

ORIGINAL

Decision No. 77208

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

The California Farm Bureau Federation,
a non-profit organization,

Complainant,

vs.

San Miguel Telephone Company of
California,

Defendant.

Case No. 8855
(Filed November 4, 1968)

In the matter of the application
of San Miguel Telephone Company of
California for authorization to
borrow \$1,225,000, issue notes
therefor and execute security in-
struments in connection therewith.

Application No. 51582
(Filed December 29, 1969)

William G. Fleckles, for defendant in Case No.
8855.

Alvin H. Pelavin, for applicant in Application
No. 51582.

William L. Knecht and Ralph O. Hubbard, for
California Farm Bureau Federation, com-
plainant in Case No. 8855 and interested
party in Application No. 51582.

Ermet Macario, Daniel Paige, R. T. Perry, and
K. K. Chew, for the Commission staff.

INTERIM OPINION

Complainant alleges that service by defendant in its San Miguel and Parkfield exchanges fails to meet the requirements of public convenience and necessity. Complainant requested this Commission to inquire into the operation and management of defendant and to set public hearings for the purpose of taking testimony of customers of defendant. Complainant also requested that this Commission establish reasonable standards of operation and maintenance for defendant.

Defendant in its answer admitted that because of temporary malfunctions of its automatic billing equipment, some of its customers have, on infrequent occasions, been overcharged for customer dialed calls but that in every instance where such overcharges have been brought to the attention of defendant appropriate credit has been given to the customers affected. As a defense, defendant averred that the complaint failed to state a cause of action and requested that the complaint be dismissed. Simultaneously with filing its answer, defendant moved for an order requiring the complaint to be made more certain and further moved that paragraph IV E of the complaint be stricken on the grounds that it was irrelevant and redundant.

Public hearing, for the purpose of receiving testimony from customers of defendant, was held at Parkfield on March 11, 1969, before Examiner Gillanders. Testimony was received from 14 persons,^{1/} and complainant rested its case in chief. Further hearings were scheduled for August 12, 13, and 14, 1969, for the purpose of receiving evidence from the staff regarding its independent investigation of defendant's operations.

Hearing was held at Parkfield on August 12, and at San Miguel on August 13 and 14. At Parkfield, four more customers^{1/} testified as to the troubles they have experienced with the telephone system. A staff engineer presented an exhibit (No. 1) entitled, "Staff Report on Compliance of the San Miguel Telephone Company with Provisions of General Order No. 95". Exhibit 1 was summarized by the witness's testimony that "The results of inspections made on the San Miguel Telephone Company's overhead facilities this year shows many segments of the

^{1/} These 18 witnesses described almost all of the known cases of trouble that could occur on a telephone system.

company's facilities to be totally inadequate to meet the minimum requirements of this Commission's General Order No. 95 'Rules for Overhead Electric Line Construction'".

At the conclusion of the staff witness's testimony counsel for complainant made the following motion, applicable to the Southern Division, that this Commission: "... suspend the operating rights and privileges of the Defendant company.

"Complainant requests this Commission to order Defendant to remove Joseph Ray, owner and President, from his position, and install, at the expense of the company, a Commission employed engineer, with power and authority to make, or cause to be made, such corrections as are required by the public interest.

"In the alternative, Complainant prays this Honorable Commission to order a sale of the entire facility of Defendant, at public auction or otherwise, by bid, in a procedure supervised by this Honorable Commission. The highest bid, offered by a qualified bidder, shall be accepted, subject to such terms and conditions and limitations as may be imposed by this Commission. After payment of all reasonable expenses of the sale, net proceeds may be remitted to Defendant."

After argument, the motion was taken under submission.

Another staff engineer presented an exhibit (No. 2) entitled, "San Miguel Telephone Company Service in Parkfield and San Miguel Exchanges".

At San Miguel six customers testified on behalf of defendant regarding their experiences with the telephone system.^{2/} Four customers desiring not to be witnesses for either complainant or defendant were called by the examiner as his witnesses to relate their experiences with the telephone system.^{3/} Two witnesses testified in their own behalf regarding the sale of the Indian Valley line. Defendant cross-examined the staff witness who sponsored Exhibit 2.

2/ Their experience was that they received "good" telephone service.

3/ Their experience was that the service was "bad".

Further cross-examination on Exhibit 2 was conducted at San Francisco on October 22. On October 23 the staff engineer introduced Exhibit 3 entitled, "Summary of Written Comments Received on CPUC General Service Questionnaire". At the conclusion of his examination on Exhibits 2 and 3, counsel for defendant moved to strike all of Exhibit 3 and certain parts of Exhibit 2 on the basis that Exhibit 3 was wholly irrelevant and improper and incompetent and therefore any portion of Exhibit 2 which related to Exhibit 3 also carried the same defects. His motion was not granted by the examiner.

On November 12, 13, and 14, 1969, at San Miguel, defendant presented testimony and exhibits through its President, its Commercial Manager, its certified public accountant, and its consulting engineer. At the conclusion of the testimony of these witnesses, it was apparent that the solution to the myriad problems in the southern district was an infusion of money which would be used to rebuild all (with rare exceptions) of the outside plant. As defendant had not yet obtained the necessary authorization to borrow money from the Rural Electrification Administration (REA), the matter was continued to a date to be set. In the meantime, applicant agreed to make certain administrative changes recommended by the staff in Exhibit 2.^{4/}

On December 29, 1969, applicant filed an application, (A.51582) seeking an order authorizing it to borrow an additional \$1,225,000 pursuant to a proposed amendment to its loan agreement with the Rural Electrification Administration.

A hearing was held on April 6, 1970, and both matters were submitted. Testimony and an exhibit was presented by applicant's president. Testimony and an exhibit was presented by a staff accountant.

^{4/} These changes were filed by an advice letter on January 22, 1970.

At the close of the hearing counsel for applicant requested that the application be granted. Counsel for the Farm Bureau opposed any authorization to draw down funds and requested that the application be denied and that his previous motion (supra) be granted. The staff representative recommended that the loan be authorized; that a number of requirements and conditions be placed on that authorization; and that any orders be interim in order to permit optimum surveillance and control of the future operations of applicant.

Findings and Conclusions

The Commission finds that:

1. Many segments of defendant's facilities are totally inadequate to meet the minimum requirements of General Order No. 95.
2. Defendant instituted a program of clearing G.O. 95 infractions in November, 1969, and has submitted monthly progress reports starting as of January, 1970.
3. Defendant plans to rebuild all of the outside plant in its Parkfield exchange by replacing existing overhead construction with underground when it receives REA funds.
4. Defendant, in recent years, overbuilt its toll plant and neglected its exchange plant.
5. Extended area service between Parkfield and the proposed Berrenda Mesa exchange would not be in the public interest (Exhibit 2).
6. Defendant should request The Pacific Telephone and Telegraph Company to connect toll service to its proposed Berrenda Mesa central office and provide all associated toll service upon completion of the central office (Exhibit 2).
7. Defendant should not make any expenditures for additional traffic measuring equipment, a warehouse in San Miguel nor equipment

to provide special repair service and directory assistance dialing codes. These restrictions should remain in effect until such time as all customers can be provided with one- or four-party service.

8. Some previous REA loan funds were expended for purposes other than as authorized by this Commission (Exhibit 16).

9. Based on its financial position at December 31, 1969, applicant will have difficulty in meeting its currently maturing obligations if it does not obtain additional external financing. Current liabilities of \$430,834 at December 31, 1969, exceeded current assets of \$52,527 in approximately an 8 to 1 ratio. Approximately \$305,487 of the proposed "D" loan will be used to discharge notes and accounts payable presently outstanding.

10. The REA "D" loan should, if approved, improve the current financial position somewhat by spreading the payments of existing notes and accounts payable over the 35-year term of the "D" loan (Exhibit 16).

11. If the "D" loan is approved, applicant will be able to generate sufficient cash to service the interest and principal payments on its existing REA notes and on the proposed "D" loan from internal funds provided that:

- a. Applicant's future growth projections are accurate.
- b. Applicant continues to obtain most of its revenues from toll cost settlements with Pacific Telephone, and continues to earn high rates of return in these settlements. (San Miguel has been receiving toll settlements from Pacific Telephone ranging from 7.4% to 8.6% return on plant which it financed with 2% REA funds.) Approximately 65% of applicant's plant is allocated to toll operations.
- c. Applicant substantially improves its management and exercises better control over expenditures, bringing its costs more in line with operating expenses of other telephone utilities.

12. Applicant's operating expenses per telephone (before depreciation and taxes) are more than twice as much as the mean of operating expenses per telephone of all other REA financed telephone utilities in the State of California.

13. This Commission is confronted with a public utility presently unable to render public utility telephone service in its Southern District.

14. Absent the financial capability to do so, expanded services and upgrading of such services cannot be expected, but the financial deficiency will, for the immediate future, be overcome by the authorization of applicant's request.

15. Execution of the proposed documents will not be adverse to the public interest.

16. The money, property or labor to be procured or paid for by the issue of the notes herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Considering the above findings, we conclude that Application No. 51582 should be granted on an interim basis and Case No. 8855 continued.

Complainant's motion will be denied on the basis that this record shows that the REA, if it deems it necessary for the protection of the Government's interest, can take over San Miguel and install its own personnel to manage and operate the facilities.

INTERIM ORDER

The above-entitled matters having been considered and the Commission having found that an interim order should be issued; therefore,

IT IS ORDERED that:

1. San Miguel Telephone Company of California may execute and enter into an Amendment to its Loan Contract with the United States of America, acting through the Administrator of the Rural Electrification Administration, which document shall be in the same form, or in substantially the same form, as Exhibit B attached to the application.

2. San Miguel Telephone Company of California may execute and deliver such Supplemental Mortgages as are required under the terms of said Loan Contract as amended.

3. San Miguel Telephone Company of California, for the purposes set forth in this proceeding, may issue notes in the aggregate principal amount of not exceeding \$1,225,000 in the same form, or in substantially the same form, as Exhibit C attached to the application.

4. San Miguel Telephone Company of California shall file with the Commission, a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

5. Applicant shall submit to the Commission:

- a. Operating and capital expenditure budgets for a five-year period. In addition to showing dollar amounts expended on plant construction, the budget shall include a construction time schedule by exchange and by type of plant. These budgets shall be filed within 90 days.
- b. Quarterly financial statements (balance sheets, income statements, and capital expenditure statements, with supporting schedules) showing how closely the budget forecasts in dollar amounts and construction time schedules have been met, within 60 days of the end of each quarter.
- c. Quarterly reports showing the number of main stations, by exchange, within 60 days of the end of each quarter.

- d. Copies of all correspondence, reports or other documents sent to or received from the REA during the immediate prior calendar quarter, within 60 days of the end of each quarter.
- e. A quarterly payroll summary segregated between office, management and maintenance and operational employees, showing the amount of the payroll charged to operating expenses, plant accounts and other accounts, within 60 days of the end of each quarter.

6. Applicant shall amortize the balance of telephone plant acquisition adjustments on its books over a maximum period of ten years.

7. Applicant shall increase its common equity investment to a minimum of 10% of capitalization, and maintain this minimum percentage thereafter.

8. Defendant shall continue its program of correcting General Order No. 95 infractions and shall supply a monthly report of violations cleared and violations yet to be cleared.

The Commission expects that defendant will proceed promptly, diligently and in good faith to carry out all of the orders enumerated above. If there is reason to believe that defendant has not been diligent in carrying out the above orders, the Commission will formally inquire into the circumstances for the purpose of determining whether or not defendant shall be held in contempt.

This order as it applies to ordering paragraphs 1, 2 and 3 shall become effective when San Miguel Telephone Company of California

C.8855 and A.51582 HW

has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$2,225. In all other respects, the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 12th
day of MAY, 1970.

William Synnott Jr.
President

Augusta

William J. [unclear]

Vernon L. Stungen
Commissioners

