

Decision No. 98924 OCT 23 1979**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Lee T. Hotchkin
(Yosemite Telephone Co.) for the
issuance of a certificate of
public convenience and necessity
to provide telephone service to
the community known as Yosemite
West.

Application No. 58186
(Filed June 29, 1978)

Lee T. Hotchkin, for himself, applicant.
Duane G. Henry, Attorney at Law, for
The Pacific Telephone and Telegraph
Company, protestant.
Ermet Macario, P. E., for the Commission
staff.

O P I N I O N

By this application Lee T. Hotchkin (Yosemite Telephone Co.) requests a certificate of public convenience and necessity authorizing him to provide telephone service to an area known as Yosemite West and territory immediately adjacent thereto.

After due notice, public hearing was held at Fresno before Administrative Law Judge Carol T. Coffey on December 13 and 14, 1978. Further hearing was held in San Francisco on February 15 and 16 and June 11, 1979 before Administrative Law Judge Gillanders. The matter was submitted after closing argument.

Requested Territory

Yosemite West is located at 6,000 feet elevation on the western border of Yosemite National Park. Development of 293 individual lots was completed in 1968. Forty-eight units of condominiums in two buildings were completed in 1972.

At the present time, there are 25 people living in the area full time who occupy 10 homes. Twenty-five homes were built as second homes and used about one or two months out of the year.

Utility Service

Underground electric service was supplied to the development by Pacific Gas and Electric Company in 1969.

A phone was available to the developer of the lots during construction, but was removed at his request after construction was completed in 1971.

At the present time, there are one semipublic and one one-party flat rate business line installed at the condominiums which are supplied by four pairs in a cable that formerly provided service to a Yosemite Park fire station. Cable within Yosemite West was placed in a trench provided by the Condominium Owners Association.

The area is supplied with water and sewer service. Apparently the water supply is limited, which has slowed growth within the subdivision.

Applicant's Position

Applicant and his wife plan on living in their house at Yosemite West on a full-time basis. He has for a number of years wanted telephone service to his Yosemite West house. Being unable to obtain service from Pacific,^{1/} he wants to establish his own telephone company to provide him and his neighbors with telephone service. He testified in his opinion his proposed system would have no adverse effect on the environment. He presented evidence to show:

- a. Public requirement for the service.
- b. Adequacy of the proposed service.
- c. Quality of the proposed service.
- d. Revenue requirements and rates.
- e. Technical feasibility of the proposed system.
- f. Technical competence.
- g. Financial integrity.

^{1/} Yosemite West is in the Pacific Telephone and Telegraph Company's (Pacific) filed exchange service area.

The proposed system would use microwave transmission, connected at one end to Pacific's system and the other end to a step-by-step switching unit which in turn would connect with the subscribers using cable buried in trenches provided by the subscribers.

Pacific's Position

Pacific's position is that the application should be denied because the area is within Pacific's filed exchange territory and it is now, and always has been, willing to provide service pursuant to its filed tariff. Under its tariff, Pacific would have to spend between \$50,000 and \$75,000 to provide trenching that would meet Mariposa County standards. It believes that if the residents provided the required trenching, the costs would be about the same.^{2/} No other charges would be assessed to the individual subscribers other than the service connection charges of between \$30 and \$40.

It was Pacific's testimony that applicant's estimates for the cost of equipment and expenses were too low; applicant's revenue estimate was overstated; and applicant's proposed microwave system would not function as claimed.

Staff's Position

Because Yosemite West presently contains only some five to ten year-round residents and further development is questionable due to water supply problems, coupled with the uncertainties as to telephone arrangements in the area due to the pending Yosemite Park Use Plan, the staff's position is that the area should not be assigned to applicant. The staff recommended that as the most economical, adequate arrangement for the present, Pacific be directed to establish at least two additional public pay stations in Yosemite West until either the Yosemite Park Use Plan is adopted or until there are more permanent residents in the area. Such installation would cost Pacific about \$7,000.

^{2/} The customers are required to either produce the money or the necessary trenching.

Discussion

None of the three public witnesses produced by applicant to show a need for service were willing to spend more than \$1,000 each to obtain service. On that basis, there is no demonstrated capital available for telephone service as it is the subscribers who must pay the \$50,000 to \$70,000 for the trenching regardless of the serving company.

Testimony of the public witnesses showed beyond a doubt that their main reason for wanting telephone service was to receive incoming calls. Establishment of additional public pay stations as proposed by the staff is not the complete answer to the problem of incoming calls, but it may alleviate it.

Tariffs must be followed in order that there be no undue discrimination against the general body of ratepayers. Pacific's tariff calls for the payment of the required trenching or the trenching itself provided to Pacific. Until the trenching is available to Pacific, there can be no extension of service, as the territory in question lies within Pacific's filed exchange area.

We have little problem with the issue of the abilities of the applicant and his financial responsibility to initiate and conduct his proposed service. However, there can be no doubt that in the long run Pacific with its vast resources of men and material is far more capable of providing adequate telephone service to the area. When its tariff provisions are met, Pacific must furnish service.

In order to alleviate the immediate communications problems of the Yosemite West residents, we will direct Pacific to install two additional public pay stations within 90 days after the effective date of the following order.

Findings of Fact

1. Yosemite West and adjacent territory is within Pacific's filed exchange area.
2. Pacific has at all times been willing to provide exchange service to the area pursuant to its filed tariff.

3. In accordance with its filed tariff, Pacific estimates that to provide the required trenches would cost up to \$70,000.

4. In accordance with its filed tariff, Pacific must be paid the \$70,000 or be provided with satisfactory trenches.

5. None of the three public witnesses who testified that they desired telephone service would pay more than \$1,000 as their share of trenching costs.

6. If no territory was authorized to applicant, the cost of trenching would be approximately the same or trenching would have to be provided by the subscribers. In addition, it would cost Pacific approximately \$60,000 to interconnect with applicant's proposed microwave system.

7. There is no evidence that the residents of Yosemite West are willing and able to pay for or furnish the trenches required by Pacific or applicant.

8. Demand for telephone service in Yosemite West has not been established within the ambit of Pacific's or applicant's proposed tariff.

9. The provision of two additional public pay stations by Pacific would alleviate communication problems faced by Yosemite West residents.

Conclusions of Law

1. Applicant has not shown that Pacific will not or cannot provide telephone service within its filed territory.

2. Public convenience and necessity do not require that the service proposed by applicant be established.

3. The certificate sought by applicant should not be granted.

4. Pacific should be directed to install additional public pay stations in the Yosemite West area.

O R D E R

IT IS ORDERED that:

1. The application of Lee T. Hotchkin to provide telephone service to Yosemite West is denied.

2. The Pacific Telephone and Telegraph Company shall install two additional public pay stations in the Yosemite West area within ninety days after the effective date of this order.

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

Dated OCT 23 1979, at San Francisco, California.

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

John E. Gurnea
President

Robert D. Howell
Charles J. Deibel
James W. ...
Commissioners