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Decision No. _____

ORIGINAL

Decision No. 4015

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, a corporation, for an order)
declaring that public convenience) No. 2697
and necessity require the exercise)
by it of the rights and privileges)
conferred upon it by Ordinance No.)
161 of the City of Salinas.)

Pillsbury, Madison & Sutro,
and James T. Shaw, for applicant.

BY THE COMMISSION.

O P I N I O N

This is an application 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 applicant of the rights and privileges granted to it by Ordinance No. 161 of Salinas City, Monterey County, adopted November 6th, 1916.

A public hearing was held at San Francisco January 4th, 1916, the testimony being taken by Examiner Bancroft.

From the evidence it appears that on January 19th, 1916 The Pacific Telephone and Telegraph Company made an application by petition in writing to the Council of Salinas City for a telephone and telegraph franchise; that on September 11th, 1916 said application came on regularly to be heard and considered by said Council, and thereupon, by order of said Council the proposed telephone and telegraph franchise was duly advertised

to be sold to the highest bidder. As a result of these proceedings, Ordinance No. 161 of Salinas City was adopted on November 6th, 1916, granting to The Pacific Telephone and Telegraph Company for a term of twenty-five years the right to construct, operate and maintain a general telephone and telegraph system on, along and under the public streets and other public places of said Salinas City.

The ordinance was adopted in accordance with the provisions of the Broughton Act and includes the usual provisions for payment annually of 2% of the gross annual receipts arising from the exercise of the franchise.

This ordinance contains provisions with reference to repairing the streets within a reasonable time after excavations have been made, the furnishing of fifteen free telephones to Salinas City, and the free use by the city of the necessary fixtures on the top of poles, or the necessary space in the conduits, maintained under said franchise for the purpose of stringing or erecting wires for police or fire alarm purposes.

Section 9 of the ordinance provides in effect that applicant, its successors or assigns, shall not, without the written consent of Salinas City, evidenced by ordinance, sell or transfer the conduits, poles, wires, or appliances of any kind or description, or lease or transfer any of the rights or privileges granted by the franchise, and shall not at any time enter into any combination directly or indirectly with any person or persons, or any corporation, concerning the rates to be charged for telephone or telegraph service, and no officers or employees or managers of the telephone or telegraph system authorized under said franchise shall at any time be in charge of, or be officers, employees

or managers of, any other telephone or telegraph system constructed or being operated in said Salinas City; provided, however, that The Pacific Telephone and Telegraph Company, its successors or assigns may, for the purpose of reorganization or refinancing, assign said franchise and said property to any corporation to which it shall transfer all its franchises and property within the State of California, and all its business within said State; and provided further, that notice of said assignment shall be filed with the City Clerk of Salinas City within sixty days after the execution of said assignment.

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

It further appears from the evidence that The Pacific Telephone and Telegraph Company has been operating the only telephone exchange in Salinas City and that it now has 879 subscribers to said exchange.

Applicant has hitherto failed to make the necessary application to the Railroad Commission for a certificate of public convenience and necessity in connection with said territory, but we find that the failure to make such application was due solely to the belief of applicant's officers that such an application was not necessary. In our opinion the application should be granted, subject to the conditions contained in the following order:

O R D E R

The Pacific Telephone and Telegraph Company having filed the above-entitled application, asking the Railroad Commission to make its order as specified in the opinion herein, and a public hearing having been held upon said application, 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. 161 of Salinas City, adopted on November 6th, 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 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. 161 of the City of Salinas, 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.

Dated at San Francisco, California, this 15th
day of January, 1917.

Max Thelen
H. B. Loveland

Edwin C. Edgerton
Frank R. Perkins

Commissioners.