

Decision No. _____

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 2177

In the matter of the application
of E. A. McClelland, Mercantile Trust
Company of San Francisco, and Pacific
Gas and Electric Company for an
order of the Railroad Commission
authorizing said E. A. McClelland and
Mercantile Trust Company of San Fran-
cisco to convey, transfer and assign
to said Pacific Gas and Electric Com-
pany all rights, titles, interests
and estates of said E. A. McClelland
and Mercantile Trust Company of San
Francisco in and to a certain street
railway, appurtenances, rights-of-way
and easements, in the County of Sac-
ramento, State of California.
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Application No. 1654.

Leo H. Susman, for applicants.

GORDON, Commissioner,

O P I N I O N.

This application was filed on April 28, 1915, and a public hearing was held on June 2, 1915. The application contains a full statement of the reasons which have led the applicants to desire to have this property transferred from McClelland and the Mercantile Trust Company to the Pacific Gas and Electric Company and they will be discussed here very briefly.

In April, 1910, E. A. McClelland, who owned a certain tract of land near the city of Sacramento known as "Elmhurst", wished to subdivide and sell this property, and in order to facilitate his operations desired a street railway line to give service to those who purchased lots and built homes in this subdivision. After some negotiations the Pacific Gas and Electric Company built a line from the end of their track known as the "J Street Extension", about 3000 feet through this "Elmhurst" tract. This work was done on the strength of an agreement, the terms of which were that Mr. McClelland was to pay for the cost of the line and pay 20 cents per car mile for all operation which took place over it; such fares as were to be collected being credited against the 20 cents per car

mile. The Pacific Gas and Electric Company reserved the right to purchase this line at the end of the five-year period, which embraced the life of the contract, and the Mercantile Trust Company of San Francisco was to hold the property in trust until the termination of the contract period.

The line was built as proposed and it has now been operated for about 3-1/2 years. Its earnings have fallen below its cost of operation (20 cents per car mile) about \$300.00 per month, and Mr. McClelland finds this expense burdensome upon him and desires to transfer the property to the Pacific Gas and Electric Company. The Pacific Gas and Electric Company is willing to take over the property but it is not willing to pay therefor any of the cost of construction and Mr. McClelland has agreed to deed the property to the Pacific Gas and Electric Company and to pay it \$4500.00 in a lump sum, in consideration of that Company maintaining operation upon it.

From the standpoint of the applicants this transfer is desirable and it will be a transaction which will accrue to the public benefit inasmuch as it is essential for those who have purchased lots at "Elmhurst", and erected homes there, that the street car service on this 3000-foot extension shall be maintained. It is apparent that applicant McClelland could not hope to indefinitely maintain service over it at a personal loss of \$300.00 per month, while the Pacific Gas and Electric Company are entirely able to continue operation on this line in consideration of the terms of the transfer and probable future earnings, and I believe it to be to the best interests of all concerned that this application should be granted.

The property to be transferred consists of the following items:-

- (1) That certain right-of-way for the construction, maintenance and operation of a standard gauge street railway to be operated by electricity by means of an overhead trolley system, and for the erection, maintenance, use

and operation of all poles, braces, wires and other appliances required for the transmission of electricity to be used in the operation of such street railway, upon, over and along a certain piece, parcel or strip of land situate in the County of Sacramento, State of California, which right-of-way was granted to said Pacific Gas and Electric Company by Louis F. Breuner and Clara F. L. Breuner by deed bearing date the 8th day of February, 1911, and recorded in the office of the County Recorder of said County of Sacramento in Book 334 of Deeds at page 70, and the street railway, together with its appurtenances, which was constructed pursuant thereto; also all of the rights in and to such right of way, and in and to the street railway, together with its appurtenances, which were granted by said H. A. McClelland to the said Mercantile Trust Company of San Francisco by deed bearing date the 28th day of April, 1911, and recorded in the office of the said County Recorder in Book 422 of Deeds at page 136.

(2) That certain right of way for the construction, maintenance and operation of a single or double track standard gauge street railway to be operated by electricity by means of an overhead trolley system, and for the erection, maintenance and operation of such street railway over, along and across a certain piece, parcel or strip of land, having a uniform width of forty feet, situate in said County of Sacramento, and also the street railway, together with its appurtenances, which was constructed thereon, which right of way and street railway and its appurtenances were granted by said H. A. McClelland to said Mercantile Trust Company of San Francisco by deed bearing date the 16th day of May, 1910, and recorded in the office of said County Recorder in Book 507 of deeds, at page 340.

(3) Those certain rights which were granted to said H. A. McClelland by the Southern Pacific Railroad Company and the Southern Pacific Company by agreement bearing date the 6th day of December, 1910, including the right to construct, maintain and operate a single track electric railway, with the right to change the same at any time to a double track electric railway, at grade, across the permanent way and railroad of the said Southern Pacific Railroad Company at Engineer's Station No. 205 plus 50, in said County of Sacramento, which agreement and rights were granted, assigned and transferred by said McClelland to said Mercantile Trust Company of San Francisco by deed bearing date the 27th day of April, 1911, and recorded in the office of said County Recorder in Book 7 of Miscellaneous Records, page 308; and also the street railway, together with its appurtenances, which was constructed under and pursuant to the right granted by said agreement, which street railway and appurtenances were granted by said McClelland to said Mercantile Trust Company of San Francisco by the last mentioned deed.

I recommend the following form of order:-

O R D E R.

H. A. McClelland and Mercantile Trust Company of San Francisco, and Pacific Gas and Electric Company, having applied

to the Commission for an order authorizing H. A. McClelland and Mercantile Trust Company of San Francisco to convey, transfer and assign to Pacific Gas and Electric Company all the rights, titles, interests and estates of H. A. McClelland and Mercantile Trust Company of San Francisco in and to a certain street railway, appurtenances, rights-of-way and easements in the County of Sacramento, California, more particularly described in the opinion preceding this order; and a public hearing having been held, and it appearing that this application should be granted,

IT IS HEREBY ORDERED, that this application be and the same is hereby granted, subject to the following conditions, viz.:-

- (1) Pacific Gas and Electric Company shall maintain over the 5000 feet of track now to be transferred to it the same service as is now or may hereafter be maintained upon the "J Street Extension".
- (2) The Commission reserves the right to make such further orders in regard to this application as to it may appear to be right and proper.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 14th day of June, 1915.

Max Shelen

H. A. McClelland

W. G. Gordon

Edwin O. Edgerton

Frank R. DeLong

Commissioners.