>

The long-term indebtedness and the notes payable had been reduced to \$82,733.28 as of March 31, 1952.

The record shows that applicant's service area comprises some 300 square miles, that it has 1,360 telephones in use, and that it had 223 held orders as of June 1, 1952. The record further shows that it has 1,310 telephones in the northern half of its service area and only 50 in the southern half, which is a farmer line zone with the customers owning most of the telephone facilities. Applicant reports that this portion of its area now is being opened with irrigation water being brought into it, and it estimates that there will be a substantial growth in population and in telephone service.

The testimony shows that applicant has been faced with a continuing program to enlarge and extend its facilities. It reports that immediately prior to World War II it served 408 stations, that on December 31, 1948, it served 998 stations, and that, as stated, it presently serves 1,360 stations. Applicant further alleges that its plant is operating to capacity and that it is faced with the necessity of enlarging its central office equipment, of installing additional line and trunk facilities including pole line plant for additional circuits, and of purchasing station equipment, work tools and building capacity, not only to meet the requirements of new customers but to provide better service. It reports its capital requirements, in general, in the amount of \$254,000, segregated as follows:

Central office equipment	\$ 54,900
Outside plant	76,671
Station equipment	12,560
Land and buildings	3,000
Other equipment	2,100
Miscellaneous items	4,116
Engineering	11,200
Refinancing of present indebtedness, including prepayment penalties of \$2,720	85,453
Contingencies	<u>4,000</u>
Total	<u>\$254,000</u>

It appears that the preliminary engineering has not been completed and at the hearing applicant was unable to inform the Commission definitely as to the nature of the proposed expenditures for new construction.

As stated, applicant intends to borrow moneys under the provisions of the Rural Electrification Act of 1936, as amended. The sum to be borrowed will be represented by a note, or notes, bearing interest at the rate of 2% per annum and payable over a period of 35 years. The note, or notes, will provide that interest accruing on the principal for a period of three years after the date thereof may be allowed to accumulate and be payable thereafter. It appears that the borrower has the privilege of paying all or any part of the principal of the note, or notes, on any interest payment date.

The proposed borrowing will be made pursuant to the terms of a loan contract dated as of May 19, 1952, between applicant and the United States of America, acting through the Administrator of the Rural Electrification Administration, which recites, among other things, that it is intended for the government to loan the borrower an amount not in excess of \$254,000 to finance the improvement and operation of its existing facilities and the construction and operation of additional facilities to serve approximately 300 subscribers in addition to those now being served, the improvements and additional facilities so financed being referred to in the loan contract as the Project. The contract contains, among other things, a provision that the government shall be under no obligations to advance any funds on account of the loan unless and until the borrower shall have delivered to the administrator certain documents, including evidence that it has adopted a tariff which does not include mileage or zone charges for rural multi-party service and which will provide

revenues sufficient to meet all necessary expenditures, including all interest and principal payments under the notes. With respect to the extension of telephone service, the contract contains the following section:

"Sec. 4.5. Area Coverage. The Borrower shall furnish adequate telephone service to the widest practicable number of rural establishments in the Borrower's telephone service area, as such area is shown on the map which is a part of the Borrower's application for the Loan, and which map, as revised by agreement between the Borrower and the Administrator, is incorporated herein by reference thereto. In the performance of this obligation, the Borrower shall:

"(a) furnish service to all applicants for service included in the Project, without payment by such applicants of any extra charge as a contribution to the cost of construction of any part of the Project; and

"(b) take all action that may be required to enable it to extend service, with the use of such funds as may from time to time be available to it, either from surplus earnings, increased equity capital, additional loans made by the Government, or otherwise as the Borrower may elect, and without payment to the Borrower of any extra charge as a contribution to construction of facilities to provide such service, to at least those other unserved rural applicants for service in its telephone service area who meet either of the following conditions: (1) service to such applicant will not reduce the overall density of the System below 8.2 subscribers per route mile of pole line, underground cable and radio link, or (2) the cost of constructing the required line extension for such applicant will not exceed seven times the estimated annual exchange revenue from such applicant. Such service shall be furnished pursuant to terms and conditions set forth in the Borrower's tariff, as duly filed with or approved by regulatory bodies having jurisdiction in the premises, or in the absence of any such regulatory body, as adopted by the Borrower; provided that the Borrower shall not file with or submit for approval of appropriate regulatory bodies or adopt any proposed tariff, or continue in effect any existing tariff not required to be continued by any regulatory body, unless under such tariff the Borrower will be obligated to serve unserved rural applicants as provided herein.

"The furnishing of service to applicants for service under the conditions provided in this section is of the essence of the Borrower's obligations under this agreement, and the failure or neglect of the Borrower to perform such obligation shall be deemed to be an event of default hereunder."

The payment of the note, or notes, will be secured by a mortgage of realty and chattels. Section 2 of Article V of the proposed mortgage reads as follows:

"SECTION 2. All acts and obligations of the Mortgagor hereunder shall be subject to all applicable orders, rules and

regulations, now or hereafter in effect, of all regulatory bodies having jurisdiction in the premises, to the end that no act or omission to act on the part of the Mortgagor shall constitute a default hereunder insofar as such act or omission shall have been required by reason of any order, rule or regulation of any such regulatory body."

In connection with extensions to serve new customers, the Commission has approved applicant's line extension rule which contains rules and regulations governing charges for line extensions in applicant's exchange area and provides, among other things, for the payment by the subscriber of \$2 for each 100 feet, or fraction thereof, for extensions in suburban areas for distances of more than one-half mile, per primary station, which payments are not refundable.

During the course of the hearing, inquiry was made into the application of Section 4.5 of the contract, particularly in light of applicant's filed line extension rule. Counsel for applicant now has filed with the Commission a letter, dated July 30, 1952, to the company from the Rural Electrification Administration, signed by Claude R. Wickard, Administrator, reading in part as follows:

"We should like to point out that Subsection (b) of Section 4.5 of the loan contract does not, in our view, constitute an absolute obligation on the part of the borrower to place into effect the extension policy set forth in the subsection. Subsection (b) in effect, only requires the borrower to take reasonable steps, including the filing of a new tariff, if necessary, to place the specified extension policy into effect, but if, after reasonable steps have been taken, the Commission nevertheless requires an existing extension policy to be continued in effect, the borrower's obligation under Subsection (b) has been fulfilled. Moreover, an analysis of your existing filed tariff on line extension as approved by the California Commission convinces us that it is generally as liberal to the subscribers as ours, and provides adequate protection to the borrower. Therefore, the line extension tariff provision, as filed with the California Commission, is satisfactory to us, and its continuance would not constitute a violation of Section 4.5(b) of the loan contract."

Counsel has informed the Commission, in his letter of August 14, 1952, that representatives of the administration have expressed the desire that the letter from the administrator serve as a modification of said Section 4.5 as an alternative to the rewriting of the section. Accordingly, counsel has requested the Commission to

approve the loan contract filed in this proceeding as thus amended or modified.

The record shows that applicant has need for additional funds to expand and improve its facilities to meet demands for service and that it has found it difficult, if not impossible, to raise any substantial amount of equity capital. Under the circumstances set forth in this proceeding we will authorize the execution of the mortgage and the loan contract, as thus amended or modified, and the issue of notes. In entering this order we are in no way passing on applicant's rates, rules and regulations or approving any revision of its presently filed tariffs. In the event we may be called upon to fix rates in the future, we will give consideration at that time to applicant's investment in its properties and the terms under which it has financed itself. We will require applicant to charge such rates as we have approved, or may approve, and to abide by the terms of its filed rules and regulations, including those for line extension charges. The action taken herein, however, shall not be considered as an indication that we will approve the revisions in the tariffs which are referred to in the loan contract.

Upon a full review of this matter we are of the opinion and hereby find that the money, property or labor to be procured or paid for by the issue of the note, or notes, is reasonably required for the purposes specified in this application. However, in view of the fact that applicant has not furnished us with a definite statement upon which we can base an order with respect to the disposition of all the proceeds, at this time we will authorize the expenditure of only the proceeds necessary to pay the outstanding indebtedness. The disposition of the remaining proceeds will be considered in a supplemental order, or orders, in this proceeding.

O R D E R

A public hearing having been held on the above entitled matter, and the Commission having considered the evidence and being of the opinion that the application should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. Dos Palos Telephone Co., Inc., after the effective date hereof and on or before March 31, 1953, may enter into a loan contract in substantially the same form as that filed in this proceeding as Exhibit 1, with the letter of the administrator dated July 30, 1952, serving as an amendment thereof, and may execute a mortgage of realty and chattels in substantially the same form as that filed in this proceeding as Exhibit 3, and may issue its promissory note, or notes, in the aggregate principal amount of not exceeding \$254,000 in substantially the same form as the note filed as Exhibit 2. No authority is hereby given applicant to revise its filed rates, rules and regulations.

2. Dos Palos Telephone Co., Inc. may use not exceeding \$85,453 of the proceeds to be obtained through the issue of said note, or notes, to pay outstanding indebtedness, including prepayment penalties of \$2,720, it being the opinion of the Commission that the expenditures for such purpose, other than the payment of the prepayment penalties, are not, in whole or in part, reasonably chargeable to operating expenses or to income. The payment of said \$2,720 shall be charged by applicant to its surplus account.

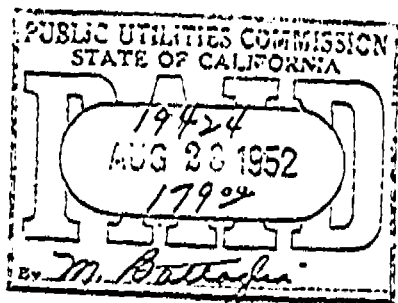
3. Dos Palos Telephone Co., Inc. shall not disburse proceeds from the issue of its note, or notes, except as authorized herein, unless and until it shall have filed with the Commission a

supplemental application setting forth its proposed expenditures in some detail and shall have received a supplemental order, or orders, from the Commission approving the same.

4. Dos Palos Telephone Co., Inc. shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. The authority herein granted will become effective when Dos Palos Telephone Co., Inc. has paid the fee prescribed by Section 1904(b) of the Public Utilities Code.

Dated at San Francisco, California, this 26th day of August, 1952.



President
Justus J. Casper
Harold F. Hule
Kenneth J. Pottor
John E. Mitchell
Commissioners

Commissioner R. E. MITTELSTAEDT, being necessarily absent, did not participate in the disposition of this proceeding.