

ORIGINAL

Decision No. 3854

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA.

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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. 2608.
quire the exercise by it of the rights)
and privileges granted by the City of)
Riverside by Ordinance No. 201, New)
Series, approved April 5, 1915.)

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

A. H. Winder, City Attorney, for City of Riverside.

THELEN and GORDON, Commissioners.

O P I N I O N .

The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific Company, asks 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 the City of Riverside by Ordinance No. 201, New Series, approved April 5, 1915. The petition is filed under the provisions of Section 50 of the Public Utilities Act. Failure to file the petition at an earlier date was due to the belief of the Pacific Company that the Railroad Commission's consent was not necessary.

On February 16, 1915, the Pacific Company filed with the Common Council of the City of Riverside its petition asking that the City Council advertise and sell to the highest bidder

a franchise authorizing the use of the streets for the transmission of electric energy ~~and~~ for telephone and telegraph purposes.

On March 30, 1915, the Common Council of the City of Riverside adopted and on April 5, 1915, the Mayor approved Ordinance No. 201, New Series, granting to the Pacific Company, its successors and assigns, a franchise, until March 1, 1935, to use the streets, alleys and public places of the City of Riverside for the construction and operation of a telephone and telegraph system. The Ordinance provides, in part, as follows:

1. That all structures shall be placed, removed and replaced as directed by the City of Riverside.

2. That the City of Riverside shall have the right to use the tops of the poles and also such underground conduits as may be constructed, to the extent specified, for the City's police and fire alarm system.

3. That the grantee shall pay to the City of Riverside during the life of the franchise, annually 2 per cent of the gross annual receipts arising from the use, operation and possession of the franchise.

4. That the service given and facilities afforded by the grantee shall conform to certain service standards which are specified in the Ordinance.

5. That any neglect, failure or refusal to comply with any of the conditions of the franchise shall immediately, ipso facto, effect a forfeiture thereof.

For a statement of the telephone situation in the City of Riverside at the time this Ordinance was approved, of the representations made by the Pacific Company in order to secure this franchise and of the telephone situation in Riverside at the present time, reference is hereby made to the decision this day being made by this Commission in Application No. 2174, being

the Riverside Telephone Consolidation Case. At the hearing in said Application No. 2174, the Pacific Company's representatives stated that if authority to consolidate the systems of the Pacific Company and of the Home Company should be granted, the Pacific Company will cause the Home Company to surrender to the City of Riverside the rights of the Home Company under Ordinance No. 193 of the City of Riverside, passed on April 9, 1895, granting to H. M. Streeter and his assigns the franchise rights under which the Home Company is at present operating in the City of Riverside.

The Pacific Company is operating under the franchise granted by said Ordinance No. 201, New Series. No one appeared in opposition to the application and we see no good reason why the order herein prayed for should not be made, subject to the conditions specified in the order.

We submit the following form of order:

O R D E R .

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY having filed its petition herein, as indicated in the opinion which precedes this order, and a public hearing having been held,

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 by the City of Riverside by Ordinance No. 201, New Series, approved on April 5, 1915, 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 it and they will

never claim before the Railroad Commission or any other public authority, in any proceeding of any character whatsoever, any value for the rights and privileges granted by said Ordinance No. 201, New Series, of the City of Riverside, in excess of the consideration paid by the grantee of the said franchise to the City of Riverside at the time of the granting thereof, which consideration shall be specified in the stipulation, and shall have secured from the Railroad Commission a supplemental order herein stating 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.

Dated-at San Francisco, California, this 6th day of November, 1916.

Max Theodore
H. H. Howard
Alex Gordon
Edwin V. Edgerton
Frank R. White
Commissioners.