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Decision No. 36450

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY LTD., a corporation, for Certificate that Public Convenience and Necessity require it to exercise the rights and privileges granted it by Ordinance No. 1005 of the CITY OF HUNTINGTON PARK to use, or to construct and use, poles, wires, conduits and appurtenances for transmitting and distributing electricity for any and all purposes (other than those authorized under Section 19, Article XI of the Constitution of the State of California, as said section existed prior to its amendment on October 10, 1911) under, along, across or upon the public streets, alleys, ways and places as the same now or may hereafter exist within said municipality.	Application No. 25458

Gail C. Larkin, B. F. Woodard and Rollin E. Woodbury, by B. F. Woodard for Applicant.

BY THE COMMISSION:

O P I N I O N

Southern California Edison Company Ltd. seeks a certificate authorizing it to exercise a franchise designated as Ordinance No. 1005 granted by the City of Huntington Park on December 21, 1942, permitting the construction, maintenance and use of electric utility facilities within said city.

The franchise referred to is one granted by the city in accordance with the franchise act of 1937 and is of indeterminate duration. A fee is payable annually to the city equivalent to 2 per cent of the gross receipts arising from the use of the franchise, but not less than 1/2 per cent of the receipts from all sales of electricity by applicant within the city. The direct costs to applicant in obtaining the franchise are stated to have been $99.65.

The record shows that applicant in the past has been rendering service in this locality under a so-called constitutional franchise by virtue of Section 19 of Article XI of the State Constitution. A portion of the city, annexed since 1918, has been supplied under Los Angeles County franchise No. 516. This franchise was granted in 1918 for a period of 40 years under the terms of the Broughton Act. Ordinance No. 1005 supersedes the Los Angeles County franchise, Ordinance No. 516, in so far as it is applicable to the City of Huntington Park.

Applicant states that in accepting the new franchise it is not relinquishing its constitutional franchise. Under the new franchise, Ordinance No. 1005, applicant's payments to the city under the 1/2 per cent minimum provision are estimated for the year 1942 to be about $3,800 as compared with a similar payment under the former franchise of about $233. It will be noted that applicant's franchise tax costs in Huntington Park are materially increased by the acceptance of the new franchise 15 years in advance of the expiration of the 1918 Los Angeles County franchise, Ordinance No. 516. According to the record one of the reasons for applicant's desire for a new franchise is found in the doubtful extent of the grant of the constitutional franchise and in the city's claim that the constitutional franchise permits the serving of electricity for lighting purposes only. In order to avoid litigation on that question, applicant has made a settlement with the city in an amount of $25,000 to cover disputed city franchise tax payments for the use of the city's streets and for the period prior to the granting of the present franchise, Ordinance No. 1005. The Commission, upon acceptance by applicant of this certificate, will determine upon the proper financial and accounting disposition of that payment to the city.

In this application the question is again before us that has repeatedly been raised in proceedings under Section 50 of the Public Utilities Act, viz, what is the city's jurisdiction and authority with reference to the imposition of conditions and requirements in public utility franchises granted under the

police powers of the municipality, and what is the function and authority of this Commission in its state-wide jurisdiction under the Public Utilities Act in the granting of a certificate of public convenience and necessity authorizing the exercise of the rights and privileges granted in a city franchise. The pertinent language in Section 50(b) of the Act reads:

> "No public utility of a class specified in subsection (a) hereof shall henceforth exercise any right or privilege under any franchise or permit hereafter granted, ... without first having obtained from the commission a certificate that public convenience and necessity require the exercise of such right or privilege; ....."

and Section 50(c) reads (in part):

> "The commission shall have power, after hearing, to issue said certificate, as prayed for, or to refuse to issue the same, ... or for the partial exercise only of said right or privilege, and may attach to the exercise of the rights granted by said certificate such terms and conditions, including provisions for the acquisition by the public of such franchise or permit and all rights acquired thereunder and all works constructed or maintained by authority thereof, as in its judgment the public convenience and necessity may require."

and Section 50(e) reads:

> "The Legislature hereby declares that the provisions of this section are being enacted under the State's reserved power over public utilities or corporations, or both, as the case may be, for the purpose of acting on the right of the grantee of a public utility franchise granted by a county, city and county or incorporated city or town, to exercise rights thereunder, and not for the purpose of acting on the right of any city and county or incorporated city or town to grant any such franchise. The Legislature hereby declares that the provisions of this section shall be and remain in full force and effect concurrently with the right of any city and county or incorporated city or town to grant franchises for public utilities upon the terms and conditions and in the manner prescribed by law."

The municipality's police power over its streets and thorough-fares is unquestioned. This applicant, apart from its rights under its constitutional franchise and under County Ordinance No. 516, cannot occupy such streets with its poles, wires, conduits, etc., and cannot carry on its necessary construction and maintenance work in such streets without a city franchise or permit. The city, within the scope of its jurisdiction, may impose such requirements, restrictions and conditions pertaining to the occupancy and use of its streets

as in its judgment may be necessary and reasonable. The city may also, in accord with the 1937 franchise act, require from the utility the payment of a money consideration as compensation for the use of the city streets (Section III of Ordinance No. 1005).

In these matters the authority of the city is exclusive and paramount, and this Commission desires to stay scrupulously within the bounds of its own jurisdiction and not directly or indirectly encroach upon the jurisdiction of the municipality. On the other hand, the law of this state places upon this Commission the exclusive regulatory authority over utility operation, service and rates, and the city is left without jurisdiction in such matters. We think the municipal subdivisions of the state should be equally concerned not to encroach upon this clearly defined jurisdiction of the Commission.

Nor is this a question merely of legal construction; the public interest is involved in important particulars. If some cities were to impose unnecessary and costly franchise conditions burdening the operation and service of the utilities inside and outside of the cities' boundaries, such added costs would inevitably result in increased utility capital and operating expenses and in higher rates. The supply to the public of the best possible utility service at the lowest possible cost and at the lowest reasonable rates is in the first instance the responsibility of the private utility's management and, beyond that, the exclusive responsibility of this Commission.

We are asked in this proceeding to issue a certificate finding that public convenience and necessity require the exercise by this applicant of the rights and privileges granted it by said Ordinance No. 1005 of the City of Huntington Park. And in reaching a conclusion the ordinance must be considered by us in its entirety. There is no doubt that the service of electricity for all necessary purposes in this city is a public convenience and necessity and must continue in the future as it has for many years in the past. Applicant now renders such electric service under its constitutional franchise and under the county franchise heretofore referred to, which will expire in 1958. The new franchise, Ordinance No. 1005, here before us will supersede, within the

city limits, Los Angeles County franchise, Ordinance No. 516, but leaves intact applicant's rights under its constitutional franchise.

We have to decide whether public convenience and necessity require the exercise by applicant of the limited franchise grant of the city as it appears in Ordinance No. 1005, with all of the requirements and conditions attached to that franchise. It is apparent that the city purports to regulate, not alone the use by applicant of its streets and thorough-fares but the operation and the service of applicant's electric utility.(1) We conclude that such

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(1) Section XVII of Ordinance No. 1005 contains certain provisions to which reference should be made and includes in the last paragraph the following language:

> "The City also reserves right to make all reasonable orders respecting the kind, character, quality and extent of service to be rendered by the Grantee; ...."

Section XXV reads as follows:

> "In the event the City does acquire said property of the Grantee, pursuant to the provisions of this ordinance, the Grantee will permit the said property to be connected with the remaining property of the Grantee located outside of the City upon such terms and conditions as shall be approved by the Railroad Commission, provided that the City shall not use its lines or its connection with the remaining property of the Grantee for the purpose of transporting and selling electricity to consumers outside the territorial limits of the City."

Section XXVII reads as follows:

> "The Grantee of this franchise shall promptly upon the acceptance of the same, institute and make effective the maintaining of an active customers' accounting ledger for the Huntington Park area at its Huntington Park office, mailing bills to substantially all customers in Huntington Park at the Huntington Park office or delivering the bills from the Huntington Park office, having bills to substantially all customers in the Huntington Park area show the Huntington Park address on the face thereof and having the collection work in connection therewith substantially all handled out of its Huntington Park office."

Section XXX reads as follows:

> "If the Grantee shall at any time during the life of this franchise fail to maintain an office in the City of Huntington Park for the transaction of its business with substantially all consumers of its product within the said City, such failure to maintain said office will effect a forfeiture of this franchise and the City Council may by ordinance declare the same to be null and void and of no further effect."

We are not passing in this proceeding on the reasonableness of any of these requirements and conditions; what we are concerned with here is the absence of authority by the city to impose such conditions upon the utility company in a city franchise.

regulation, through the instrumentality of franchise conditions, is outside the city's police power and is exclusively vested in this Commission. Having in mind the Commission's paramount authority, we are unable to make a finding that public convenience and necessity require the exercise by applicant of any franchise provisions purporting to impose regulation by the city in the operation, service and rates of a utility under our jurisdiction.

Section 50(c) of the Public Utilities Act gives us the power to issue a certificate as prayed for, or to refuse the issue of same, or to issue a certificate for the partial exercise only of said right or privilege, and we may attach to the exercise of the rights granted by our certificate such terms and conditions as the public convenience and necessity may require. We are advised that any franchise provisions encroaching upon the exclusive jurisdiction of this Commission are unenforceable by the city and mere nullities and that the Commission, even if it were so inclined, has no power to abdicate or delegate its authority to a municipality. There is no merit, however, in leaving the Commission's position in doubt and it would be a disservice to the state, to the community and to applicant to have our certificates or orders clouded in ambiguity.

Upon the record before us we shall make our finding that public convenience and necessity require the exercise by applicant of the city's franchise, Ordinance No. 1005, with the exception, however, that public convenience and necessity do not require the exercise by applicant of any section or provision in said ordinance purporting to regulate operation, service and rates, or any matter within the exclusive jurisdiction of this Commission.

O R D E R

A public hearing having been held upon the application of Southern California Edison Company Ltd., the matter considered, and it appearing to the Commission and it being found as a fact that public convenience and necessity so require, therefore,

IT IS HEREBY ORDERED that Southern California Edison Company Ltd. be and hereby is granted a certificate to exercise the rights and privileges

granted by the City of Huntington Park, by Ordinance No. 1005, adopted December 21, 1942 subject to the following conditions:

1. The Commission's authority being paramount in the regulation of applicant's operation, service and rates, and such regulation being outside the police power of the City of Huntington Park, we find that public convenience and necessity do not require the exercise by applicant of any provisions in said Ordinance No. 1005 dealing with the regulation of operation, service and rates or any matter within the exclusive jurisdiction of this Commission.
2. No claim of value for such franchise or certificate under the authority herein granted in excess of the actual cost thereof shall ever be made by grantee, its successors or assigns before this Commission, or before any court or other public body.
3. The Commission, upon acceptance by applicant of this certificate, will make its determination of the proper financial and accounting disposition to be made by applicant for the payment to the City of the amount of $25,000 to cover disputed city franchise tax payments for the period prior to the effective date of Ordinance No. 1005.

The effective date of this Order shall be the twentieth day from and after the date hereof.

Dated, San Francisco, California, this 22nd day of June, 1943.

Commissioners.

A. 25458

D I S S E N T

I feel compelled to dissent from both the opinion and order signed by the majority. The unusual wording of the order itself might pass unnoticed, and perhaps might be accepted, were it not for the alarming tone of the opinion which precedes it.

Unless this opinion be nothing more than mere words, I can read it only as an expression of a desire upon the part of the majority to wholly remake the law, through a layman's interpretation thereof, with respect to municipal franchises.

Justus F. Craemer

Justus F. Craemer
Commissioner

D I S S E N T

This dissent is addressed to a decision characterized by ambiguity, inconsistency and absurdity, and which leaves the ultimate conclusion of the majority in doubt, if not even completely submurged in obscurity, and subject to different and conflicting interpretations.

Irrespective of its phraseology, this dissent is to be deemed both alien to inclination and utterly devoid of the personal equation. Quite to the contrary, it is a dissent inspired by a sense of obligation, designed to be constructive rather than destructive, and submitted in the hope, fervent as a prayer, that henceforth only that type of decision issue at the hands of the Railroad Commission which reflects sound reasoning, as well as being confined to the issues raised, and such as would tend to enhance rather than to detract from the prestige and high rating of the Commission.

The major portion of the majority opinion, of which Commissioner Sachse is the author, consists of a treatise upon jurisdiction and jurisdictional authority, with particular reference to the municipality and the Railroad Commission in their relationship the one to the other. While all that may be interesting matter for the casual reader, it is unnecessary and wholly without point, for no question of jurisdiction lies within the issues of this case. Indeed, there is but a single issue involved herein, namely, whether public convenience and necessity require the exercise by the utility of the rights and privileges granted by the city franchise, that is to say, the right to the use of the streets of the city whereon to construct and maintain the utility's electric distribution system.

Thence following, the majority opinion recites that the City of Huntington Park is apparently assuming to regulate "not alone the use by applicant of its streets and thoroughfares, but the operation and service

of applicant's electric utility," and, in support thereof, they set forth in a foot-note three typical sections of the ordinance which purport to impose certain conditions and requirements upon the utility. That may or may not be true; for in view of the provisions of the Franchise Act of 1937, expressly permitting a municipality to impose upon the utility conditions either contractual or regulatory in character, it is as yet open to doubt. But whether the conditions imposed reflect an act beyond the powers of the city is a question that cannot be finally determined by mere argument or through any declaration of this Commission; for such doubt as may obtain in the premises may be resolved only by the decree of a court of competent jurisdiction when an issue actually arises.

In effect, the majority opinion represents that the city is powerless to exercise regulatory control over the operation, service, and rates of the utility. For, as the majority assert, "such regulation, through the instrumentality of franchise conditions, is outside the city's police power and is exclusively vested in this Commission." Such declaration may or may not reflect the correct legal concept. It is not free from doubt. And it certainly cannot be accepted unless the party asserting it makes it clear precisely what is his understanding of the terms "operation" and "service." Nor dare we ignore the fact that the powers still retained by a given municipality to supervise and regulate public utilities may differ materially from those vested in another. Yet the majority seemingly have not made sufficient inquiry whereby to ascertain just what powers of control are reposed in the City of Huntington Park, or whether the authority it now presumes to exercise in the administration of the provisions of the said franchise is related to the powers possessed. Nor have the provisions of the Franchise Act of 1937, which permit the municipality to impose conditions contractual and regulatory in character, as yet been construed by the courts.

The majority pursue the point further by stating: "We are advised that any franchise provisions encroaching upon the exclusive jurisdiction of this Commission are unenforceable by the city as mere nullities." That statement is admittedly true. But it should be borne in mind that there is nothing in the record by way of proof that the city has attempted to invade, or contemplates invading, the jurisdictional domain of the Railroad Commission, and, further, that the question of what constitutes an invasion of the Commission's jurisdiction may be determined only through recourse to the courts.

Why, therefore, encumber a decision with many sections devoted to an assertion of rights, together with a rebuke administered to the city and an implied admonition to the utility, in view of the majority's own assertion to the effect that such conditions as the city may impose upon the utility by way of regulation of the utility's operations, service or rates, are mere nullities and hence not enforceable? If not enforceable, of a certainty they could not operate as an invasion of the Commission's rights.

Next following the statement from the opinion last above quoted, the majority continue thus: "There is no merit, however, in leaving the Commission's position in doubt, and it would be a disservice to the state, to the community and the applicant to have our certificates or orders clouded with ambiguity. (Emphasis supplied.)

If the majority opinion is intended, according to the words of the author thereof, "to save the Commission's position from doubt" and to avoid having the Commission's "certificates or orders clouded in ambiguity," the stern fact is that the opinion operates to defeat its own purpose. At any rate, what really is the "Commission's position," in this instance the "position" of the three members only, is at best a mere matter of conjecture even to the author of this dissent, who patiently listened to the numerous prolonged discussions of this case by the majority. And with respect to the

second item, the one referring to "certificates or orders clouded in ambiguity," it is my well-considered opinion that the certificate or order of the majority decision is not only quite unique, but that, considered in its entirety, including the order and the conditions thereto attached, it is so ambiguous, and such a perplexing decision, as to stand without a counterpart in the annals of this Commission.

Of the decision it may safely be said that it is most ambiguous and inconsistent with respect to what the majority obviously hold to be the main points of the case, and, further, that to the extent it may seek to clarify or to illuminate, it serves only to confuse and becloud.

Of the several conditions and requirements imposed upon the utility by the city, the majority has singled out four particular sections of the ordinance to which to address their protest or complaint (Sections XVII, XXV, XXVII, and XXX of Ordinance No. 1005), as appearing in a foot-note on page 5 of the opinion. Typical of the group is that of Section XXVII, to the effect that the utility is thereby required to maintain an office in Huntington Park. Although it may at first blush appear that this requirement is beyond the power of the city to impose, on the ground that it goes to the item of service, yet it is not free from the element of doubt. Even so, it is quite obvious that the majority holds that it is not within the power of the city to impose upon the utility any one or more of the said conditions and requirements. But note how the majority proceeds to dispose of the issue in its Order and the "condition" attached thereto.

The Order, it will be observed, grants unto the utility a Certificate whereby the utility is authorized "to exercise the rights and privileges granted by the City of Huntington Park," through Ordinance No. 1005. The grant of the certificate is not absolute, however, for it is expressly made subject to certain so-called "conditions," the first of which is as follows:

"1. The Commission's authority being paramount in the regulation of applicant's operation, service and rates, and such regulation being outside the police power of the City of Huntington Park, we find that public convenience and necessity do not require the exercise by applicant of any provisions in said Ordinance No. 1005 dealing with the regulation of operation, service and rates or any matter within the exclusive jurisdiction of this Commission." (Emphasis supplied.)

The essence of the so-called condition "1" is, in its application to Section XXVII of the ordinance, that "public convenience and necessity do not require" that the utility maintain an office in Huntington Park. Under analysis, the language last above quoted, involving a finding of public convenience and necessity, does not involve the slightest element of the affirmative. It is negative only, in that it holds that public convenience and necessity do not require that the utility maintain such office in Huntington Park. There is no inhibition in the proviso -- nothing therein which forbids, or which may operate to bar, the utility from complying with the conditions and requirements referred to by the majority, and of which complaint is made by them in their said decision.

If it is the intent of the majority to render such conditions and requirements ineffective, through forbidding the utility to comply therewith, why did not the majority say so? Why resort to evasion? And why, in the words of the majority themselves, did they leave the "Commission's position in doubt?" It would have been very simple, for instance, to grant the certificate subject to the proviso that the utility "shall not maintain an office in Huntington Park," and likewise that it shall not comply with any of the other requirements to which objection is made. On the other hand, if the so-called condition "1" of the Order were not designed as an inhibition against an act required by the city, for what possible useful purpose were those eight lines composed, designated as a "condition," and attached to the Order? And if inoperative to prevent compliance with that particular requirement, it would, of course, be equally ineffective to bar compliance with the several other requirements of the said ordinance.

Condition numbered "1", to which the Order is made subject, is, with reference to the context of both the Opinion and Order, susceptible of different and conflicting interpretations. Conceivably, it might be construed by one with a vivid imagination as an inhibition against compliance by the utility with the said conditions and requirements imposed by the city. In such event, if the utility should, for instance, maintain an office in Huntington Park, it would do so in defiance of an order of this Commission. Revocation of the certificate granted by the Commission would be the obvious and logical penalty therefor. Moreover, if the said requirement be beyond the power of the city to impose, as held by the majority, then if the utility were permitted to comply therewith, it would be in derogation of the jurisdictional authority of the Railroad Commission. And thus, notwithstanding the verbal protest and defiance of the majority opinion, the city assumes dominant authority and triumphs over the Railroad Commission.

On the other hand, if the said condition "1" of the Order be not construed as an inhibition, then, in that event, there can be no question but that the utility may, with impunity, maintain an office in Huntington Park. Even so, and just as in the instance outlined last above, the utility will do so by virtue of a requirement of the city through the exercise of what the majority view as an extra-jurisdictional act and involving, in their view, an encroachment upon the jurisdictional prerogatives of the Railroad Commission. Hence again, and by its own act, the city assumes dominance over the Railroad Commission. And so, if not intended to foreclose or bar the utility from complying with such requirements, what possible purpose could be served by including in the order the said condition "1" or any other combination of words and phrases of like import?

Or, finally, and altogether likely, the said condition "1" of the Order may well be construed as a mere collection of fanciful phrases, in no

wise applicable to the issue, and being perfectly meaningless and wholly without effect for any purpose.

It is apparent that the majority attach great importance to their so-called condition "1" of the Order. Doubtless they are sincere and no doubt they sincerely believe it has merit as a remedial measure or as an instrumentality of reform. But in that they err. For as coined, the said collection of phrases is in no sense a "condition" or proviso. It has no qualifying effect. It is subject neither to breach thereof nor compliance therewith. No penalty is prescribed, expressly or by implication. And as a suggestive incident thereto, it has no value as a deterrent against such other political subdivisions as may be disposed to adopt the tactics of the City of Huntington Park, and thereby offend the dignity of the Railroad Commission, by incorporating within their own franchise ordinances conditions and requirements similar to those which characterize the said Ordinance No. 1005.

In this connection, it is significant to observe that the utility not only now maintains an office at Huntington Park, to the knowledge of this Commission, including the said majority, but that, and likewise within the knowledge of this Commission, the utility intends, and has so advised the Commission, to continue to maintain an office within the said city.

If to impose such conditions and requirements be within the scope of the city's authority, then, of course, there can be no point whatsoever to the greater volume of the Opinion, and condition "1" of the Order (if indeed it be a condition) is both ridiculous and a reflection upon the city and the utility. But even if the act of the city in prescribing such requirements was extra-jurisdictional and, therefore, an invasion of the jurisdictional field of this Commission, the opinion of the majority, coupled with the Order and condition "1" attached thereto, obviously cannot be effective for any purpose other than to submerge the majority's real conclusion

in a maze of ambiguity, or, perhaps, to subject the city, and inferentially the utility, to a verbal chastisement.

If the City of Huntington Park is not a transgressor, in that it has not exceeded its duly constituted authority to the detriment of the Commission, it is at once a mark of discourtesy and an act of injustice to refer to the city in terms of censure or adverse criticism. On the other hand, if the municipality be actually at fault through an intrusion into the exclusive jurisdictional realm of the Railroad Commission, it would be quite proper to subject the city to the censure which by its own wrongful act it invited. But far beyond that, any act of encroachment upon the rights and prerogatives of the Commission, or the threat thereof, should be countered by a bold and unequivocal challenge, complemented by an appropriate order whereby the utility is forbidden to comply with the objectionable requirements of which the majority complain, with adequate penalty prescribed for failure to conform to the Commission's order. That is the only way to nullify the unwarranted and offending conditions, for the City of Huntington Park, as a municipal corporation, is not directly subject to any order or decree of the Railroad Commission.

What the Southern California Edison Company Ltd. sought and obtained through the said Ordinance No. 1005 is the right to occupy the streets of Huntington Park for the construction, maintenance and use of electric distribution facilities. Nothing more. And what the utility now seeks at the hands of the Commission is authority, through an appropriate order, as specified in Subdivision (b) of Section 50 of the Public Utilities Act, to occupy the streets for the construction, maintenance and use of electric distribution facilities. That, and nothing more,

In practice, such indicated type of order has proved to be satisfactory and wholly effective. Under such practice, as it has obtained for

many years, no dissension has arisen, so it would appear, as between the Commission and either the political subdivision or the utility, or between the latter, by reason of either deficiency or uncertainty in the order. Neither have the parties immediately in interest become involved in litigation in the courts because of reliance upon such simplified type of both opinion and order, the two constituting the decision of the Commission. Nor has the Commission ever been deprived of any of its duly constituted jurisdictional authority, even to the least degree, through adherence for the many years to such procedure.

And in this connection it is pertinent to observe that this is not an isolated case by reason of any peculiar or unusual specifications of the ordinance. For in times past many other ordinances, with conditions therein contained of similar import to, and scarcely if at all less exacting than, those set forth in Ordinance No. 1005, have been involved in proceedings of this type before the Commission. Yet they were satisfactorily disposed of, readily and wholly without fanfare, through the medium of a simple order, as above indicated, with no attendant embarrassment to any of the parties concerned and no loss of jurisdictional prestige to the Commission.

Such being the case, it should be apparent to all interested parties, to lawyer and layman alike, that there is no feature of the long-established procedure of the Commission, in its application to such franchise cases, that is materially defective or in need of correction or revision, and hence there is no occasion for recourse to that which the majority obviously consider to be a reformative procedure.

By way of a finale, this dissent adverts to, and appropriates in part, that certain excerpt from the majority decision, hereinbefore quoted, to the effect that the decision should not operate to leave "the Commission's position in doubt," and that it would be a "disservice" to the several

parties in interest "to have our certificates or orders clouded in ambiguity." And in application thereof, it is hereby declared in full confidence, based upon a firm conviction, that the majority decision herein not only operates to leave "the Commission's position in doubt" in every particular except for the more act of granting the certificate, but that by and through such decision the majority themselves render a positive "disservice" to all concerned by causing this particular Certificate or Order to be "clouded in ambiguity," and in amazing degree, or to the extent that the final judgment of the Commission is veiled in deep mystery.

C. C. Baker,
Commissioner.