

ei

Decision No. 82200

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RANCHO SANTA ROSA, a corporation,
Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation, GENERAL
TELEPHONE COMPANY OF CALIFORNIA,
a corporation.

Defendants.

Case No. 9535
(Filed April 9, 1973)

Fred F. Cooper, Attorney at Law, for Rancho Santa
Rosa, complainant.

Richard Siegfried, Attorney at Law, for The Pacific
Telephone and Telegraph Company, and Lorin H.
Albeck, Attorney at Law, for General Telephone
Company of California, defendants.

O P I N I O N

By its complaint filed April 9, 1973, Rancho Santa Rosa alleges that it is the owner and developer of certain land in the county of Ventura; that one portion of the development is in the service area of The Pacific Telephone and Telegraph Company (Pacific) and the other portion is in the service area of General Telephone Company of California (General); that complainant has installed an underground structure for telephone service to serve the property in compliance with the requirements and approval of both defendants;

that the existing facilities of General are adjacent to that portion of the development which General is to serve, and the existing facilities of Pacific are approximately one-half mile northwest of the lots being developed by complainant; that the cost to complainant for the underground extension of service by Pacific would be approximately \$50,000; that complainant has requested defendants to readjust their service territory boundaries so that the entire development can be served by General; that Pacific is willing to readjust the boundaries if it receives an equivalent amount of territory from General; that General is willing to serve the entire development, but is not willing to give any of its service area to Pacific; and that service of the development by General would be in the public interest.

Complainant requests the following alternative relief:

1. An order requiring Pacific to transfer its portion of the service area within the development to General; or
2. An order requiring Pacific to transfer its portion of the service area within the development to General and an order requiring General to transfer an equivalent amount of its service territory to Pacific; or
3. An order requiring Pacific to extend its service underground to said development at no cost to complainant.

In their respective answers, defendants request that the complaint be dismissed on the following grounds:

1. It fails to set forth an act done or omitted by defendants in violation of law or of any order or rule of the Commission.
2. That the Commission has no jurisdiction to require defendants to exchange service areas, nor does the Commission have jurisdiction to require General to serve outside of its existing service area.

Public hearing was held before Examiner Daly on August 10, 1973 at San Francisco, and the matter was submitted upon opening and closing briefs, the latter having been filed on October 3, 1973.

Complainant is a subsidiary corporation of C. F. Braum and Company, which, in addition to developing real property in Ventura County, is also engaged in the operation of refineries and chemical plants. Rancho Santa Rosa is located in rugged terrain approximately seven miles northwest of the city of Thousand Oaks. It covers an area of approximately 1,588 acres and consists of 225 lots, the smallest of which are five acres in size and sell for between \$25,000 and \$30,000. Of the 225 lots in the development, 63 lots are in Pacific's Moorpark exchange and 162 lots are in General's Oxnard exchange. Approximately 30 lots in Pacific's territory have been sold. There are presently between 6 and 10 structures in General's territory and one residence under construction in Pacific's territory.

Because of certain additional costs relating to the installation of sewer facilities, complainant has decided not to develop the northwest quarter of the development, which is adjacent to Pacific's present facilities near Hitch Road. As a result the cost to complainant for the underground extension of Pacific's service to the area under development would be approximately \$50,000. According to complainant this cost would have to be added to the purchase price of the lots in Pacific's service area and would result in each purchaser paying an additional \$800.

During the course of hearing Pacific and General introduced Exhibit 4 which sets forth an administrative boundary change, to which defendants had agreed upon prior to the filing of the complaint. The proposed administrative change would place the boundary near its highest elevation south of Presilla Road. The elevation difference between the buildable portions of the lots fronting on Barranca Road, which is located just south of the present exchange boundary and Presilla Road, is approximately 450 feet. According to defendants this would constitute a natural boundary between the two exchanges and would minimize the problem of neighbors being served by different telephone companies.

Complainant contends that because it does not intend to develop the northwest portion of the area there will be no access to Moorpark and therefore there will be a natural tendency for Rancho Santa Rosa to become an integral part of the Thousand Oaks community, which is served by General. Complainant also contends that service of the area by two telephone companies will present a serious problem for the proposed 911 emergency service when inaugurated.

A witness for Pacific testified that the company is generally opposed to changes in exchange boundaries and before making any change would give serious consideration to the location within the general area of such facilities as police, fire, hospital, medical, dental, shipping, schools, recreational, and social. According to the witness, it would be premature to make any evaluation of such factors because Rancho Santa Rosa is in its early stage of development, and it is too soon to make any determination as to the interests and habits of its

future residents. The witness pointed out that at the present time the elementary and high schools are in the Oxnard exchange, the junior high school is in the Thousand Oaks exchange, the junior college is in the Moorpark exchange, the hospital is in the Thousand Oaks exchange, and that police and fire protection for the area is provided by the Ventura County Sheriff and Fire Departments, which, in addition to ambulance service, may be reached toll free from both the Moorpark and Oxnard exchanges.

Complainant relies upon Wells v Pacific Telephone Company (1957) 56 CPUC 53. In that proceeding a complaint was filed by 407 residents of Palo Alto, who were subscribers of Pacific, requesting an order of the Commission directing Pacific to modify the boundary between its Palo Alto and Mountain View exchanges to coincide with the city limit boundary common to the two cities. This matter did not involve an order of the Commission directing one utility to serve the service area of another utility nor did it direct one utility to transfer a portion of its service area to another; however, the Commission did make the following observations in its order directing Pacific to readjust its exchange boundaries because of the convincing evidence of the complainants relating to service problems:

"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 change 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 less 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 the instant proceeding there are no extenuating circumstances justifying a change of boundary. For all practical purposes, Rancho Santa Rosa is presently in an undeveloped state. We are not confronted with customers of Pacific and General complaining of service problems. The only problem complained of in this proceeding is the \$50,000 estimated cost that complainant will have to pay for the extension of Pacific's service in accordance with Pacific's published tariff. Complainant admittedly has no interest in where the service boundary is located as long as it does not have to pay the cost for extending service. It is apparent that the requested relief is intended more to financially accommodate the developer than it is to avoid possible service problems to potential telephone customers.

After consideration the Commission finds that:

1. Complainant is a developer of the Rancho Santa Rosa subdivision in Ventura County.
2. Rancho Santa Rosa is located in rugged terrain and is rather isolated from population centers.

3. Portions of Rancho Santa Rosa are within the service area of Pacific and General.

4. At this time there are between 6 and 10 residents of the area being served by General.

5. The estimated cost to complainant for the underground extension of service by Pacific is \$50,000.

6. There are no telephone service problems at the present time and there is nothing in the record to indicate that there will be any in the foreseeable future.

7. The relief requested is not sought for the purpose of correcting existing or reasonably foreseeable service problems, but merely to reduce complainant's costs as the developer of Rancho Santa Rosa.

8. The boundary which Pacific and General have mutually agreed to, and as more specifically set forth in Exhibit 4, is advantageous because its elevation of 450 feet provides a natural separation of the service areas.

The Commission concludes that complainant has not alleged, nor has it established, a factual situation justifying the relief sought in its complaint. For that reason it is not necessary for the Commission to consider the jurisdictional issues raised in this proceeding, nor the question as to whether Pacific should be ordered to deviate from its tariff and assume the entire cost of extending its service to Rancho Santa Rosa.

O R D E R

IT IS ORDERED that:

1. The relief requested in the complaint is denied.

2. Within sixty days after the effective date hereof, defendants shall file with the Commission the adjusted exchange boundary set forth in Exhibit 4.

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

Dated at San Francisco, California, this 4th day of DECEMBER, 1973.

Vernon L. Stenger
President
William J. ...
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Commissioners