

ORIGINAL

Decision No. 18977.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
PACIFIC GAS AND ELECTRIC COMPANY, a
corporation, for an order of the
Railroad Commission of the State of
California granting to applicant a
certificate of public convenience
and necessity to exercise the rights,
privilege and franchise granted by
Ordinance No. 399 of the Board of
Trustees of the City of Santa Clara.

Application No. 13745.

C. P. Cutten and R. W. Du Val, by
R. W. Du Val, for applicant.
L. H. Albertson, protestant.

BY THE COMMISSION:

O P I N I O N

This is the amended application of Pacific Gas and Electric Company asking the Commission to make its order granting applicant a certificate of public convenience and necessity to exercise the rights, privilege and franchise granted by the Board of Trustees of the City of Santa Clara.

A public hearing before Examiner Cannon was held at Santa Clara September 1, 1927, at which time testimony was introduced and the matter submitted for decision.

It appears that on or about December 27, 1926, applicant purchased the municipal gas distribution system of the City of Santa Clara, and has since been conducting a general retail gas service in that locality. Subsequent to said purchase the City of Santa Clara, by Ordinance No. 399, passed

May 23, 1927, granted applicant a franchise to lay, maintain and/or use gas facilities within the City of Santa Clara. The franchise, which is for a term of 50 years, carries the usual provision for a tax of two per cent upon the gross revenue. A certified copy of the franchise is attached to the amended application, being marked Exhibit "A."

L. H. Albertson protests, in effect, that applicant in operating a retail gas business within the City of Santa Clara, prior to the securing of a certificate of public convenience and necessity from this Commission, was violating the law, particularly in so far as such operation involved the laying of mains in city streets and similar exercise of functions ordinarily permitted only under franchise authority. Applicant admitted such operations had been carried on but urged that the practical necessity of such work must take precedence over technical legal matters.

Here we have the taking over of a gas distribution system heretofore legally constructed and operated by a municipality. During the necessary lapse of time prior to the securing of a franchise and authority from the Commission to exercise such franchise, the system must of necessity continue to function.

This Commission is here concerned with the matter of present and future necessity for the exercise of a franchise. Protestant has introduced no evidence to show that the withholding of a certificate of public convenience and necessity would be in the public interest. On the other hand, the evidence indicates that applicant is the only party rendering a gas service within the City of Santa Clara; that such service is rendered at rates prevailing in neighboring territory; that

such service can be rendered without detriment to applicant's other consumers; and that public convenience and necessity reasonably require that applicant should exercise the rights and privileges under the franchise mentioned above.

Applicant has filed with the Commission a stipulation, duly and legally authorized by its Board of Directors, to the effect that applicant, its successors or assigns, will never claim before the Railroad Commission or any court or other public body any value for the aforesaid franchise in excess of the amount actually paid to the City of Santa Clara for said franchise, which amount is One Hundred (100) Dollars.

C R D E R

Pacific Gas and Electric Company having applied to the Railroad Commission of the State of California for a certificate of public convenience and necessity for the exercise of certain rights and privileges granted by the City of Santa Clara in Ordinance No. 399, a public hearing having been held, the matter having been submitted and being now ready for decision;

The Railroad Commission of the State of California hereby certifies and declares that public convenience and necessity require and will require the exercise by Pacific Gas and Electric Company of those rights and privileges granted by Ordinance No. 399, adopted by the Board of Trustees of the City of Santa Clara on May 23, 1927.

The authority herein granted shall be effective from

and after the date of this order.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 1st ~~November~~ day of ~~September~~, 1927.

Ernest J. Scott
Clarence
Leon Whitall
Thos S. Pratt

Commissioners.