

Decision No. 52988

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

KERN VALLEY PROPERTY OWNERS AND  
TAXPAYERS ASSOCIATION )

Complainant, )

vs. )

Case No. 5687

KERNVILLE TELEPHONE COMPANY,  
Mr. Donovan F. Gouldin, )

Defendant. )

MR. J. A. CRAWFORD, )

Complainant, )

vs. )

Case No. 5713

KERNVILLE TELEPHONE CO.,  
Mr. Donovan F. Gouldin, )

Defendant. )

Deadrich, Bates & Stewart by John H. Stewart  
for Complainant Kern Valley Property Owners  
& Taxpayers Association;  
J. A. Crawford, complainant, in propria persona;  
Neal C. Hasbrook for defendant Kernville Tele-  
phone Company and for California Independent  
Telephone Association as interested party;  
J. J. Deuel for California Farm Bureau Federa-  
tion, interested party;  
J. B. Balcomb for the Commission staff.

O P I N I O N

Nature of Complaints

The Kern Valley Property Owners and Taxpayers Association complains, in Case No. 5687, filed October 17, 1955, that Donovan F. Gouldin (Kernville Telephone Company) has unreasonably delayed the reestablishment of telephone service to former telephone subscribers within the territory served by the utility and alleges as follows:

1. Telephone service to residents of the Kern Valley area was discontinued during the year 1952 because of the construction of Isabella Dam.

2. The utility promised to restore telephone service as soon as possible, first restoring service to former subscribers.

3. After more than three years, many former subscribers have not had telephone service restored to them, while during the same period new subscribers have been served.

4. The three-year period is longer than can be considered reasonable.

J. A. Crawford, a one-time subscriber to telephone service near the community of Weldon, complains in Case No. 5713, filed January 16, 1956, that Donovan F. Gouldin (Kernville Telephone Company) has not yet restored telephone service to his ranch as promised at the time service was discontinued during the year 1952.

Defendant's Answer

Defendant admits that, as a part of the agreement between defendant and the United States Government under which defendant was compensated for the plant dismantled as a result of the construction of Isabella Dam, defendant was required to restore telephone service as soon as possible in the area now known as New Kernville and to give priority to the restoration of service to former subscribers. Defendant admits that he has taken on new subscribers in the northern part of his exchange area. Defendant denies, however, that he is obligated to provide service in areas which he claims lie outside of the boundaries of the Kernville exchange. Defendant further denies that the period of time which has elapsed is unreasonably long. Defendant claims that new plant has been constructed and will continue to be constructed to the limit of defendant's manpower and finances.

Public Hearing

The matters were consolidated for hearing, before Commissioner Rex Hardy and Examiner F. Everett Emerson, on February 15, 1956, at Isabella. The matters were submitted subject to the late filing of three exhibits, the last of which was received on March 9, 1956, and subject to the filing of defendant's 1955 annual report to the Commission, from which defendant's financial situation might be determined.

Historical Note

The generation of the problems presented by these complaints dates from passage of the Flood Control Act in 1944 when the Congress of the United States authorized the building of Isabella Dam in the Kern Valley. The impounding of waters behind the dam would eventually inundate two townsites, Kernville and Isabella. Construction of the dam was commenced in the spring of 1948. A new townsite for Isabella was established downstream from the new dam, and slightly to the east of the Kern River, while a new townsite for Kernville was established above the eventual high water mark in an area upstream about four miles from the original townsite. All residents were removed from the old areas and in due time a lake will completely erase all traces of the old towns. Most of the residents moved to various sites above the flood water line. Some left the valley permanently. Some new residents came to the valley.

Nature of Evidence

With respect to telephone operations, all service by the Kernville Telephone Company was discontinued on November 16, 1952 and the central office and its facilities were either moved to or replaced in new quarters in new Kernville. Approximately 190 telephone stations were being served at the time of discontinuance.

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Construction of new outside plant facilities was commenced about the end of February, 1953. Local service was available in new Kernville by the end of the following June although only three subscribers were connected by June 30, 1953. By June, 1954, service had been established to 17 subscribers in Wofford Heights, about five miles south of new Kernville. The pole line was extended southward another seven miles to Isabella and local service became available there to four subscribers by about the end of January, 1955. By that time 145 subscribers were being served in new Kernville.

From the original exchange office in old Kernville lines extended generally eastward to the communities of Weldon and Onyx. The total length of lines approximated 14 miles and served about 40 telephone stations. Inundation along the route forced some residents to move. As of the end of 1955 a permanent relocation of those lines had not been accomplished and only 13 telephone stations were in service, although a rebuilding of about two miles of line had established reconnection of Weldon and Onyx with the central office at new Kernville.

By the end of 1955, approximately 20 miles of new line had been completed and the utility was serving about 180 telephone subscribers. Of the total number of old subscribers to which service was discontinued in 1952, approximately 84 have not had service re-established. The record indicates that the majority desire service and are waiting for the utility to reestablish it.

General knowledge throughout the area has been to the effect that immediately after relocation those persons who were deprived of telephone service would have service returned to them as soon as the physical plant could be installed. Defendant specifically told many persons that such would be the case. In fact, the

written agreement between defendant and the United States<sup>1/</sup> provided for specific construction necessary to reestablish a workable telephone system as one of the conditions upon which the United States was to compensate defendant for the taking of the telephone properties. Further, such agreement provided that defendant would "accept subscribers to said system, priority being given to applications from parties who in fact were subscribers of the Kernville Telephone Company on November 14, 1952, and furnish telephone service to the subscribers so accepted."

As compensation for the taking of telephone properties the United States has paid Mr. Gouldin \$74,300 in cash of which Mr. Gouldin realized approximately \$49,365, the balance reportedly being (1) retained by his attorney as the fee for legal services, (2) the payment of \$5,000 for the purchase of a subscriber-owned line between Kernville and Weldon<sup>2/</sup> and (3) repayment of a note for \$4,000 covering original financing of telephone plant.

Of the \$49,365 net amount realized, \$43,937 had been expended, by December 31, 1955, for construction of telephone plant. The difference of \$5,428 apparently has been expended for moving and repairing the Gouldin home, for the payment of delinquent toll settlements with The Pacific Telephone and Telegraph Company, for personal expenses and to cover operating losses. Defendant's voucher distribution record indicates additions to plant which produce a total plant of \$61,058 as of December 31, 1955. Such figure is unsupported however and seems to have resulted from a "write-up" of plant values and from faulty accounting.

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<sup>1/</sup> As disclosed by Exhibit No. 2 in this proceeding.

<sup>2/</sup> Commonly known as the Brown Line.

With respect to earnings, defendant's annual reports to this Commission show operating losses in each of the years since the discontinuance of service in 1952.

With respect to reestablishment of service throughout the general area, the record is clear that defendant has not only left many individual prior subscribers unserved but also has failed to reestablish any service whatever in the area known as Garfield. The Garfield area was served by defendant prior to the construction of Isabella Dam. It is not now served according to defendant, because defendant has determined that it lies outside of the boundaries delineated on a map purporting to show the limits of his service area. In this connection, we must observe that the mere filing of service area maps by a utility as part of its tariffs does not necessarily delineate the area or areas within which the utility has dedicated its service to the public. The specific instance before us in this proceeding well illustrates the point. We find that defendant did in fact dedicate his facilities to the public service in the Garfield area long prior to the construction of Isabella Dam. We further find that public convenience and necessity have required, now require and will require that defendant serve the area with reasonable and adequate telephone facilities. Service in the area must be reestablished by defendant.

The record indicates that defendant has been granted an extension of time, until March 1957, in which to complete its contract with the United States in respect to construction of specific portions of the over-all project of restoring telephone plant. Defendant testified that the various materials necessary for completion are on hand for the building of six miles of line in the general vicinity of Weldon, for establishing service up the west side of the Kern River north of Kernville and for service to Garfield and vicinity. With

defendant's present labor force somewhat over six months' time would be required for the completion of such construction. Any further extension of plant would require additional financing and any shorter time would require additional manpower, according to defendant.

Conclusions

In view of the evidence we find that complainants are entitled to the relief sought and that it is just and reasonable to require that defendant provide telephone service to each of those subscribers being served on November 14, 1952, who now desire such service. We further find that public convenience and necessity require that defendant provide exchange telephone service in an area no less in extent than that delineated in Exhibit No. 8 in this proceeding and that an appropriate base rate area centered on Kernville be immediately established.

O R D E R

Based upon the evidence and the foregoing opinion respecting certain of its elements,

IT IS HEREBY ORDERED as follows:

1. Within thirty days of the effective date of this order Donovan F. Gouldin (Kernville Telephone Company) shall file in quadruplicate with this Commission, in conformity with the provisions of General Order No. 96, a tariff service area map on which is delineated an exchange service area of no lesser extent than that shown on Exhibit No. 8 in this proceeding.

2. By not later than December 31, 1956, defendant shall have established telephone service without assessing line extension charges therefor, to each party located within the aforesaid area who on November 14, 1952, was a subscriber to defendant's telephone service and who at any time between November 14, 1952, and the

effective date of this order has requested the reestablishment of telephone service by defendant.

3. Within thirty days of the effective date of this order defendant shall inform this Commission in writing of the names and locations of the parties to be so served, together with a program for the construction work required to reestablish service to them. Further, defendant shall; on or before the first day of each month, thereafter file monthly reports of progress on such construction program until such time as all those entitled to reestablished service are served.

4. Within sixty days of the effective date of this order defendant shall file in quadruplicate with this Commission, in conformity with the provisions of General Order No. 96, a base rate area map, for the developed area at Kernville, acceptable to this Commission.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 1<sup>st</sup> day of May, 1956.

[Signature]  
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.