

Decision No. 29582

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 right, privilege and franchise granted to applicant by Ordinance No. 195 of the City Council of the City of San Rafael, County of Marin, State of California.

ORIGINAL

Application No. 20993

BY THE COMMISSION:

O P I N I O N

In this application Pacific Gas and Electric Company asked this Commission to make its decision and order granting to applicant a certificate declaring that public convenience and necessity require and will require the exercise by applicant of the right, privilege and franchise granted to it by Ordinance No. 195, dated June 1, 1936, of the City Council of the City of San Rafael, County of Marin, State of California, a copy of which is marked Exhibit "A" and is annexed to and made a part of the application.

Applicant alleges that it is now and its predecessors in interest for more than forty (40) years last past have been furnishing and supplying electric service to said City of San Rafael and its inhabitants for light, heat, and other lawful purposes under and pursuant to the franchise granted by the provisions of Section 19 of Article XI of the Constitution of the State of California as it existed from 1885 to October 10, 1911, when an amendment

to said section was adopted and under and pursuant to the franchise granted to applicant's predecessor by Ordinance No. 169 of the Trustees of the Town of San Rafael, adopted October 3, 1887; which said franchise will expire on or about October 3, 1937; that the said constitutional franchise, derived through the acceptance by applicant and/or its predecessor in interest of the offer contained in said Section 19 of Article XI of the Constitution of the State of California as it existed prior to amendment as aforesaid, covers applicant's existing electric facilities in said City of San Rafael, is perpetual in duration and extends throughout the whole of said city; that applicant and its predecessors in interest have, for many years last past, utilized said constitutional franchise in the distribution of electric energy and maintains that such franchise authorizes the distribution of electric energy for such purposes and uses; that applicant applied for and obtained the franchise granted by Ordinance No. 195 to more definitely establish the franchise rights in said city and to enable applicant to continue to qualify its First and Refunding Mortgage Bonds as legal investments for savings banks and trust companies and as more fully set forth in the application.

Applicant further alleges that the present and future public convenience and necessity require and will require that it exercise the right, privilege and franchise granted to it by the aforesaid Ordinance No. 195 in order that applicant may continue to furnish and supply electricity to said City of San Rafael and the inhabitants thereof.

Applicant further alleges that no person, firm or public or private corporation, other than applicant, is now engaged in the public utility business of furnishing, distributing or selling electricity for light, heat, power or other purpose to said City of San Rafael

or the inhabitants thereof.

Applicant has stipulated to the effect that it, its successors or assigns, will never claim before the Railroad Commission of the State of California or before any court or other public body, any value for the aforesaid franchise in excess of the actual cost thereof, which cost is \$300.

It is the opinion of the Commission that this application should be granted and that a public hearing in the matter is not necessary.

O R D E R

Pacific Gas and Electric Company having applied to the Railroad Commission of the state of California for an order granting to applicant a certificate declaring that public convenience and necessity require and will require the exercise by applicant of the right, privilege and franchise granted to it by the Ordinance described in the foregoing Opinion, the Commission having considered the matter and being of the opinion that the application should be granted,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY ORDERS AND DECLARES that public convenience and necessity require and will require the exercise by Pacific Gas and Electric Company of the right or privilege under the franchise granted to it by Ordinance No. 195 of the City Council of the City of San Rafael, County of Marin, State of California, as fully set forth and described in Exhibit "A" attached to and made a part of the application herein, and that a certificate of public convenience and necessity authorizing

such exercise be and it is hereby granted to applicant subject to the following conditions and not otherwise:

- (1) That applicant, its successors or assigns, will never claim before the Railroad Commission or any other public authority, a value for the aforesaid franchise in excess of the actual cost thereof, which is stated by applicant to be the sum of \$300.
- (2) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.
- (3) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 1st day of March, 1937.

Walter Moore
Leon C. White
Frank B. Smith
Ralph A. Field
Ray & Coley
Commissioners.