

Decision No. 55885

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EDMUND J. WELLS, JR., et al,)
)
 Complainants,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a corporation,)
)
 Defendant.)

Case No. 5905

Paul N. McCloskey, Jr., for complainants;
Arthur T. George and Pillsbury, Madison &
Sutro by Charles B. Renfrew, for
 defendant;
James F. Haley, for the Commission staff.

O P I N I O N

Complainants filed this action on February 27, 1957, on behalf of 407 residents of Palo Alto who are telephone subscribers of defendant, seeking an order of this Commission directing defendant to modify its exchange boundary between the Palo Alto and Mountain View exchanges to coincide with the city limit boundary common to the two cities. Complainants allege that defendant has failed and neglected to furnish and maintain adequate, efficient, just and reasonable service, instrumentalities, equipment, facilities and rules as are necessary to promote the safety, health, comfort and convenience of defendant's patrons and the public and in particular the complainants.

Defendant's answer to the complaint, filed March 22, 1957, generally denies all of the allegations of complainants. The answer, among other things, avers that the exchange boundary in question was established in 1924 and that transfers of territory between the

Los Altos and Mountain View exchanges in 1936 resulted in the present common boundary, between the Palo Alto and Mountain View exchanges, lying to the west of the area in which complainants reside and that to the east of such area the city limits of Palo Alto and Mountain View are now contiguous. Defendant alleges that to comply with the requests of complainants would necessitate large expenditures for uneconomical plant construction and would, thereby, create a burden on other of its subscribers; that foreign exchange service is available to such of the complainants who desire service different from that now provided; that municipal boundaries change without relationship to the economics of serving the public; and that defendant's regularly published telephone directories contain adequate information to enable subscribers to correctly place calls. Defendant refused and still refuses to make the boundary revision sought by complainants.

With the issues thus joined, public hearing in the matter was held before Examiner F. Everett Emerson on June 18, 19 and 24, 1957 at Palo Alto. The matter was submitted upon receipt of concurrent briefs, filed July 24, 1957.

Complainants and the 407 residents whom they represent, comprise approximately 90 per cent of the telephone subscribers residing in four residential tracts located in an area of about 0.6 square mile, lying within the City of Palo Alto. Such area is included in defendant's Mountain View exchange but is not within the City of Mountain View. The area was annexed to the City of Palo Alto in January, 1951, at a time when approximately 20 telephone subscribers resided in the area.

Forty witnesses, on behalf of complainants, testified to a variety of service discrepancies. In the main, however, the testimony concerned (1) delays in obtaining emergency service as the

result of telephone operators connecting complainants with Mountain View fire and police departments rather than to the Palo Alto departments which should respond to such emergency calls, (2) delays and cancellations of incoming long distance calls as the result of telephone operator confusion or inattention as to whether the called party resided in Palo Alto, or in Mountain View as often insisted upon by the operators, and (3) inability to make or complete calls to other parts of the same City of Palo Alto in which they reside or to other cities north of Palo Alto because of their service being provided through Mountain View. Two witnesses testified that their foreign exchange service was unsatisfactory. A wide range of technical and service difficulties was recited by complainants' witnesses.

The fire chief of the City of Palo Alto testified that he had requested defendant to transfer the area in question from the Mountain View to the Palo Alto exchange at about the time the area became part of Palo Alto, but that defendant's representative had informed him that such transfer was "next to impossible." At such time (about 1951) the area was rural in nature and had very few telephone subscribers.

Defendant's General Commercial Engineer testified respecting the establishment of exchange boundaries, rates for service within defendant's Palo Alto and Mountain View exchanges, directory listings, and local service calling areas. He testified that the problems of the complainants are "very frequently present in rapidly growing and expanding areas" but that the "serving plan" of defendant should meet the day-to-day calling requirements of the complainants.

He admitted, however, that such day to day calling requirements of the complainants were not being met, attributing the failure to meet such requirements to shortage of equipment rather than to the location of the exchange boundary. This witness was unaware of any locality which had suffered the same degree of inconvenience experienced by the complainants in this matter.

Defendant's Plant Extension Studies Engineer testified respecting the physical location of certain telephone facilities, their intended or planned use, the economic and the estimated costs of serving the area in question. He further explained that it had been necessary to deactivate certain facilities in order to proceed with modifications and additions to central office facilities, that such situation had aggravated service difficulties in the area and that planned improvements, hoped to be completed by October, 1957, would substantially improve service. He admitted that proper day-to-day service had not been provided for the individuals concerned in this complaint. Trunking facilities, to provide relief to the area, were being installed at the time of the hearing in this matter, according to this witness. His estimate of the net additional investment of providing the service sought by complainants was \$112,000.^{1/} He admitted that the common feeder point for the area in question was an arbitrary point chosen by defendant's Outside Planning Engineer.

Defendant's third witness was its Traffic Planning Engineer, who testified respecting the handling of calls through operator

^{1/} It may be noted, in passing, that an equivalent cost of about \$12,500 might have been entailed if the work had been done in the period 1951-1953; also, that defendant's total investment in the Palo Alto and Mountain View exchanges now exceeds \$19,066,000, and the two exchanges now serve about 47,000 main station telephones.

switchboards and in particular the handling of emergency calls. He also testified respecting the problems, of meeting service requirements, generated by the phenomenal growth of the area, and explained the overloading of facilities resulting from such growth. Further, he testified respecting the handling of incoming long distance calls and the steps defendant had taken, on a nationwide basis, to attempt to insure that incoming calls would reach the desired party. In this respect he admitted the difficulties complained of but could determine no explanation for their occurrence. He also commented on each of the types of complaints testified to by complainants' witnesses, in general testifying that revised practices had been or were being placed into effect to alleviate the difficulties. He testified that circuit engineering orders and traffic orders were written in January, 1956, but that the work entailed had not yet been completed. No part of such work, however, is for the purpose of granting the boundary relief sought by complainants, but is for the purpose of improving existing service and alleviating some of the service difficulties. The witness could recall no instance where defendant had ever changed or adjusted its planning because of the complaints of subscribers.

The testimony of complainants' witnesses was most forceful and straightforward and was not convincingly disputed by the defendant in any instance. There is and can be no doubt that the situations complained of have actually occurred, have been annoying, confusing, embarrassing and frustrating, and have caused serious inconvenience to the complainants. Nor is there any doubt that members of the public, other than complainants, have been similarly inconvenienced, and at times seriously so. The evidence clearly indicates that the service rendered by defendant in this particular portion of Palo Alto has been far below that level of good service which defendant ^{and} has as its objective. The overwhelming weight of the evidence

clearly points out the plain facts that defendant's service to the complainants has been inadequate, insufficient and unreasonable and we so find.

Complainants' basic position in the matter may be simply stated as being that the telephone service furnished them is unreasonably inferior to that service provided other residents of Palo Alto, the city in which they reside. Basically, they rely on that portion of Section 453 of the Public Utilities Code which reads, "No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities, or in any other respect, either as between localities (emphasis added) or as between classes of service." They maintain that the location of the city boundary line is the key factor in determining whether the telephone service furnished by defendant is reasonably efficient and nondiscriminatory in their area. Complainants constitute more than 90 per cent of the telephone subscribers in the area. They desire Palo Alto service. They reside in Palo Alto and their community interests¹ lies there. *Om* They maintain that it is reasonable to demand the same service as is furnished in the rest of Palo Alto.

Defendant's position is that the present telephone service furnished complainants is adequate, that there is no real need for the exchange boundary modification sought, and that such modification would be uneconomical and thus against the public interest. Defendant points to a large number of proceedings in which, after hearings, the Commission has not granted requests to make exchange boundaries coincident with municipal boundaries. Defendant apparently fears that granting the prayer of complainants herein will establish a precedent by which it may later be overwhelmed.

The Commission is fully cognizant of the many times it, in various ways, has stated the general principles that telephone exchange or other public utility boundaries should retain a

substantial degree of permanency, that such boundaries should not and need not be modified to coincide with changes in municipal or other political boundaries merely because political boundaries are changed, and that maintaining established telephone exchange boundaries tends to allow economical construction and operation. Indeed, there are more decisions to such effect than those cited by defendant. The general principles involved have been stated repeatedly over a period of more than 40 years. However, in all cases general principles must of necessity be applied reasonably to the circumstances and to the specific record before the Commission.

Where particular circumstances warrant, no violence to principle is done when departure therefrom is authorized. The merits of a particular case are of no lesser importance than the established or inferred general principle and may reasonably require overriding of the principle on occasion. Such is the situation presently before the Commission. In our opinion the relief sought by complainants is warranted and may reasonably be granted. Further, the boundary in question might reasonably have been changed in 1951. Admittedly today's costs of providing the relief sought are higher than they would have been in 1951, but is that a valid reason for perpetuating an unreasonable and unsatisfactory situation? We think not; and defendant's contention that a present-day correction of such situation is uneconomic is not convincingly of such importance as to outweigh the benefits and the public convenience which will accrue to the public interest upon revision of this particular boundary line.

In view of the evidence we conclude, and hereby find as a fact that complainants are entitled to receive the relief sought, that their request is a reasonable request, that the boundary line between the Palo Alto and Mountain View exchanges here in question should be relocated in accord with complainants' request, and that an

order should be issued to such effect. We further find that a period of one year is a reasonable period of time in which to accomplish the transfer of the area from the Mountain View to the Palo Alto exchange and the order herein will so provide. We find that such increases in rates and charges as will result from a transfer of the area herein ordered are justified and that present rates, in so far as they differ therefrom, are for the future unjust and unreasonable.

O R D E R

Public hearing having been held, the matter having been submitted and the Commission having been fully informed thereon, the matter is now ready for decision based upon the evidence and the findings and conclusions contained in the foregoing opinion; therefore,

IT IS HEREBY ORDERED that defendant shall, at as early a date as is practicable but in no event later than December 31, 1958, modify its exchange area boundary between its Palo Alto and Mountain View exchanges so as to make said boundary coincide with the city limits of the Cities of Palo Alto and Mountain View as delineated on Exhibit No. 1 in this proceeding. The area thus transferred to the Palo Alto exchange shall be included within the Palo Alto base rate area. Further, defendant shall transfer subscribers affected by such boundary modification from existing Yorkshire telephone numbers to appropriate Davenport numbers, excepting any subscribers desiring Yorkshire exchange foreign exchange service, coincident with said boundary modification.

IT IS HEREBY FURTHER ORDERED that defendant shall make and file the necessary tariff schedule revisions, in accordance with the

provisions of General Order No. 96, on not less than 10 days' notice to the public and to this Commission.

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

Dated at San Francisco, California, this 3rd day of December, 1957.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners