

ORIGINAL

Decision No. 3962

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 Con-)
venience and Necessity require the)
exercise by Petitioner of the rights)
and privileges conferred upon it by)
Ordinance No. 83 of the City of)
South San Francisco.)

Application No. 2627.

Pillsbury, Madison and Sutro, by H. 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. 83 of the City of South San Francisco, adopted on July 6, 1915.

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 May 7, 1915, the Pacific Company filed with the City of South San Francisco a petition asking that the City Council advertise and sell to the highest bidder a telephone and telegraph franchise.

Ordinance No. 83 of the City of South San Francisco, adopted on July 6, 1915, grants to the Pacific Company, its successors and assigns, for a period of 25 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 South San Fran-

cisco 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 South San Francisco.

Ordinance No. 83 contains provisions with reference to the use of the streets by the grantee of the franchise and construction thereon, including excavations therein, changes in construction due to street improvements, the free use by the City of South San Francisco of the poles and underground conduits of the grantee, to the extent indicated, for low tension police and fire alarm purposes, the free use of three telephones by the City of South San Francisco, the filing of a bond by the grantee of the franchise and the payment by the grantee, its successors and assigns, to the City of South San Francisco of a percentage of the grantee's gross annual receipts arising from the use of the franchise, as provided by the Broughton Act.

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

The Pacific Company and its predecessors have been operating for many years in the territory included within the corporate limits of the City of South San Francisco, but this is the first franchise granted for this purpose. The Pacific Company has no competition in the City of South San Francisco. The Pacific Company has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity authorizing the exercise by it of the rights granted by Ordinance No. 83. 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. 83 of the City of South San Francisco, adopted on July 6, 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 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. 83 of the City of South San Francisco, 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

Alvin F. Johnson

Ernest C. G. G. G. G.

Samuel H. H. H.

Commissioners.