

ORIGINAL

Decision No. 3843

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of THE PACIFIC TELEPHONE AND)
TELEGRAPH COMPANY for an order)
of the Railroad Commission)
declaring that public convenience)
and necessity require the exercise)
by petitioner of the rights and)
privileges conferred upon it by)
Ordinance No. 141 of the City of)
Watts.)

Application No. 2593.

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

THELEN and GORDON Commissioners.

O P I N I O N.

This is a petition by The Pacific Telephone and Telegraph Company asking that the Railroad Commission make its order declaring that public convenience and necessity require the exercise by petitioner of the rights and privileges granted to it by Ordinance No. 141 of the City of Watts, adopted on October 1, 1912.

A public hearing herein was held in Los Angeles on October 17, 1916. No one appeared in opposition to the granting of the petition.

On February 13, 1912, The Pacific Telephone and Telegraph Company filed with the City Council of Watts, a petition asking that the City Council advertise and sell to the highest bidder a telephone and telegraph franchise.

Ordinance No. 141 of the City of Watts, adopted on October 1, 1912, grants to The Pacific Telephone and Telegraph Company, its successors and assigns, for a term of 21 years, the right to construct, operate and maintain a telephone and telegraph system on and along the public streets and other public places of the City of Watts. The ordinance was adopted in accordance

with the provisions of the Broughton Act, and includes the usual provisions for the payment by the grantee annually of 2 per cent of the gross annual receipts arising from the exercise of the franchise.

Ordinance No. 141 contains provisions with reference to the use of the streets, the removal of overhead construction and the placing of the same under ground, the supply of three free telephones to the public officials of the City of Watts and the free use by the City of Watts of the necessary pins on the top cross-arm of each pole or the necessary space in the conduits maintained under the franchise, for the purpose of stringing or carrying such wires as shall be needed for the use of the City of Watts for police or fire alarm purposes.

Section 9 of the ordinance provides, in effect, that the grantee of the franchise, his successors and assigns, shall not, without the consent of the City of Watts, evidenced by ordinance, sell, transfer, assign or lease any of the rights or privileges granted by the ordinance or of the telephone or telegraph system constructed thereunder.

The ordinance provides that the rights and privileges granted therein shall not be exclusive.

The ordinance contains other provisions to which it is not now necessary to refer.

The Pacific Telephone and Telegraph Company has been operating a telephone system in the City of Watts under the provisions of said ordinance, but has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity. The failure to make such application to the Railroad Commission was due to the belief of the officials of the Telephone Company that such application was not necessary.

We recommend that the petition be granted, subject

to the conditions contained in the order herein, and submit the following form of order:

O R D E R.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY having filed its petition herein asking that the Railroad Commission make its order as specified in the opinion which precedes this order, a public hearing having been held and the Railroad Commission being fully advised,

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 conferred by Ordinance No. 141 of the City of Watts, adopted on October 1, 1912, provided that The Pacific Telephone and Telegraph Company shall first have filed with the Railroad Commission a stipulation, duly authorized by its Board of Directors, agreeing for itself, its successors and assigns, that they will never claim before the Railroad Commission or any other public authority, any value for the rights and privileges conferred by said Ordinance No. 141 of the City of Watts, in excess of the amount paid therefor at the time said ordinance was adopted, which amount shall be specified in said stipulation, and shall have received from the Railroad Commission a supplemental order reciting that such stipulation, in form satisfactory to the Railroad Commission, has been filed herein.

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.

~~November~~ Dated at San Francisco, California, this 4th day of
~~October~~, 1916.

Max Thelen
H. W. Fitzgerald
W. G. Smith
Edwin O. Edwards
Frank C. Nelson
Commissioners.