

ORIGINALDecision No. 508015

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of THE PACIFIC TELEPHONE)
 AND TELEGRAPH COMPANY, a corporation,)
 for a certificate of public convenience) Application No. 39930
 and necessity to exercise franchise)
 rights under Ordinance No. 6034 of the)
 City of San Jose, California, dated)
 January 27, 1958.)

Arthur T. George and Pillsbury, Madison
 and Sutro, by Dudley A. Zinke, for
 applicant.
William W. Dunlop, for the Commission
 staff.

O P I N I O N

The Pacific Telephone and Telegraph Company in this proceeding requests a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted under its charter by the City of San Jose by Ordinance No. 6084 dated January 27, 1958. A public hearing was held before Examiner Thomas E. Daly on May 21, 1958, at San Francisco. No appearance in protest was made to the authority sought.

The franchise referred to, a copy of which was received in evidence as Exhibit No. 1, covers a period of five years and provides for annual payments computed at two per cent of the gross annual receipts of the grantee arising from the use, operation or possession of the franchise in accordance with the so-called Tulare or Dinuba principle. Said payments will approximate \$19,000 annually.

Up to the present time applicant has never held a franchise from the City of San Jose. Gratuitous services, valued at \$31,000 per annum, were provided the City by applicant. For the right to

operate under the franchise granted by Ordinance No. 6084, which covers the corporate city limits as of May 19, 1905, no gratuitous services will be provided. However, by a letter dated April 6, 1956, (Exhibit No. 3) applicant indicated to the City of San Jose that it would furnish the City, without charge, limited use of its aerial and underground plant, for police and fire alarm systems. It is estimated that said services will amount to \$5,312.95 annually.

The costs incurred by applicant in obtaining the franchise are stated to have been \$100, which amount does not include costs incident to the application. Applicant stipulated that it will never claim any value for said franchise greater than \$100.

After full consideration, the Commission is of the opinion and so finds that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to applicant by the City of San Jose by Ordinance No. 6084.

The certificate of public convenience and necessity herein granted 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 certificate 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

A public hearing having been held and based upon the evidence adduced therein,

IT IS ORDERED that a certificate of public convenience and necessity is hereby granted to The Pacific Telephone and Telegraph Company to exercise the rights and privileges granted by the City of San Jose by Ordinance No. 6084 adopted on the 27th day of January, 1958.

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

Dated at San Francisco, California, this 9th day of June, 1958.

[Signature]
President
[Signature]
Theodore J. [Signature]

Commissioners

Ray E. Untereiner
Commissioner S. Matthew J. Dooley being necessarily absent, did not participate in the disposition of this proceeding.