

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) Application No. 2633.
 the exercise by Petitioner of the)
 rights and privileges conferred upon it)
 by Ordinance No. 30, New Series, of the)
 City of Alameda.)

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. 30, New Series, of the City of Alameda, adopted on February 2, 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 November 16, 1914, the Pacific Company filed with the City of Alameda a petition asking that the City Council advertise and sell to the highest bidder a telephone and telegraph franchise.

Ordinance No. 30, New Series, of the City of Alameda, adopted on February 2, 1915, grants to the Pacific Company, its successors and assigns, for a period of 41 years from and after December 22, 1914, the right to do a general telephone and telegraph business within the City of Alameda 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 Alameda.

Ordinance No. 30, New Series, contains provisions with reference to the construction and removal of overhead and underground construction on and in the streets of the City of Alameda, changes in construction due to street improvements, the placing of wires underground, no sale of the property without the consent of the City of Alameda, the payment to the City of Alameda of a percentage of the gross revenue derived by the grantee, its successors and assigns, from operation under the franchise, as provided by the Broughton Act, the supply to the City of Alameda for public business of 35 free telephones, the use of overhead and underground construction for the fire alarm and police telephone and telegraph systems of the City of Alameda to the extent indicated and the indemnification by the grantee of the City of Alameda from claims, damages and losses.

The ordinance contains provisions by which the City of Alameda may at the expiration of the term of the franchise acquire the property constructed thereunder at a price to be specified in the manner set forth in the ordinance.

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

The predecessors of the Pacific Company operated a telephone and telegraph system in the City of Alameda under a 25 year franchise, which expired several years prior to the passage of Ordinance No. 30, New Series. The public authorities of the City of Alameda directed the Pacific Company to apply for a new franchise and Ordinance No. 30, New Series, is the result of such application.

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. 30, New Series, the

failure to make such application to the Railroad Commission being 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. 30, New Series, of the City of Alameda, adopted on February 2, 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. 30, New Series, of the City of Alameda, 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

W. H. Gordon

Edwin O. Edgerton

Braun R. Deane

Commissioners.