

Decision No. 43714

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY
a corporation, for an order 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 by the City of Salinas
by Ordinance No. 559 (N.C.S.) on the 16th
Day of May, 1949.

Application No. 30624

Dudley A. Zinke, for applicant.

O P I N I O N

The Pacific Telephone and Telegraph Company, a corporation, by the above-entitled application requests a certificate of public convenience and necessity authorizing it to exercise the rights and privileges conferred by Ordinance No. 559 (N.C.S.), adopted May 16, 1949, by the City Council of the City of Salinas, granting a franchise to construct, install, maintain and use telephone, telegraph and other communication facilities in the public streets, ways and places within the City of Salinas. This franchise was granted under the provisions of the Broughton Act.

The term of the franchise is 15 years from and after the effective date of the ordinance. Under the ordinance, a fee is payable by the grantee to the city equivalent to 2% of the gross annual receipts of said grantee arising from the use, operation or possession of the franchise.

On the basis of the current level of business, and under the terms of Ordinance No. 559 (N.C.S.), the annual franchise payment to the city would be approximately \$2,200. The costs incurred by applicant

in obtaining the franchise are stated to have been \$262, exclusive of the \$50 filing fee required by Section 57½ of the Public Utilities Act, and the applicant has stipulated that it, its successors or assigns will never claim before the Commission or before any court or public body any value for the aforesaid franchise in excess of the actual cost thereof.

Ralph J. Jones, witness for the applicant, testified that telephone service was first furnished in the community in 1891 by the Sunset Telephone and Telegraph Company. The Sunset Telephone and Telegraph Company was acquired by The Pacific Telephone and Telegraph Company, the applicant herein, in 1917. The Salinas Exchange is dial operated and as of January 1, 1949, 12,200 stations were served from the Salinas central office, of which 6,847 were within the city limits.

The witness for applicant testified that the City of Salinas on March 2, 1891, granted a 25-year franchise to the Sunset Telephone and Telegraph Company under Ordinance No. 198. On November 6, 1916, the City of Salinas passed Ordinance No. 161 granting to applicant a 25-year franchise. Following the expiration of this franchise in 1941, the applicant carried on its operations in the City of Salinas without a local franchise until May 16, 1949, when a new franchise, to become effective June 18, 1949 and to expire June 17, 1964, was granted to it by the city under Ordinance No. 559 (N.C.S.). During the period between the expiration of the old franchise and the granting of the new franchise, the applicant paid \$11,160 to the city for the period December 6, 1941 to December 31, 1948, and \$1,026 for the period January 1, 1949 to June 17, 1949. These payments were computed at 2% of a portion of applicant's gross receipts from the Salinas Exchange in accordance with the so-called Dinuba principle.

Under the old franchise, the city was provided 15 individual line telephones and was permitted to place a fixture on pole tops to

carry not more than four wires, and was permitted to use one underground duct, or two pairs of wires in underground cable, it being optional with applicant whether two pairs of wires or a duct be furnished, for police and fire circuits. While the new franchise does not require the applicant to furnish such services, applicant has agreed by letter to the City Council of Salinas, dated April 1, 1949, which was introduced as Exhibit 3 in this proceeding, to continue to permit the city to place a fixture on pole tops and to use one underground duct or two pairs of wires in underground cable. The provision of the 15 individual line telephones to the city has been discontinued under the terms of the new franchise.

A hearing on the instant application was held before Examiner Kimball on December 15, 1949, at Salinas. At this hearing no one appeared to enter an objection to the granting of this certificate. From the testimony received it appears that no person, firm, public or private corporation, other than The Pacific Telephone and Telegraph Company, is now engaged in the business of furnishing telephone service in the City of Salinas, but that it or its predecessor for many years have so served the territory now comprising said city.

From the evidence of record the Commission finds that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to The Pacific Telephone and Telegraph Company by Ordinance No. 559 (N.C.S.) of the City Council of the City of Salinas.

The certificate of public convenience and necessity granted herein is subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of the franchise involved herein or this certificate of public convenience and necessity or the right to own, operate or enjoy such franchise or certifi-

cate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, certificate of public convenience and necessity or right.

O R D E R

Public hearing having been held on the above-entitled application, the matter having been submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED that The Pacific Telephone and Telegraph Company be and it is granted a certificate that public convenience and necessity require the exercise by it of the right, privilege and franchise granted to it by Ordinance No. 559 (N.C.S.), adopted May 16, 1949 by the City Council of the City of Salinas, County of Monterey, State of California.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 17th day of

January, 1950.

R. J. Anderson
Justice F. Callahan
John H. Kivell
Harold S. Kula
Herbert Potter
Commissioners