

Decision No. 54699

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.)

J. J. Deuel, for complainant Kern Valley
Property Owners & Taxpayers Association, and
for California Farm Bureau Federation,
as an interested party;

J. A. Crawford, complainant, in propria persona;

Neal C. Hasbrook, for defendant Kernville Tele-
phone Company, and for California Independent
Telephone Association, as an interested party;

Willard Wade, for California Interstate Telephone
Company, interested party;

James F. Haley, for the Commission staff.

FIRST SUPPLEMENTAL OPINION AND ORDER

By this Commission's Decision No. 52988, issued May 1, 1956, in the above-entitled matters, Donovan F. Gouldin (Kernville Telephone Company) was ordered, among other things, to establish telephone service to certain waiting subscribers by not later than December 31, 1956. During the latter part of 1956, through a review of defendant's reports to the Commission, the Commission became aware of the probability that defendant would not fully comply with said Decision

No. 52988 in the time allotted. On December 11, 1956, defendant filed with the Commission a petition for an extension of time within which to comply with Decision No. 52988. Shortly thereafter, the matters were reopened for further hearing by order of the Commission. Public hearing was again held in Isabella before Examiner Emerson on January 24, 1957.

In response to that portion of Decision No. 52988 requiring defendant to inform the Commission within 30 days of the names and locations of specific parties to be served, with a program of the construction work required, defendant, by letter report of June 21, 1956, listed the names of 29 former subscribers to whom telephone service had not been re-established. Only a sketchy program of construction work was submitted, however. Succeeding reports from defendant indicated the installation of a number of poles, crossarms and brackets and of wire. Such reports indicated that during the period May 1 to December 3, 1956, defendant had re-established service to the Garfield area, as ordered, but only to five former subscribers inside of such area and that six others had either moved from the general exchange area or no longer desired service. Between December 3, 1956 and January 24, 1957, defendant re-established service to another four subscribers, thus leaving 13 still unserved as of the day of further hearing in addition to one applicant no longer desiring service.

With respect to defendant's noncompliance with Decision No. 52988 and his petition for an extension of time within which to comply, defendant relies on three grounds. The first is that he is still negotiating for the sale of his telephone system and that the negotiations are based upon the value of the plant as it existed in April 1956. According to defendant, the contemplated sale price would not include any amount to cover any additional investment made

by defendant to comply with Decision No. 52988. It is apparent from the record that defendant has been avoiding the installation of new plant, in so far as possible, in the anticipation that by so doing he would realize a greater financial advantage from the sale of the system.

Defendant's second allegation is that he cannot finance the additional plant required from his own funds and that he has been unable to secure financing from other sources. The evidence, however is clearly to the contrary. Defendant has himself testified that the necessary materials were on hand. With his existing labor force, continuously paid for out of current revenues, there has been no need shown for additional funds. Further, there is no question but that, if his labor force had been properly employed, compliance with Decision No. 52988 could have been obtained in an even shorter period of time than that allowed by the decision. Defendant now further testifies, however, that it is questionable if he can even complete the required construction by June 30, 1957, the date to which he petitions for an extension of time, claiming shortage of funds. Such further proposition is untenable in the light of the evidence. The only apparent need for funds additional to those obtained from current revenues would be those in the approximate amount of \$3,500 which might be expended for hiring, through a contract with another telephone utility, an outside crew of workmen to do defendant's work for him. It is for such amount that defendant contends he cannot obtain outside financing. The record shows, that although defendant contemplated such an expenditure and testified in February 1956 that he would seek such a sum as a bank loan, defendant,

up to the date of hearing on January 24, 1957 had not made an application to a bank or to any other source for a loan of any amount whatsoever. Defendant's statement that he "has been unable to secure financing from other sources" clearly is not the whole truth of the matter.

Defendant's third contention is to the effect that during the summer of 1956 he had found it necessary to relocate a pole line, located within the Isabella reservoir, that he had not known would be inundated and that this relocation "resulted in the expenditure of funds by defendant that would have been applied to the construction of plant to comply with the order in Decision No. 52988." Such position is not sustained by the evidence. To the contrary, the evidence is exceptionally clear that defendant has not yet undertaken relocation of the pole line. Such being the case, it follows that funds could not have been expended for it and that defendant in no sense was deprived of the use of funds which otherwise might have been expended for obtaining compliance with this Commission's order. It seems apparent that in this respect defendant has deliberately attempted to mislead the Commission. The evidence does show, however, that defendant, in order to continue service to Weldon, temporarily rerouted about one quarter of a mile of this line by laying field wire on the ground and using the upper two wires of a fence.

From defendant's own testimony in these matters the conclusion seems inescapable that from the beginning defendant has had no real intention of complying with the orders of this Commission. Rather, defendant has sought to delay providing service and meeting his utility obligations and plain duty to the public so as to enhance his personal position respecting the sale of the system to another party.

There is abundant evidence in this record that defendant's service is in numerous respects inadequate. Many persons, in addition to those specifically complainants in these matters, have requested improvement in existing service and the establishment of new service. Their repeated pleas either have been ignored or refused. Interruptions in service are common, no dial-tone is experienced, conversations are many times not understandable and calls are often not possible of completion. Defendant serves customers within his base rate area by operating lines with as many as 10 subscribers in direct violation of his tariffs. There is no evidence that any one of these conditions of inadequacy is excusable. In short, the record indicates, and the Commission so finds the fact to be, that the facilities and services of defendant are unreasonable, inadequate and insufficient.

Defendant, although now having had four years in which to re-establish the telephone system, has neither provided the community nor the complainants herein with a reasonable service or adequate facilities. On the evidence before us, we find that it was reasonable to have required defendant to undertake the establishment of service directed in this Commission's Decision No. 52988 and that defendant reasonably could have complied with the requirements of said decision. We find that defendant has not complied with such decision and, further, that defendant has attempted to deceive the Commission with respect thereto.

There can be no question that public convenience and necessity requires a reasonably adequate telephone service within Kernville exchange area. The public interest is not now being adequately served by the defendant. However, defendant will be accorded an additional period of time, as requested, to accomplish the construction work heretofore ordered. Defendant is placed on

notice that should he not complete such work in the time allotted, this Commission will then determine whether it is in the best interests of that segment of the public in the Kernville exchange area, as well as to the interest of the general telephone using public desiring to communicate with such area, that competitive telephone service be permitted in the area and the Commission will consider the desirability of instituting an investigation on its own motion to determine whether the public interest requires that any telephone utility serving adjoining or nearby areas should extend service into this area.

With respect to the matters immediately before us,

IT IS HEREBY ORDERED that the time limit for compliance with ordering paragraph 2 of Decision No. 52988 is extended to and including June 30, 1957. In all other respects said Decision No. 52988 shall remain in full force and effect.

Dated at San Francisco, California, this 19th day of MARCH 4, 1957.

John E. Mitchell
President
Walter J. Doyle
R. H. Hunt
E. Lynn Fox

Commissioners

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