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Decision No. 83184

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION OF RANCHO SANTA ROSA,
A CORPORATION, SEEKING A DEVIATION
FROM THE REQUIREMENT FOR UNDERGROUND
TELEPHONE SERVICE TO A PORTION OF
RANCHO SANTA ROSA IN VENTURA COUNTY.

Application No. 54825

(Filed April 24, 1974)
(Amended June 5, 1974)

Fred Cooper, Attorney at Law,
for applicant.
R. A. Siegfried, Attorney at
Law, for The Pacific Telephone
and Telegraph Company, interested party.

O P I N I O N

Applicant requests an order authorizing deviation from the requirements of Rule 15 and Schedule No. 36-T of The Pacific Telephone and Telegraph Company waiving for a period of six years the undergrounding requirements for the installation of The Pacific Telephone and Telegraph Company's (Pacific) telephone line for a residential subdivision in Ventura County named Rancho Santa Rosa.

A public hearing solely to determine the need for an environmental impact report was held in Los Angeles before Examiner Rogers on June 7, 1974 and the matter was submitted. The manager of applicant's real estate department presented a picture of the over-all area (Exhibit 1(A)) and views from particular spots and angles in the area (Exhibits 1(B) through 1(G)). Staff counsel, by memorandum dated June 5, 1974, advised the Commission as follows:

"The Legal Division has reviewed this matter and desires to state its position in this memorandum in relation to the one limited issue the June 7 hearing is set to determine. This memorandum

will represent the Staff's position on this matter and no representative of the Staff will be present at the hearing.

"Although the Applicant did not address itself in its application in any respect to the Commission's Rule 17.1 relating to "The Preparation and Submission of Environmental Impact Reports" it appears clear from a careful analysis of the project as proposed by the Applicant that the project

'... with reasonable certainty ... will not have a significant effect on the environment.'

(Rule 17.1(a)(2))

"Therefore, under Rule 17.1(a)(2) the requirements of CEQA, the Resources Agency Guidelines and Rule 17.1 in other respects does not apply to this project as proposed.

"It then follows that this Division believes that Applicant for this relatively short overhead telephone distribution line for a six-year period only need not have submitted an Environmental Data Statement under Rule 17.1(c) and the Staff need not prepare a "Draft EIR" under 17.1(f) for the project."^{1/}

Applicant refers to Decision No. 82200 dated December 4, 1973 in Case No. 9535, where the applicant herein sought an order requiring Pacific to cede part of its service area to General Telephone Company and underground the facilities without charge, and the Commission stated:

"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

^{1/} This memo was not objected to by the parties and is received as Exhibit 4.

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."

The Commission found 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. A portion of Rancho Santa Rosa is within the service area of Pacific and General.

"4. At this time there are between six and ten residents of the area being served by General.

"5. The estimated cost to applicant 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, ... 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."

The relief requested, putting the entire area into one telephone company's service area, was denied.

On the pleading herein and Decision No. 82200, we find that:

1. The property involved in this application is located in Ventura County, California, in the Moorpark exchange of Pacific.

2. A portion of Rancho Santa Rosa is in the service territory of General Telephone Company and is adjacent to existing lines of General Telephone Company. Another portion of Rancho Santa Rosa is in the service territory of Pacific and that portion of Rancho Santa Rosa currently being developed in Pacific's territory is located approximately one mile from Pacific's existing lines. An extension to this portion will be required to run over mountainous territory across a portion of Rancho Santa Rosa that is not being developed at this time (Exhibit 2). Case No. 9535 was an attempt by this applicant to have the Commission transfer a portion of Rancho Santa Rosa in Pacific's territory to General Telephone Company to avoid the necessity and costs associated in running a line from existing Pacific lines to that portion of Rancho Santa Rosa being developed.

3. Applicant and Pacific propose to execute an agreement (Exhibit 3) allowing the installation of a temporary overhead line across a portion of Rancho Santa Rosa. This agreement will enable applicant to arrange telephone service to those persons in the portion of the development being developed now at a lower cost and to defer the substantial additional cost of telephone undergrounding until such future time as the land referred to in Exhibit 3, which is a portion of Rancho Santa Rosa, has been developed. This will enable applicant to impose the cost of undergrounding on the persons who later purchase lots within the

Exhibit 2 area and enable applicant to avoid the necessity of imposing those costs on the people to be served by the extension in the existing development who should not be burdened by those costs, since the undergrounding is actually occurring in a portion of the development to be developed later.

4. Because of the high cost of undergrounding and the small number of lots in the portion of Rancho Santa Rosa being developed now, applicant would have to charge \$700 or \$800 per lot on that portion being developed now, which is unfair and unreasonable to the purchasers of those lots because the line being undergrounded is in another portion of the development and the cost thereof should be borne by the purchasers of the lots that will later be developed in that territory.

5. The proposed agreement in Exhibit 3 does not appear to be adverse to the public interest.

6. The requested exemption is justified for a period not to exceed six years.

7. The deviation should be granted for a period of not more than six years. Applicant, at its own expense, shall cause the overhead extension to be removed and the land restored as provided in Exhibit 3.

8. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment provided the extension is limited to a period of six years.

9. There are no protests. A public hearing is not necessary.

We conclude that the application should be granted on a temporary basis for six years from the effective date of this order.

O R D E R

IT IS ORDERED that:

1. Rancho Santa Rosa, a corporation, and The Pacific Telephone and Telegraph Company, a corporation, may execute an agreement in the form set forth as Exhibit 3 herein, provided that the period thereof is limited to six years from the effective date of this order. Two copies of the agreement, as executed, shall be filed with the Commission within thirty days after the effective date of this order.

2. The Pacific Telephone and Telegraph Company, a corporation, is authorized for six years from the effective date of this order to deviate from the mandatory undergrounding requirements of its line extension rule, Rule No. 15, to the extent necessary to comply with this order.

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

Dated at San Francisco, California,
this 23rd day of JULY, 1974.

Vernon L. Stinson
President
William J. Symon
[Signature]
[Signature]
Commissioners

Commissioner THOMAS MORAN

Present but not participating.