

JAN 25 1993

Decision 93-01-050 January 22, 1993

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation in the Commission's)
 own motion into the Matter of)
 Revision of the Accounting for)
 Stations Connections and Related)
 Ratemaking Effects and the Economic)
 Consequences of Customer-Owned)
 Premise Wiring.)

ORIGINAL

OII 84
(Filed December 2, 1980)

O P I N I O N

This decision modifies Decision (D.) 92-01-023 to clarify that the state's local exchange telephone companies (LEC) will treat mobilehome parks as any other residential subdivision for purposes of establishing inside wire demarcation points.

Background

On July 16, 1992, the assigned Commissioner in this proceeding issued a ruling which instituted a review of demarcation points for mobilehome parks. Demarcation points are those sites where LEC property ends and inside wire begins, which is the responsibility of the customer. We established demarcation points for most types of property in D.92-01-023 but did not specify treatment of mobilehome parks in that decision.

The assigned Commissioner's ruling directed the state's LECs to respond to several questions:

How do the rules adopted in D.92-01-023 allocate responsibility for repairs and maintenance of telephone wiring between the LEC, the owner of a mobilehome park, and customers residing in a mobilehome within the park?

For purposes of establishing demarcation points, how are mobilehome parks different from, or comparable to, residential subdivisions? Multi-unit apartment buildings?

Should the Commission change the rules adopted in D.92-01-023 regarding demarcation points for mobilehome parks? If so, what should those changes be?

The LECs and interested parties filed comments on August 20, 1992. Commenting parties include Pacific Bell (Pacific), GTE of California (GTEC), Division of Ratepayer Advocates (DRA), Contel of California, Inc. (Contel), Roseville Telephone Company (Roseville), Citizens Utilities Company of California (Citizens), small telephone companies, Western Mobilehome Association (WMA), and the Department of Defense and other Federal Executive Agencies (DOD/FEA).

At a prehearing conference held on December 14, 1992, Pacific and DRA described settlement discussions on these matters. The parties stated the presentation of a settlement was not anticipated for several months and that its scope would extend beyond the issues raised in this part of this proceeding. The administrative law judge stated her intent to draft a decision for the Commission's consideration prior to the time the parties intended to submit a final settlement for Commission review. No settlement on issues related to mobilehome parks, therefore, has been submitted.

Comments of the Parties

DRA believes D.92-01-023 intended mobilehome parks to be considered "continuous" property which is generally defined in LEC tariffs as a property "owned or leased...where all portions may be served without crossing a public thoroughfare or the property of another." Under this definition, the LEC would be responsible for cable only up to the MPOE/main distribution terminal rather than up to each mobilehome.

In this context, DRA distinguishes between new and existing mobilehome parks, and also those with and those without main distribution terminals. Under DRA's interpretation of D.92-01-023, LECs would maintain cable up to each mobilehome within

existing mobilehome parks without main distribution terminals but not within existing mobilehome parks that have main distribution terminals. The LECs would not maintain cable located inside mobilehome parks established or expanded after August 9, 1993. GTEC, Contel, Roseville, and Citizens generally share DRA's position. DRA and Roseville believe no changes to D.92-01-023 are required. Contel believes the order requires clarification.

Pacific analyzes the issue of mobilehome park demarcation points by considering ownership of the dwellings within the parks. Pacific would establish the demarcation point at the mobilehome in cases where the mobilehome is owned by a party who leases property from a park owner. Thus, Pacific would maintain cable up to the dwelling, just as it does in other residential single-family detached dwelling neighborhoods. Pacific believes the rules adopted in D.92-01-023 permit such an interpretation, but seeks clarification on the matter. Several of the small LECs, WMA, and DOD/FEA share Pacific's view.

WMA comments further that the existing rules for continuous property, if applied to mobilehome parks, are discriminatory because they would illogically treat single-family detached dwelling residences in mobilehome parks differently from houses in residential single-family detached dwelling subdivisions.

In response to Pacific's comments, DRA admonishes Pacific for taking a position which is inconsistent with the settlement adopted in D.92-01-023. DRA believes that hearings and enforcement proceedings are required.

Discussion

The basic question we address is whether the LECs should maintain cable up to the MPOE/main distribution terminal of a mobilehome park or through the park to each mobilehome within it. As several parties point out, D.92-01-023 is unclear as to how the demarcation points for mobilehome parks are to be established.

D.92-01-023 would place much of the burden of wiring maintenance on owners of "continuous" property which the decision defines as:

...a property wholly owned or leased by a single entity 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. There are three basic types of Continuous Properties.

1. Single-tenant commercial in which one owner or tenant occupies all buildings.
2. Commercial and residential (e.g., colleges, military installations) in which a mixture of business and residential uses exists.
3. Multi-tenant commercial and/or residential in which several tenants occupy building individually on a per-floor or per-section basis.

In the case of mobilehome parks, the definition of "continuous" is open to interpretation. The LECs could consider mobilehome parks to be continuous property, as DRA advocates. It appears, however, that mobilehome parks do not fall under any of the three categories described in the definition.

Notwithstanding the possible interpretations of the term "continuous," we question the equity of treating mobilehome owners differently from owners of residential housing in single-family detached subdivisions. Currently, the LECs install and maintain wiring up to single-family detached houses. If we were to require mobilehome park owners to maintain wiring within the parks, they would need to pass along associated costs to their tenants. Customers who own mobilehomes, therefore, would not receive the same level of telecommunication services as other homeowners.

We are confused by DRA's criticisms of Pacific. Pacific has not necessarily changed its position. Indeed, we sought comments in these matters because the settlement adopted in D.92-01-023 is unclear regarding treatment of mobilehome parks.

Moreover, Pacific's comments appear to be a good faith effort to resolve these issues in a way that benefits part of DRA's constituency and does not appear to disadvantage anyone. We find no need for hearings in this matter. Nor do we see any reason to initiate enforcement proceedings. DRA does not even allege that Pacific has violated any rule, tariff, or order.

We will require the LECs to treat mobilehome parks as any other residential subdivision. As proposed by the small telephone companies, Section III.C. of the rules adopted in D.92-01-023 will be clarified to include the following provision:

4. Mobilehome parks as defined in § 18214 of the Health and Safety Code shall not be considered continuous property as defined herein. Instead, service to mobilehome parks shall be provided by the utility in a manner consistent with service to residential single-family detached home subdivisions.

Our decision today would extend beyond implementation of the rules adopted in D.92-01-023 utility practice which was in effect at the time of the "start up" revenue requirement adopted in D.89-12-048. Maintaining mobilehome park cable is therefore not a new cost. For this reason, we will not consider increases to the Z factor for costs associated with maintaining mobilehome park cable.

Findings of Fact

1. By assigned Commissioner ruling dated July 16, 1992, the Commission initiated a review of demarcation points for mobilehome parks.
2. D.92-01-023 established demarcation points for several types of property but did not specify treatment of mobilehome parks.
3. It would be equitable to treat mobilehomes like single-family detached dwellings in subdivisions for purposes of

establishing demarcation points which determine the LECs' responsibility for maintenance of cable.

Conclusion of Law

The Commission should modify Section III.C. of the rules adopted in D.92-01-023 to include the following provision:

4. Mobilehome parks, as defined in § 18214 of the Health and Safety Code shall not be considered continuous property as defined herein. Instead, service to mobilehome parks shall be provided by the utility in a manner consistent with service to residential single-family detached home subdivisions.

O R D E R

IT IS ORDERED that Section III.C. of the rules adopted in Decision 92-01-023 is modified to include the following provision:

4. Mobilehome parks as defined in § 18214 of the Health and Safety Code shall not be considered continuous property as defined herein. Instead, service to mobilehome parks shall be provided by the utility in a manner consistent with service to residential subdivisions.

This order is effective today.

Dated January 22, 1993, at San Francisco, California.

DANIEL Wm. FESSLER
President
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY

- 6 - 
NEAL J. SCHULMAN, Executive Director

18213. "Mobilehome accessory building or structure" is any awning, cabana, ramada, storage cabinet, storage building, private garage, carport, fence, windbreak or porch, or any residential building or structure established for the use of the occupant of a manufactured home, mobilehome, or recreational vehicle on a lot.

18214. (a) "Mobilehome park" is any area or tract of land where two or more lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate manufactured homes, mobilehomes, or recreational vehicles used for human habitation. The rental paid for a manufactured home, a mobilehome, or a recreational vehicle shall be deemed to include rental for the lot it occupies. This subdivision shall not be construed to authorize the rental of a mobilehome park space for the accommodation of a recreational vehicle in violation of Section 798.22 of the Civil Code.

(b) Notwithstanding subdivision (a), an area or tract of land zoned for agricultural purposes where two or more lots are rented or leased, held out for rent or lease, or provided as a term or condition of employment, to accommodate 12 or fewer manufactured homes, mobilehomes, or recreational vehicles used for the purpose of housing agricultural employees shall not be deemed a mobilehome park for the purposes of the requirement to obtain an initial or annual permit to operate or pay any related fees required by this part.

(c) Notwithstanding subdivision (a), an area or tract of land shall not be deemed a mobilehome park if the structures on it consist of residential structures that are rented or leased, or held out for rent or lease, if those residential structures meet both of the following requirements:

(1) The residential structures are manufactured homes constructed pursuant to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401 et seq.) or mobilehomes containing two or more dwelling units for human habitation.

(2) Those manufactured homes or mobilehomes have been approved by a city, county, or city and county pursuant to subdivision (d) of Section 17951 as an alternate which is at least the equivalent to the requirements prescribed in the California Building Standards Code or Part 1.5 (commencing with Section 17910) in performance, safety, and for the protection of life and health.

18214.1. "Park" means any manufactured housing community or mobilehome park.

18214.2. "Multi-unit manufactured housing," for the purposes of this part, has the same meaning as in Section 18008.7.

18214.5. "Permanent building" means any permanent structure, other than factory-built housing, under the control and ownership of the mobilehome park owner or operator which is not on a lot.