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**ORIGINAL**

Decision 96-07-050 July 17, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Ausonio Incorporated; )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 Pacific Bell, )  
 )  
 Defendant. )

(ECP)  
 Case 96-05-004  
 (Filed May 1, 1996)

Andrew P. Ausonio, for himself, complainant.  
Nancy Hensley, for Pacific Bell, defendant.

O P I N I O N

Complainant, Ausonio Inc., contends it is entitled to free installation of telephone service to a commercial lot which is next to an existing commercial lot it also owns.

Defendant, Pacific Bell, charged complainant \$2,035.69 to connect service to the second lot based upon its determination that the two lots are "continuous," warranting one free service connection under its tariff. Complainant requests a refund of this charge.

A hearing was held under the Commission rules for expedited complaints in Salinas on June 3, 1996. Based upon the evidence and argument presented, we conclude that this complaint should be granted.

Discussion

The following facts are not in dispute. Complainant owns a commercial lot in Salinas with an existing building to which defendant supplies telephone service. Complainant purchased a second lot next to the first and constructed a new commercial building on the second lot. Each location has a separate

assessor's parcel number in a subdivision of commercial lots. The lots have been independent from each other since the subdivision was built approximately 16 years ago. The common property line between the lots has not been abandoned. The lots have separate street access and separate water and power service. Other utility companies have treated the lots as separate for purposes of rendering a free service connection to each building.

Complainant contends the lots are separate; defendant disagrees and contends they are "continuous property" under its service connection tariff.

Defendant's tariff defines "continuous property" as follows: "Continuous property is land which is: a.) wholly owned by a single individual or entity, regardless of whether the owner leases all or a portion(s) of the property to another; and b.) which contains, or will contain, multiple buildings where all portions of the property may be served without crossing a public thoroughfare or the property of another." The tariff gives three examples of basic types of continuous property: single-tenant commercial property where one owner or tenant occupies all buildings; mixed commercial and residential property; and multi-tenant commercial and/or residential property where several tenants occupy a building on a per-floor or per-section basis. These definitions were established in our investigation of accounting for station connections and inside wiring, Decision 93-05-014.

We conclude that neither this definition nor its examples are applicable to the facts in this proceeding. Complainant did not purchase both lots at the same time intending to construct a building on each as part of a single plan. The purchases occurred years apart. Because there was no initial intent when the first building was constructed to have multiple buildings, we cannot conclude that the land "will contain" multiple buildings. Rather there are two parcels, albeit adjacent, which have been separately developed. Therefore, the complaint must be granted.

ORDER

IT IS ORDERED that this complaint is granted. Within 60 days from the effective date of this order, defendant will refund to complainant \$2,035.69. This proceeding is closed.

This order is effective today.

Dated July 17, 1996, at Sacramento, California.

P. GREGORY CONLON  
President  
DANIEL Wm. FESSLER  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners