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ORIGINAL

Decision No. ✓

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA.

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Decision No. 3744

In the Matter of the Application of )  
THE PACIFIC TELEPHONE AND TELEGRAPH )  
COMPANY for an order declaring that )  
public convenience and necessity re- ) Application No. 2558.  
quire the exercise by it of the rights )  
and privileges conferred upon it by )  
Ordinance No. 41 of the City of Santa )  
Maria, approved August 19, 1912. )

Pillsbury, Madison & Sutro and James T. Shaw  
for The Pacific Telephone and Telegraph  
Company.

THELEN and GORDON, Commissioners.

O P I N I O N .

This is an application for an order declaring that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges granted to it by Ordinance No. 41 of the City of Santa Maria, approved August 19, 1912.

Notwithstanding the fact that Ordinance No. 41 was approved on August 19, 1912, subsequent to March 23, 1912, the effective date of the Public Utilities Act, The Pacific Telephone and Telegraph Company never made application to the Railroad Commission, prior to the filing of the petition herein, for the usual certificate of public convenience and necessity under the provisions of Section 50 of the Public Utilities Act.

At the hearing held in the City of Santa Barbara on September 12, 1916, in Application No. 2265, the Santa Barbara telephone consolidation case, the representatives of The Pacific

Telephone and Telegraph Company stated that application has not been made for the reason that they had been of the opinion that such application was not necessary.

The attention of The Pacific Telephone and Telegraph Company has been drawn to the fact that the Railroad Commission is convinced that the Telephone Company's application is necessary in connection with the Santa Maria franchise, as well as other franchises acquired by The Pacific Telephone and Telegraph Company from various municipalities in California subsequent to March 23, 1912.

In view of the fact that The Pacific Telephone and Telegraph Company, by the filing of the petition herein, has recognized the Railroad Commission's jurisdiction, it will not be necessary to go into this matter further in this proceeding.

Ordinance No. 41 of the City of Santa Maria grants to the Pacific Telephone and Telegraph Company, its successors and assigns, "the right, privilege and franchise to do a telephone and telegraph business within the City of Santa Maria, and to place, erect, lay, maintain and operate in and under the streets, alleys, avenues, thoroughfares and public highways within the City of Santa Maria poles, wires and other appliances and conductors for the transmission of electricity for telephone and telegraph purposes". The Ordinance provides that the grantee, its successors and assigns, may not sell, transfer or assign any of its rights under said Ordinance without having first secured from the Railroad Commission an order authorizing such sale, transfer or assignment.

The Ordinance provides that the grantee of the franchise, its successors and assigns, shall annually pay to the said City of Santa Maria 2 per cent of its gross receipts arising from the use, operation and possession of the franchise.

We do not find in the copy of the Ordinance which has been submitted to us any reference to the term of the franchise.

The Ordinance contains other terms to which it is not necessary here to refer.

Petitioner alleges that if authority is granted by the Railroad Commission to effect the telephone consolidation prayed for in Application No. 2265, in which proceeding the decision is this day being rendered, it is petitioner's intention to transfer to Santa Barbara Telephone Company all the rights and privileges granted to petitioner by said Ordinance No. 41 of the City of Santa Maria.

We recommend that the petition herein be granted, and submit herewith the following form of order:

O R D E R .

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY having applied to the Railroad Commission for a declaration that public convenience and necessity require the exercise by petitioner of the rights and privileges granted to it by Ordinance No. 41 of the City of Santa Maria, approved August 19, 1912, and a public hearing having been held and the Railroad Commission being fully advised in the premises,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by The Pacific Telephone and Telegraph Company, its successors and assigns, of the rights and privileges granted to The Pacific Telephone and Telegraph Company by Ordinance No. 41 of the City of Santa Maria, approved August 19, 1912, provided that the Rail-

road Commission shall first have issued its supplemental order herein reciting that The Pacific Telephone and Telegraph Company has filed with the Railroad Commission a stipulation, duly authorized by its Board of Directors, in form satisfactory to the Railroad Commission, and declaring that the Pacific Telephone and Telegraph Company, its successors and assigns, will never claim before the Railroad Commission, any court or other public authority in any proceeding of any character whatsoever, any value for the rights and privileges granted by said Ordinance No. 41 of the City of Santa Maria in excess of the compensation paid by The Pacific Telephone and Telegraph Company to the City of Santa Maria at or about the time said Ordinance No. 41 was approved, for the rights and privileges thereby conferred, which compensation shall be set forth in said stipulation.

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 2nd day of October, 1916.

Max Thelen

Alex Gordon

Frank R. Durbin

Commissioners.