

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application :
of PACIFIC GAS & ELECTRIC COMPANY, :
a corporation, and OAKLAND, ANTIOCH :
& EASTERN RAILWAY COMPANY, a corpor- :
ation, for an order authorizing said :
corporations to construct, use and :
own jointly the railroad tracks on : Application No. 421.
3rd Street, between I and M Streets, :
in the City of Sacramento, State of :
California, and approving an agree- :
ment between said corporations for :
the construction and ownership there- :
of. :

C. P. Cutten, for Pacific Gas & Electric Company;
Lester J. Hinsdale and Sam L. Kaphtaly, for Oakland,
Antioch & Eastern Railway Company;
R. T. McFisick, city attorney, for intervenors, City
of Sacramento.

LOVELAND, Commissioner.

O P I N I O N .

This application came on for hearing at Sacramento Tues-
day, March 25th, and the following facts were disclosed by the tes-
timony:-

The Pacific Gas & Electric Company owns and operates, un-
der franchise from the city of Sacramento, California, a double track
railroad on and over certain streets in the city of Sacramento, Cal-
ifornia, amongst others on 3rd Street from I to M Street. The Oak-
land, Antioch & Eastern Railway has been granted a franchise by the
city of Sacramento to construct and operate a double track railroad
on and over certain streets in Sacramento, amongst others on 3rd
Street from I to M Street. The city attorney of Sacramento was pres-
ent at the hearing and admitted that the franchises referred to had
been granted to these companies and were at this time effective.

The testimony showed that the Pacific Gas & Electric Com-
pany and the Oakland, Antioch & Eastern Railway, in view of the fact
that the operation of four tracks on 3rd Street would interfere very
greatly with such use of the street as might be necessary for teams,

have entered into an agreement, copy of which was filed with the application, by the terms of which agreement the Pacific Gas & Electric Company is to remove its double tracks on 3rd Street from I to M Street and that thereafter the Pacific Gas & Electric Company and the Oakland, Antioch & Eastern Railway will construct, own and operate jointly a double track railroad on said 3rd Street between said I and M Streets.

Statements of the financial condition of each of the applicants had heretofore, in former proceedings, been filed with the Commission and such statements, so far as necessary, were made a part of this proceeding. The contract or agreement as to the construction, joint ownership and joint operation of the tracks in question seems to be fair in terms and, as was testified, is satisfactory to both applicants.

The city of Sacramento, represented by Mr. R. T. McKisick, city attorney, approved of the agreement for joint construction, ownership and operation of the tracks, but objected to the Railroad Commission approving of anything in connection with this proceeding over which the municipality of Sacramento claimed jurisdiction.

Applicants, the Pacific Gas & Electric Company and the Oakland, Antioch & Eastern Railway, expressed a willingness to amend their agreement so as to clearly express and acknowledge by the terms of said agreement the jurisdiction of the city of Sacramento in all things comprehended in the agreement covered by such jurisdiction.

It is my judgment, and I find as a fact, that public interest and convenience will best be served by the Commission's approval of the contract or agreement providing for joint construction, ownership and operation by the Pacific Gas & Electric Company and the Oakland, Antioch & Eastern Railway of a double track railroad on 3rd Street, between I and M Streets, in the city of Sacramento, California, subject to such direction and restriction, as to the construction and operation of said double track road, as is given by the law

to the municipality of Sacramento. I recommend the following Order:-

O R D E R .

WHEREAS, the Pacific Gas & Electric Company, a corporation, is at present operating a double track railroad on 3rd Street between I and M Streets in the city of Sacramento, California; and

WHEREAS, said Pacific Gas & Electric Company desires to take up and remove said double track railroad and thereafter to jointly construct, own and operate a double track railroad on said 3rd Street between said I and M Streets in the city of Sacramento, California, with the Oakland, Antioch & Eastern Railway, which railway has a franchise from the city of Sacramento to build a double track railroad on said 3rd Street between said I and M Streets; and

WHEREAS, the joint construction and operation by the Pacific Gas & Electric Company and the Oakland, Antioch & Eastern Railway of a double track railroad on said 3rd Street between said I and M Streets will do away with the necessity for said Oakland, Antioch & Eastern Railway building double tracks on said street and will result in there being but two tracks instead of four on and over said streets; and

WHEREAS, the city of Sacramento, through its city attorney, has expressed its approval of such construction and operation, providing all rights of direction and control of such construction and operation vested in said city are not interfered with.

IT IS HEREBY ORDERED: that the Railroad Commission of the State of California, in so far as it has jurisdiction over the matter of the joint construction, ownership and operation of a double track railroad on 3rd Street between I and M Streets in the city of Sacramento, approves of the contract or agreement for such construction entered into by and between the Pacific Gas & Electric Company and the Oakland, Antioch & Eastern Railway on the eighth day of January, 1913.

as per copy on file with this Commission, provided that nothing in this Opinion or Order shall be considered as in any way attempting to pass upon matters properly within the jurisdiction of the city of Sacramento, or as of approving any part of said contract or agreement or of the construction and operation, under said contract or agreement, where such approval would in any manner interfere with the jurisdiction of the city of Sacramento.

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 28th day of March, 1913.

John W. Foshler
H. Loveland
W. Gordon
Edwin O. Edgerton

Commissioners.