

Decision No. 68776

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the suspension and )  
investigation on the Commission's )  
own motion of tariffs covering ex- )  
change area expansion in the )  
Gualala exchange of The Pacific )  
Telephone and Telegraph Company )  
and the Cazadero exchange of The )  
Redwood Empire Telephone Company. )

Case No. 7944  
Filed July 14, 1964

Arthur T. George and Maurice D. L. Fuller, Jr.,  
for The Pacific Telephone and Telegraph  
Company, respondent.

Bacigalupi, Elkus & Salinger, by William G.  
Fleckles, for Redwood Empire Telephone Com-  
pany, respondent.

Brobeck, Phleger & Harrison, by Robert N. Lowry  
and Reverdy Johnson, for Oceanic Properties  
Inc.; Neal C. Hasbrook, by Paul E. Fey, for  
California Independent Telephone Association;  
and Ralph Hubbard, for California Farm Bureau,  
interested parties.

Ermet Macario, for the Commission staff.

O P I N I O N

By filing (Advice Letter No. 8,804) made on June 17, 1964,  
The Pacific Telephone and Telegraph Company<sup>1</sup> sought to revise its  
Gualala exchange area boundary to include about 17.4 square miles  
of territory lying generally to the east and south of the existing  
boundary.

By filing (Advice Letter No. 9) made on July 7, 1964, The  
Redwood Empire Telephone System<sup>2</sup> sought to expand the boundaries of  
its Cazadero exchange in order to add thereto approximately 10 square  
miles of territory lying north of its existing exchange area and  
bounded on the west by the Pacific Ocean and on the east by the  
Gualala River.

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<sup>1</sup> Sometimes hereinafter referred to as Pacific.

<sup>2</sup> Sometimes hereinafter referred to as Redwood Empire.

These filings were suspended by the investigation order herein.

On September 22, and September 23, 1964, public hearing was held before Examiner Gillanders at San Francisco.

Included in both tariff filings is an area of 5,200 acres, called Sea Ranch, located at the northwest corner of Sonoma County. It is wholly owned by Oceanic Properties, a land developing organization, which is developing a community of homes under an overall development scheme embracing the idea of a completely planned community. The most northerly portion of Sea Ranch lies within Pacific's present Gualala exchange, while the most southerly portion of the property lies within Redwood Empire's existing Cazadero exchange. Oceanic Properties' Pacific Coast manager testified that, if possible, it wanted very much to have the entire Sea Ranch area within one exchange. He testified that persons living in the development would not be too concerned with long distance calls but would limit calls principally to those within the local area, and that when commercial and retail facilities are developed at Sea Ranch, people living on the ranch would be using the village center for almost all of their daily needs.

Pacific stated that, in the interest of providing good telephone service, Sea Ranch should be served by one company. Both companies indicated a willingness to have existing exchange boundaries realigned as necessary to accomplish this desirable objective. Pacific now provides toll station service within the Sea Ranch area to three customers.

Plans of the developer indicated a possible requirement for approximately 20 to 30 exchange stations by January 1965 in Unit No. 1, now under construction in the vicinity of Black Point,

which is in the most southerly portion of Sea Ranch. In this unit, there are approximately 70 home sites, one 10-dwelling condominium unit, a commercial facility consisting of a store, restaurant, lounge and sales office and six model homes. As the development extends northward, the developer plans recreational facilities surrounded by residential homes, and finally a town center will be developed in the most northerly portion of the ranch. The developer believes that within a 7 to 10-year period all of the properties within Sea Ranch will have been sold and that the ultimate population could be between 10,000 and 15,000 people.

Pacific, through two witnesses, presented testimony of its ability to furnish exchange service to Sea Ranch. Pacific's engineering witness testified that by the middle of December 1964, it would have sufficient capacity in its Gualala central office to provide service for the initial development in Sea Ranch, that it could provide exchange circuits to the initial development in about six weeks from date of authorization by this Commission via aerial cable, and that in the third quarter of 1965 it would be in a position to furnish service via underground facilities to the entire area. Pacific's commercial witness testified that a survey showed that the three toll stations in the Sea Ranch area placed three times as many calls north to Gualala as were placed south to Timber Cove or Cazadero. This witness also testified that the community of interest for the Sea Ranch area lies to the north towards the proposed town center of Sea Ranch and Gualala. Pacific proposes to charge the same rates as are presently applicable within its Gualala exchange. The toll rate point for the expanded exchange would be Gualala.

Redwood Empire's president testified that it proposed to establish a special rate area within the expanded Cazadero exchange which would include the first unit in the Sea Ranch area, and to

charge the rates recently authorized for its Timber Cove special rate area. The toll rate point for this area would be Cazadero. He further testified that interim financing in the amount of \$200,000 was available for expansion into the recently authorized Timber Cove area and to the Sea Ranch area.

A consulting engineer employed by Redwood Empire testified that to provide service to the initial Sea Ranch development as well as to the Timber Cove area would cost about \$203,000, including a new central office at Timber Cove. He testified that exchange service could not be supplied before June 20, 1965.

The record is clear that both Pacific and Redwood Empire are willing and will be able to supply adequate exchange service to the initial Sea Ranch development. Suitable toll station service is available to the developer until such time as exchange service is provided. The record is clear also that good telephone practice requires exchange service to Sea Ranch be supplied by only one telephone company.

With respect to the choice between Pacific and Redwood Empire for the provision of exchange service, the record favors Redwood Empire. With the addition of Sea Ranch Unit No. 1 to its exchange area, Redwood Empire's investment per customer will be reduced from \$960 to \$900. Toll calls from Black Point south to the county seat of Santa Rosa will be cheaper than from Pacific's Gualala exchange.

The most northerly boundary of Redwood Empire's Cazadero exchange, which includes a small fraction of Sea Ranch, was established by Decision No. 67267, dated May 26, 1964, in Application No. 45673, Case No. 7706 and Case No. 7716. Application No. 45673 and Case No. 7706 concerned the requests of Pacific and Redwood Empire to establish exchange service to some 25 main stations in the

vicinity of Timber Cove, which lies approximately 14 miles south of the Black Point area. A review of the record in these matters shows that no one revealed the fact that development of the area between Black Point and Gualala was already in the planning stage. Exhibit 6 in this proceeding shows that Pacific, as of November 20, 1963, was aware of plans for the development of Sea Ranch and the requirements for telephone service.

Redwood Empire has not started construction as yet into the Timber Cove area. It has redesigned its proposed plant to provide adequate service to Black Point as well as Timber Cove. Construction of this plant will ultimately be financed by the Rural Electrification Administration. In view of the authorization granted to Redwood Empire to provide exchange service to some 22 miles of coastline with a potential of 126 subscribers, it is in the public interest, and will strengthen Redwood Empire's overall operations, to authorize a further expansion along some eight miles of adjacent coastline with a potential of 3,000 main stations.

On the basis of the evidence, the more important aspects of which are hereinabove discussed, the Commission makes the following findings:

1. Pacific and Redwood Empire seek to provide exchange service in essentially the same area.
2. The public interest will best be served if Redwood Empire is authorized to establish exchange telephone service in the disputed area.
3. Exchange boundaries in the general area should be so determined that all of Sea Ranch will lie within one exchange of Redwood Empire.
4. It is fair and reasonable to establish rates for exchange service within Sea Ranch predicated on standard criteria. A special

rate area should not be established at Sea Ranch until the development warrants such treatment.

5. Good telephone practice requires the establishment of a new exchange in the Timber Cove-Sea Ranch area and a contraction of the Cazadero exchange boundaries.

6. Good telephone practice requires the establishment of a toll rate center within the new Timber Cove exchange.

The Commission concludes as follows:

1. Redwood Empire should be authorized to establish exchange telephone service in the disputed area, as hereinafter ordered.

2. Pacific should be authorized to contract its Gualala exchange as hereinafter ordered.

#### O R D E R

IT IS ORDERED as follows:

1. The Redwood Empire Telephone System is authorized to establish a Timber Cove exchange to include "unfiled territory" as well as areas presently within the Cazadero exchange of The Redwood Empire Telephone System and the Gualala exchange of The Pacific Telephone and Telegraph Company, with areas and boundaries as described in Appendix A attached to this order.

2. Redwood Empire is authorized to establish a base rate area for Timber Cove exchange in lieu of its Cazadero special rate area, with boundaries as described in Appendix B attached to this order.

3. Redwood Empire is authorized to file with this Commission, on or after the effective date of this order and in conformity with the provisions of General Order No. 96-A, tariffs revised to include the rates and charges set forth in Appendix C attached to this order.

Such rates shall become effective on the date on which exchange service is first rendered in the Timber Cove exchange area, and the line extension charges shall become effective on the effective date of the revised tariffs.

4. The authorization hereinabove granted to Redwood Empire will expire if not exercised prior to January 1, 1966.

5. Redwood Empire is authorized and directed to establish a toll rate center at the central office to be located at Timber Cove.

6. Redwood Empire is authorized to file with this Commission revised tariffs by which the boundaries of its Cazadero exchange are contracted to those boundaries set forth on canceled revised Cal. P.U.C. Sheet No. 91-T.

7. The Pacific Telephone and Telegraph Company is authorized to file with this Commission revised tariffs by which the south and east boundaries of its Gualala exchange become contiguous with the north and east boundaries established herein for Redwood Empire's new Timber Cove exchange.

8. Pacific shall discontinue its toll stations within the area of the Timber Cove exchange authorized to be established herein, on such date or dates as exchange service is made available in said exchange to such toll station locations.

9. The suspension of revised Cal. P.U.C. Sheet No. 37-T filed by Pacific by Advice Letter No. 8804 is hereby made permanent.

10. The suspension of Cal. P.U.C. Sheets Nos. 110-T and 111-T filed by Redwood Empire by Advice Letter No. 9 is hereby made permanent.

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

Dated at San Francisco, California, this 23rd day of MARCH, 1965.

Frederick B. Holdcroft  
 President

George H. Crover

Augustus

Commissioners

I will file a  
 dissent.

Peter E. Mitchell



APPENDIX A

Exchange Area

The following described sections, ranges and townships of Mount Diablo Base and Meridian are authorized to be included in the Timber Cove exchange:

That portion of Township 11 North, Range 15 West, south of the Gualala River and west of the South Fork of the Gualala River;

That portion of Section 31 of Township 11 North, Range 14 West, west of the South Fork of the Gualala River;  
Sections 1, 2, 3, and 12 of Township 10 North, Range 15 West;

That portion of Township 10 North, Range 14 West, west of the South Fork of the Gualala River;

Sections 1, 2, 3, 10, 11, 12, 13, 14, 24 and 25 of Township 9 North, Range 14 West;

All of Township 9 North, Range 13 West, except Sections 1 and 12;

All of Township 8 North, Range 13 West;

Sections 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34 of Township 9 North, Range 12 West;

Sections 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 27, 28, 29, 30, 31, 32, 33, 34, and 35 of Township 8 North, Range 12 West;

Sections 2, 3, 4, 10 and 11 of Township 7 North, Range 12 West, except those portions of Sections 2 and 11 within the Monte Rio exchange of The Pacific Telephone and Telegraph Company.

APPENDIX B

Base Rate Area

The Base Rate Area within the Timber Cove exchange shall include the following described territory:

Sections 2, 9, 10, 11, 12, 13, 14, 15, 23, 24 and 25 of  
Township 8 North, Range 13 West;

The Northwest 1/4 and the Southwest 1/4 of Section 19 of  
Township 8 North, Range 12 West;

The Northwest 1/4 and the Southwest 1/4 of Section 30 of  
Township 8 North, Range 12 West.

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RATES

The presently effective rates, charges and conditions are changed in the manner or to the levels set forth in this appendix.

Schedule No. A-1, Individual Line and Party Line Service:

Schedule No. A-3, Semipublic Coin-Box Service:

Schedule No. A-4, Mileage Rates:

Schedule No. A-5, Suburban Service:

Delete provisions for service within the special rate area and substitute the following: For service within the Base Rate and Suburban Areas of Timber Cove exchange:

	<u>Rate Per Month</u>
<b>Business Service:</b>	
1-Party Flat	\$7.00
2-Party Flat	5.55
Semipublic Coin-Box	
Per Month	2.25
Minimum Charge Per Day	.19
Suburban Flat	5.00
<b>Residence Service:</b>	
1-Party Flat	6.00
2-Party Flat	4.65
4-Party Flat	3.85
Suburban Flat	4.00

Schedule No. A-31, Line Extension Charges

Modify RATES 3 to provide as follows:

3. Special Line Extension Charges in Timber Cove exchange area.

a. All subscribers to service within Timber Cove exchange, shall be charged \$1.25 per month in lieu of the line extension charges set forth under RATES 1 and 2 above. Said monthly charge (in addition to any other applicable charges) shall be applied to all subscribers in said area and shall be discontinued on January 1, 1970.

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- b. Applicants for service within the Timber Cove exchange, who apply for service on or after February 28, 1965 shall be subject to line extension charges under RATES 1 and 2 above in addition to the charges applicable under RATES 3a above.

All Other Services

Rates, charges and conditions for all other services in the Timber Cove exchange shall be those applicable in Cazadero exchange.

COMMISSIONER PETER E. MITCHELL DISSENTING:

The majority opinion succinctly maroons the interest of:

(1) the owner of the property herein at issue; (2) the public; (3) The Redwood Empire Telephone System, and (4) The Pacific Telephone and Telegraph Company. These are the parties - the only parties - represented in Case No. 7944.

Oceanic Properties Inc., the owner of the property sought for certification, appeared and testified at the hearing. Negotiations for the installation of telephone service had been commenced between Oceanic and Pacific in November, 1963. On September 4, 1964, Oceanic filed a petition in Case No. 7944, which reads in part as follows:<sup>1/</sup>

"Petitioner and Pacific have been coordinating their work to assure that petitioner's need for exchange service by the end of January, 1965, can be met."

The Pacific Coast Manager for Oceanic stated that it supported the application of Pacific.

The public which will eventually occupy the property, known as Sea Ranch, will be affected by the cost and operation of the telephone facilities available. The record is clear that Pacific will be able to provide better service at overall lower rates than Redwood.

The Redwood Empire Telephone System is a small company dependent upon the R.E.A. for financing and upon outside telephone consultants for the physical expansion of their communications network. The Sea Ranch property may have a rapid or slow growth; full

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<sup>1/</sup> Paragraph VIII

development may require years of waiting; yet, the cost of installation and operation of a utility is omnipresent. To authorize Redwood under the circumstances is a disservice not only to future subscribers of Redwood but also to its present customers.

The Commission has historically awarded territory in dispute to utilities which have pioneered in the area and which have had the consent of the land owners. Pacific currently provides toll station service in Sea Ranch. Oceanic prefers Pacific. The proceedings show Pacific ready, willing, and able to serve - immediately.

The majority of the Commission can find no solace for its order within the confines of Case No. 7944, or, indeed, within the chronicles of earlier Commission decisions. It must seek elsewhere to justify its award. Under color of pre-emption, the majority has exercised the power of regulation force majeure.



Peter E. Mitchell, Commissioner

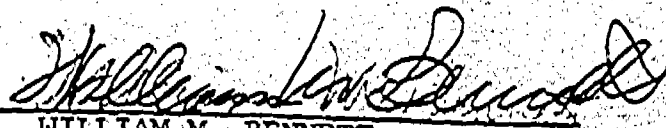
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DISSENT

BENNETT, William M., Commissioner, Dissenting Opinion:

I dissent. I would grant the authority herein to the Pacific Telephone and Telegraph Company. The notion, and it is a curious one, that Pacific as a monopoly should in some manner be restrained in its growth shows less than an understanding of the deliberate public policy that utility services or commodities subject to full and fair regulation has been determined as the means of serving the public. It will not be long in the future when the relatively small size of the Redwood Empire Telephone Company will bring back to this Commission all of the problems arising from lack of capital resources, lack of ability to provide expanded calling areas and all of those other problems which bedevil and beset us where separate telephone corporations adjoin.

I should also point out by way of a technical but nonetheless valid objection that Redwood Empire is being authorized to establish exchange telephone service because "the public interest will best be served" thereby. And upon that bald conclusion, and no more, which of necessity must discard much of what we know as to the advantages of a larger and superior telephone corporation, we deny Pacific's application.

  
WILLIAM M. BENNETT  
Commissioner

San Francisco, California

March 23, 1965