

(Decision No. 47275)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE APPLICATION OF)
PLAINS COOPERATIVE TELEPHONE ASSOC-)
IATION, INC., ANTON, COLORADO, FOR)
AN ORDER AUTHORIZING SALE BY THE)
INDEPENDENT TELEPHONE COMPANY, SEI-)
BERT, COLORADO; AND VONA-JOES TELE-)
PHONE COMPANY, VONA, COLORADO, TO)
APPLICANT OF ASSETS OF SAID PROPOSED)
SELLERS, INCLUDING EXISTING AND OPER-)
ATING TELEPHONE LINES OWNED BY SAID)
PROPOSED SELLERS IN THE COUNTIES OF)
KIT CARSON, WASHINGTON, AND YUMA;)
FOR TRANSFER TO APPLICANT OF ANY)
CERTIFICATES OF PUBLIC CONVENIENCE)
AND NECESSITY OWNED BY SAID PROPOSED)
SELLERS; FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY FOR OPERA-)
TION OF TELEPHONE LINES AND TELEPHONE)
SYSTEM IN THE COUNTIES OF KIT CARSON,)
WASHINGTON, AND YUMA; AND TO INCORPOR-)
ATE THE PROPOSED PURCHASES OF SAID)
TELEPHONE LINES, TOGETHER WITH THE)
TELEPHONE LINES AND SYSTEMS OF AIR-)
LINE TELEPHONE ASSOCIATION, INC.,)
AND SOUTH VONA TELEPHONE COMPANY,)
NOW BEING OPERATED WITHOUT PUBLIC)
UTILITIES CERTIFICATES, INTO ONE)
OPERATION WITHIN THE AREA DESCRIBED)
IN THE APPLICATION; FOR TRANSFER OF)
ANY SO-CALLED GRANDFATHER RIGHTS)
HELD BY SELLERS.)
-----)

APPLICATION NO. 14942-Transfer

February 5, 1957

Appearances: Jack A. Vohs, Esq., Cheyenne
Wells, Colorado, for
Applicant;
Everett R. Thompson, Denver,
Colorado, and
Paul M. Brown, Denver, Colo-
rado, for the Commission.

S T A T E M E N T

By the Commission:

Plains Cooperative Telephone Association, Inc., herein-
after sometimes referred to as "Plains" or "Association," is a
cooperative corporation organized for the purpose of furnishing,
improving and expanding telephone service on a cooperative non-
profit basis to member subscribers and non-member subscribers in

parts of Washington, Yuma and Kit Carson Counties, Colorado.

By its present application, filed December 14, 1956, Plains seeks from this Commission a certificate of public convenience and necessity to supply telephone service in the above-mentioned counties and for authority to purchase the Independent Telephone Company, Kit Carson, Colorado, and the Vona-Joes Telephone Company operating in Kit Carson, Washington and Yuma Counties, Colorado, and for a transfer to the Applicant the certificate of public convenience and necessity and any so-called "grandfather rights" owned by the proposed sellers, both sellers being under the jurisdiction of this Commission. Plains also plans by purchasing the telephone lines and systems of the Airline Telephone Association, Inc., and South Vona Telephone Company, now operating as non-utilities without certificates of public convenience and necessity, to consolidate all the purchased properties into a single operating unit in an area lying within the above-named counties.

The matter was set for hearing, and was heard, in Denver, Colorado, on Tuesday, January 8, 1957, at 10:00 A. M., after due notice to all interested parties, and at the conclusion thereof, the matter was taken under advisement by the Commission.

No petitions of intervention were filed with the Commission prior to the hearing and no one appeared at the hearing in opposition to the authority sought by Applicant in this matter.

Plains Cooperative Telephone Association, Inc. is a corporation incorporated under and by virtue of the laws of the State of Colorado, operating as a not-for-profit corporation. A copy of its Articles of Incorporation, certified by the Secretary of State of the State of Colorado, was identified and filed as Exhibit "E" in the proceedings and, by reference, is made a part hereof. The applicant, Plains Cooperative Telephone Association, Inc. was incorporated on the sixth day of July, A. D. 1953.

Mr. Dave Ellis, whose address is Joes, Colorado, is Manager of Plains. He identified all exhibits submitted in support of the application. He stated agreements of sale had been entered into between Plains and the Independent Telephone Company, Vona-Joes Telephone Company, Airline Telephone Association, Inc., and South Vona Telephone Company. Late-filed Exhibits "F", "G", "H" and "I" were received by the Commission in support of this statement. These agreements provided, among other things, for the transfer to Plains of the assets of the proposed sellers. He testified that Plains had entered into agreements with the Mountain States Telephone and Telegraph Company for supplying toll line and trunking service for Plains. He explained that Plains would have exchanges located at Joes, Kirk, Cope, Seibert, Vona and Anton. A modern automatic dial exchange is to be located at each of the above towns with interconnection to toll center and operator offices of Mountain States Telephone and Telegraph Company at Wray, Limon or Akron. There are now 480 subscribers in the total area receiving telephone service on a limited basis. In some instances, this means service is available between the hours of 7:00 A. M. and 9:00 P. M., with no service available on holidays and Sundays. It is the objective, on the completion of the proposed installation, to supply service to subscribers twenty-four hours a day every day of the week. There are 650 potential subscribers available in the area to be served by Plains. Five Hundred twenty-eight miles of rural telephone line are to be built and financed by construction loans obtained from the Rural Electrification Administration in the amount of \$455,000. At the present time, equities have been paid in by members in the amount of \$11,090.00. The estimated cost of the completed system is \$461,250. Plains will adopt the rates of the existing telephone companies until such time as construction of the new system is completed. At this time Plains will submit to the Commission final construction costs and the proposed rates to subscribers for its approval. It was further pointed out that the

obtaining of the loan from REA was contingent on Plains obtaining a certificate of public convenience and necessity from this Commission. No other utilities in the area offer telephone service to the public. Mr. N. M. Wilhelms, of the firm of W. H. Burgwin, 2657 South Broadway, Denver, consulting engineer for Plains, testified that a modern dial system with complete two-wire metallic circuits is to be built and, with very few exceptions, no part of the present system, consisting of partly two-wire metallic circuits and partly single wire earth return circuits, was to be utilized in the new plant. Messrs. C. R. Darling, Arthur Boese, Norman Bloom, Oscar Cox, James Donnelly, and Franklyn Healy, all residents of the area herein sought for certification, testified that service is presently inadequate and on a limited basis; it is exceedingly vulnerable to storm conditions; it is difficult and at times impossible to understand conversations over the circuits as the lines are noisy. These witnesses, who are Directors of the Association, emphasized that it was their intention to serve members and non-members on an equal basis. They agreed that Article II, Section (a) of the Certificate of Incorporation might be construed to restrict service to members only and to existing customers of the companies to be acquired. They agreed the language of this paragraph should be changed to eliminate any doubt that service will be made available to members and non-members alike upon their application for service. They further testified that a sum of \$35.00 would be collected from each subscriber, \$10.00 of which would be treated as an advance payment deposit and \$25.00 as a non-returnable contribution. The \$10.00 will be returned to the subscriber upon his discontinuance of service. Each of these witnesses emphasized service would be available to non-members and that the Association was seeking the jurisdiction of this Commission over their entire operation. Each of the witnesses, including one who now has no service at all, testified that the public convenience and necessity

would best be served by the granting of this application. The Commission has carefully reviewed all of the evidence introduced at the hearing in the matter and is of the opinion that the authority sought by Plains Cooperative Telephone Association, Inc., should be granted.

F I N D I N G S

THE COMMISSION FINDS:

That this Commission has jurisdiction of said Applicant and the subject matter of the instant application.

That the above Statement, by reference, should be made a part of these Findings.

That the Commission is fully advised in the premises.

That Plains Cooperative Telephone Association, Inc., will, in fact, be performing the functions of a public utility in providing telephone service to members and non-members connected to its telephone system.

That the Association holds itself as being ready and willing to render public utility service to all subscribers, members and non-members alike, that is: to the public generally, under tariffs approved by and in conformity with the rules and regulations of the Commission.

That the sale of Independent Telephone Company and Vona-Joes Telephone Company including all existing and operating telephone lines owned by said sellers should be approved.

That the Plains Cooperative Telephone Association, Inc., should be granted the territory requested, as set forth in the Order herein, within which it proposes to render telephone service as a public utility to the public generally as well as to its members.

That the Association should amend its Certificate of Incorporation to permit the supplying of telephone service to all subscribers, including the public generally as well as to its members.

That the Association should adopt the tariffs, rules and regulations of the Independent Telephone Company and the Vona-Joes Telephone Company, pursuant to the rules of this Commission, and should file the rates to be applicable to the systems of Airline Telephone Association, Inc., and South Vona Telephone Company to be effective on the beginning of operation by Plains Cooperative Telephone Association, Inc.

That the Association should set up its books of account in accordance with the Uniform System of Accounts as prescribed by this Commission.

That the issuance of a certificate of convenience and necessity is consistent with the provisions of Chapter 115, Colorado Revised Statutes, 1953.

That certificates of convenience and necessity held by Independent Telephone Company and Vona-Joes Telephone Company and any so-called "grandfather rights" should be transferred to the Association.

That thirty (30) days prior to converting its system to dial operation, the Association should file with this Commission the rates, rules and regulations under which it proposes to render dial telephone service.

O R D E R

THE COMMISSION ORDERS:

That Independent Telephone Company and Vona-Joes Telephone Company, be, and they are hereby, authorized to transfer to Plains Cooperative Telephone Association, Inc., their assets and operating rights, including "grandfather rights," existing and operating lines owned by said transferors in the Counties of Washington, Yuma and Kit Carson, in accordance with the terms and conditions set forth in Exhibits "H" and "F" respectively, which, by reference, are made a part hereof.

That Independent Telephone Company and Vona-Joes Telephone Company shall file with, and on forms to be supplied by this Commission,

operating statements for the period of January 1, 1957, up to and including, the date of sale, and also a Balance Sheet showing assets and liabilities as of the date of sale, but made prior to giving effect to the sale transaction.

That the public convenience and necessity require the operation by Plains Cooperative Telephone Association, Inc., of a telephone system to supply telephone service to its members, non-members and the public generally in the area described as follows:

Beginning at the center of Section 34, Township 2-South, Range 54-West; thence South $6\frac{1}{2}$ miles; thence West 3 miles; thence South $5\frac{3}{4}$ miles; thence East $12\frac{5}{8}$ miles; thence South $4\frac{1}{4}$ miles; thence East $4\frac{7}{8}$ miles; thence South 2 miles to the Southwest corner of Section 31, Township 5-South, Range 51-West; thence East 6 miles; thence North $\frac{1}{4}$ mile; thence East $4\frac{1}{2}$ miles; thence South $27\frac{1}{4}$ miles; thence West $2\frac{1}{4}$ miles; thence South 3 miles to the second correction line; thence West $\frac{1}{8}$ mile; thence South 6 miles to the Southwest corner of Section 34, Township 11-South, Range 50-West; thence East $17\frac{1}{2}$ miles; thence North 24 miles; thence East $\frac{1}{2}$ mile; thence North 4 miles; thence East 6 miles; thence North 6 miles; thence East 2 miles; thence North 1 mile; thence East 4 miles; thence North $\frac{1}{2}$ mile; thence East 2 miles; thence North approximately 1 mile to the South County line of Yuma County; thence West approximately $\frac{1}{8}$ mile; thence North $1\frac{3}{4}$ miles; thence East 1 mile; thence North $2\frac{1}{4}$ miles; thence East $1\frac{1}{2}$ miles; thence North $\frac{1}{2}$ mile; thence West 5 miles; thence North $3\frac{1}{2}$ miles; thence East 2 miles; thence North $5\frac{1}{2}$ miles to the center of the East line of Section 29, Township 3-South, Range 45-West; thence West $10\frac{1}{2}$ miles; thence South 2 miles; thence West 7 miles; thence North 2 miles; thence West 4 miles; thence North 3 miles; thence West $3\frac{1}{2}$ miles; thence South $\frac{1}{2}$ mile; thence West 4 miles; thence North $\frac{1}{2}$ mile; thence West $8\frac{1}{2}$ miles; thence North 1 mile; thence West 1 mile; thence North 2 miles; thence West 5 miles; thence South 3 miles; thence West 4 miles; thence North 2 miles; thence West 5 miles to the point of beginning,

and this Order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

That Plains Cooperative Telephone Association, Inc., shall notify this Commission within sixty (60) days of the closing of the purchases and sales proposed herein of the consummation of said transactions, the date, or dates, when each was made, and the respective price paid for each system.

That Plains Cooperative Telephone Association, Inc., shall file with this Commission within one year from the date of this order, a copy of an Amendment to its Articles of Incorporation providing the Association will serve non-members as well as members, certified to by the Secretary of State of the State of Colorado.

That Plains shall set up its books and accounts in accordance with the Uniform System of Accounts prescribed by this Commission within sixty (60) days of the date of the completion of the sale transactions proposed herein.

That the Association shall, upon the beginning of its operation of the companies to be acquired, file the rates to be applicable to the systems of Airline Telephone Association, Inc., and South Vona Telephone Company, and shall adopt the tariffs, rules and regulations of the Independent Telephone Company and Vona-Joes Telephone Company pursuant to the rules of this Commission.

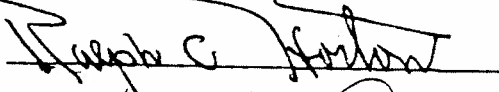

That thirty (30) days prior to converting to dial operation, Plains shall file its proposed rates, rules and regulations to be applicable to its telephone subscribers.

That six (6) months after the institution of dial service, Plains shall file its "as constructed" costs of the telephone system classified in accordance with the Uniform System of Accounts prescribed by this Commission.

That this Commission retains jurisdiction in the matter to issue such further Order, or Orders, as it may deem necessary.

This Order shall become effective forthwith.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners.

COMMISSIONER JOSEPH F. NIGRO
NOT PARTICIPATING.

Dated at Denver, Colorado,
this 5th day of February, 1957.
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