

Decision No. 8312

ORIGINAL

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  
 of the Railroad Commission of the State  
 of California granting it a certificate  
 that public convenience and necessity  
 require the exercise by it of the rights  
 and privileges conferred upon it under  
 the franchise granted it by the Board  
 of Trustees of the City of Avalon by  
 Ordinance No. 109 on July 30, 1920.

Application No. 6172.

H. D. Pillsbury, for Applicant.

LOVELAND, Commissioner.

O P I N I O N

In this proceeding, The Pacific Telephone and Telegraph Company is seeking an order of the Railroad Commission declaring that the public convenience and necessity require the exercise by it of the rights and privileges conferred upon it by Ordinance No. 109, adopted and approved July 30, 1920, by the Board of Trustees of the City Avalon, entitled "An ordinance granting to The Pacific Telephone and Telegraph Company, its successors and assigns, the franchise, right and privilege, for the period of fifty years, to erect and maintain poles and pole lines, with or without cross-arms or brackets, and to string and maintain wires thereon and to dig and build conduits with necessary manholes, and to lay and install therein wires and cables, and to construct, erect, install and maintain a telephone system and plant over, along and under the streets, alleys, public places and thoroughfares of the City

of Avalon, State of California, now or hereafter established, for the purpose of conducting and carrying on local telephone service and for transmitting telegraph messages and for the carrying on of a general telephone and telegraph business."

A public hearing was held on this application in San Francisco on October 28, 1920.

The ordinance herein referred to, a copy of which is attached to the application as Exhibit "B", provides, among other things, for a payment of two per cent. of the gross annual receipts arising out of the use of the franchise after the first five years, and the usual regulations with reference to the placing of poles, wires, etc., subject to the police powers of the city when those powers are not in conflict with state laws and with the orders of the Railroad Commission with reference to standards of construction required, etc. The franchise is for a term of fifty years and is not exclusive.

The application sets forth that the consideration given for the granting of the franchise is \$200.00. Applicant has stated that this consideration covers the entire cost of the franchise except that the franchise itself provides for the payment of two per cent. of the gross annual receipts, as hereinabove set forth. Applicant also stated that it has already installed a central telephone exchange in the City of Avalon and has fifty-two subscribers connected with its system. It states further that there are no other utilities operating in the said city with which it is likely to compete.

I suggest the following form of order.

#### ORDER

The Pacific Telephone and Telegraph Company having applied to the Railroad Commission for a certificate of public convenience and necessity authorizing it to exercise the rights and privileges

granted it under Ordinance No. 109 by the City of Avalon, adopted and approved July 30, 1920, a hearing having been held, and it appearing to the Railroad Commission that public convenience and necessity require the construction and operation of the telephone plant and system therein provided for, and that there are no other public utilities of like character at present operating within the territory involved in this proceeding,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require the exercise by The Pacific Telephone and Telegraph Company of the rights and privileges conferred upon it by the ordinance hereinbefore described; provided, that neither the applicant herein, its successors or assigns, shall ever claim before this Commission or any other public body a value for said franchise for rate fixing or other purposes in excess of \$200.00, the amount actually paid to the City of Avalon as the consideration for the granting of such franchise, as set forth in the opinion preceding this order.

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 5<sup>th</sup> day of November, 1920.

H. D. Longwell  
Frank C. Wilson  
H. C. Brundage  
Irving Martin  
Commissioners.