

Decision No. 80475

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }
A. W. Brothers dba Lake Tahoe Marine }
Telephone Co., for a certificate of }
convenience and necessity to provide }
Marine telephone service to Lake }
Tahoe, California. }

Application No. 52649

A. W. Brothers, for applicant.
Dudley A. Zinke, Frank E. Sieglitz, Attorneys at
Law, for The Pacific Telephone and Telegraph
Company, protestant.
Robert J. Gloistein, Attorney at Law and Richard D.
Crowe, for Continental Telephone Company of
California, and Homer Harris, for Industrial
Communications Systems, Inc., interested
parties.
Rufus G. Thayer, Richard D. Gravelle, Attorneys
at Law, and Harold D. Scielstad, for the
Commission staff.

ORDER DENYING MOTION TO RECEIVE
LATE-FILED EXHIBITS IN EVIDENCE

This matter was originally filed on May 18, 1971. It was amended on February 1, 1972. After due notice, public hearing was held at San Francisco on April 17, 18, 24, 25, 26, 27 and 28, 1972. The matter was submitted on April 28, 1972.

On May 22, 1972, the staff filed a "Motion To Receive Late-Filed Exhibits in Evidence."

On June 30, 1972, applicant filed an "Objection To Motion To Accept Late-Filed Exhibits."

On July 7, 1970, the staff filed a "Reply To Objection To Motion of Lake Tahoe Marine Telephone Company."

On July 25, 1972, The Pacific Telephone and Telegraph Company filed a "Memorandum in Support of Reply To Objection To Motion To Accept Late-Filed Exhibits."

On July 28, 1972, applicant filed a "Reply To Reply's To Objection To Receipt of Late-Filed Exhibits."

All parties are referred to Rule 74 of this Commission's "Order Revising Rules of Practice and Procedure" effective July 14, 1967.

Rule 74 states, in part:

"Additional Evidence ...

Upon agreement of the parties, he [the presiding officer] may authorize the filing of specific documentary evidence as a part of the record within a fixed time after submission, reserving exhibit numbers therefor."

Compliance with Rule 74 would result in the parties foregoing their right to cross-examination. The documents which the staff seeks to place in evidence appear to contain controversial material and it is clear from applicant's objections that if the material was received in evidence, it would pursue the matter, not only by cross-examination, but by other means.

Under the circumstances, it appears that the staff's motion should be denied. We do point out that if the staff believes its proposed evidence is material to a proper determination of this matter our rules provide for other ways of obtaining the relief sought, for example Rule 84.

Therefore, good cause appearing,

IT IS HEREBY ORDERED that the staff's "Motion To Receive Late-Filed Exhibits in Evidence" is denied.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 12th day of SEPTEMBER, 1972.

I direct.

Thomas Mann Commissioner

Vernon L. Sturgeon
President
William Ignace J.

[Signature]
Commissioners