

ORIGINAL

Decision No. 4080

Decision No. _____

BEFORE THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.

In the Matter of the Application)
of THE PACIFIC TELEPHONE AND)
TELEGRAPH COMPANY, A Corporation,)
for an order declaring that public)
convenience and necessity require)
the exercise by it of the rights)
and privileges conferred upon it)
by Ordinance No. 92 of the City)
of Kingsburg.)

Appl. No. 2710

Pillsbury, Madison & Sutro
and James T. Shaw, for Ap-
plicant.

BY THE COMMISSION.

O P I N I O N

This is an application by The Pacific Telephone
and Telegraph Company requesting The Railroad Commission to
make its order declaring that public convenience and necess-
ity require the exercise by applicant of the rights and
privileges granted to it by Ordinance No. 92 of the City of
Kingsburg, Fresno County, on September 13th, 1915.

A public hearing was held in San Francisco
January 20th, 1917, the testimony being taken by Examiner
Bancroft.

From the evidence it appears that applicant, at
the suggestion of the Board of Trustees of said City of

Kingsburg applied to that City for a franchise for the maintenance and operation of its telephone plant in said City, and that in pursuance of said application on September 13th, 1915, the Board of Trustees of said City passed the Ordinance above referred to.

Said Ordinance grants to The Pacific Telephone and Telegraph Company, for the term of twenty-five years, a franchise to erect and maintain poles, wires and other appliances and conductors and to lay underground wires, conductors and fixtures for telephone and telegraph purposes upon and under the streets, ^{avenues} thoroughfares and public highways of said City of Kingsburg, and to operate and conduct a telephone and telegraph business within said City, subject to certain restrictions and conditions, among which may be mentioned the following:

Applicant is given authority to make the necessary use of streets and other public places for erecting, placing and maintaining its poles or conductors for wires, although it is provided that no poles, wires or other appliances or conductors for the transmission of electricity shall be placed, erected, laid or operated in or under any streets or avenues of said City where it is practicable to place and maintain the same in or under an alley or alleys, and further that no poles shall be placed or erected on Draper Street of said City. Provision is made for the proper and prompt restoring and repairing of the streets and other public places as soon as practicable after they may be torn up or otherwise disturbed by applicant, also for protecting the City's rights in regard to sewerage, grading, planking, rocking, paving, repairing, altering, or improving any of the streets or other public places within said City.

The Ordinance further provides that the City of Kingsburg shall have the right to place, where aerial construction exists, a fixture erected and maintained under said franchise, to which may be attached wires, not exceeding four in number, and where underground conduits exist, the City shall be entitled, free of charge, to one duct in the underground system, or two pairs of wires in the underground cable, to be used for low tension police and fire alarm purposes, it being optional with applicant as to whether two pairs of wires or a duct shall be furnished.

The Ordinance also contains a provision for the payment annually by said applicant to the city of 2% of the gross receipts arising from the exercise of the franchise, subject to the provision, however, that no percentage shall be paid for the first five years from the effective date of the Ordinance.

It further appears that applicant for some time past has been operating a telephone exchange in the City of Kingsburg, that it has at present 105 subscribers to said exchange, that there is no other telephone service or exchange operated in said territory, and that applicant's failure to make the necessary application to this Commission for a certificate of public convenience and necessity in connection with said territory was due solely to the belief of applicant's officers that it was not necessary for it to obtain such authority.

The application should, in our opinion, 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. 92 of the City of Kingsburg, approved September 13th, 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 they will never claim before the Railroad Commission of the State of California or any other public authority any value for the rights and privileges conferred by said Ordinance No. 92 of the City of Kingsburg in excess of the actual cost thereof to applicant, which cost shall be stated in said stipulation, and shall have secured from this Commission a supplemental order herein declaring that such stipulation satisfactory to this Commission has been filed.

Dated at San Francisco, California, this 5th
day of February, 1917.

Man Ithelen

H. Howard

W. Gordon

Frank R. Deolm

Commissioners