

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 3960

In the Matter of the Application of
THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY for an order of the Railroad
Commission declaring that Public Con-
venience and Necessity require the
exercise by Petitioner of the rights
and privileges conferred upon it by
Ordinance No. 401 of the City of
Richmond.

Application No. 2587.

Pillsbury, Madison and Sutro, by E. D. Pillsbury,
and James T. Shaw, for Petitioner.

THELEN and GORDON, Commissioners.

O P I N I O N.

This is a petition by The Pacific Telephone and Telegraph Company, hereinafter referred to as the Pacific 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. 401 of the City of Richmond, adopted April 10, 1916.

A public hearing herein was held in San Francisco on December 21, 1916. No one appeared in opposition to the granting of the petition.

On February 14, 1916, the Pacific Company filed with the City of Richmond a petition asking that the City Council advertise and sell to the highest bidder a telephone and telegraph franchise.

Ordinance No. 401 of the City of Richmond, adopted on April 10, 1916, grants to the Pacific Company, its successors and assigns, for a period of 41 years from and after the date of the passage of the ordinance, the right to do a general telephone and telegraph business within the City of Richmond and, in general, to construct, operate and maintain a telephone and telegraph system

on and along the public streets and other public places of the City of Richmond.

Ordinance No. 401 contains provisions with reference to the construction by the Pacific Company of conduits, changes in position of poles or conduits due to changes in grade of streets or other street improvements, the erection and removal of poles and the placing of wires underground, no sale of the property erected under the franchise unless the City's consent has first been secured, the usual provisions of the Broughton Act with reference to the payment to the City of a percentage of the gross earnings of the grantee under the franchise, the free use by the City of Richmond, for exchange service, of 20 individual line telephones, the free use by the City of Richmond, where aerial construction exists, of a fixture on the tops of poles and where underground conduits exist, of a duct of two pairs of wires in the underground cable for low tension police and fire alarm purposes, for necessary excavations in the public streets, and for indemnification of the City of Richmond by the grantee of the franchise for claims, damages and losses caused to the City by the grantee's construction in the public streets.

The ordinance provides a procedure by which the City of Richmond may, at the expiration of the term of the franchise, purchase the grantee's telephone system and plant in the City of Richmond.

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

The Pacific Company and its predecessors have been operating a telephone system in the City of Richmond since the year 1903 or thereabouts, without franchise from the City. The Pacific Company has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity authorizing it to exercise the rights

granted by Ordinance No. 401. 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. 401 of the City of Richmond, adopted on April 10, 1916, 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 or 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. 401 of the City of Richmond, 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.

Dated at San Francisco, California, this 29 day of
December, 1916.

Max Thelen

Alfred G. Gordon

Edwin O. Edgerton

Frank R. DeLong

Commissioners.