

Decision No. 21010

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. 113 of the
Board of Supervisors of the County of
Santa Clara, State of California.

ORIGINAL

Application No. 21010

WAKEFIELD, COMMISSIONER:

R. W. DuVal, for Applicant.

OPINION

Pacific Gas and Electric Company requests a certificate of public convenience and necessity under Section 50(b) of the Public Utilities Act authorizing the exercise of the rights and privileges granted to it by Ordinance No. 113 of the Board of Supervisors of the County of Santa Clara, adopted on June 8, 1936, a copy of which is attached as Exhibit "A" to the application. Public hearing was held at San Francisco, California, on April 28, 1937. No one appeared to protest the granting of the application.

It appears from the record that for more than thirty-five (35) years last past, applicant or its predecessors in interest have been rendering electric service in the County of Santa Clara, and have used the public highways therein under and pursuant to the following franchises:

<u>Ordinance Number</u>	<u>Adopted</u>	<u>Expiring</u>	<u>Grantee</u>
Unnumbered	Oct. 25, 1899	Oct. 25, 1949	Standard Electric Company of California
Unnumbered	Mch. 17, 1902	Mch. 17, 1952	Electric Improvement Com- pany of San Jose
Unnumbered	June 22, 1908	July 7, 1958	Tuolumne Water and Power Company
Unnumbered	July 12, 1909	July 12, 1959	Los Gatos Ice, Gas and Electric Company

Applicant now renders electric service in a portion of the County of Santa Clara, but is not rendering such service in the entire county. Service of a like character is now being rendered by Coast Counties Gas and Electric Company in that portion of the County of Santa Clara lying south of the Town of Coyote, by the City of Palo Alto within its corporate limits and in the territory immediately adjacent thereto and by the City of Santa Clara within its corporate limits and in immediately adjacent territory.

It is of record that applicant applied to the Board of Supervisors of the County of Santa Clara for the franchise granted by Ordinance No. 113 primarily to enable applicant to continue to qualify its first and refunding mortgage bonds as legal investments for savings banks and trust funds in as many states as possible. Applicant has outstanding \$267,153,000.00 of first and refunding mortgage bonds. The most recent issue of such bonds matures June 1, 1966. The bonds are now qualified as legal investments for savings banks and trust funds in the State of New York and in some other states. The law of the State of New York, it is said, permits investments by savings banks in bonds of gas and electric corporations provided, among other things, that "such corporation shall have all franchises necessary to operate in territory in which at least seventy-five percentum of its gross income is earned, which franchises shall

either be indeterminate permits or agreements with, or subject to the jurisdiction of a public service commission or other duly constituted regulatory body, or shall extend at least five years beyond the maturity of such bonds." The laws of some other states are somewhat similar. The franchise referred to herein is essential to meet such statutory requirements.

Applicant has stipulated that it, its successors or assigns will never claim before the Railroad Commission or any court or public body, any value for said franchise in excess of the actual cost thereof, which is Three hundred eighty-three and 16/100 Dollars (\$383.16) exclusive of the Fifty Dollars (\$50.00) fee for the filing of the present application.

It should be noted that this is an application under Section 50(b) of the Public Utilities Act for a certificate of public convenience and necessity to exercise rights granted by a franchise which covers the entire county. Applicant does not now serve throughout the whole county. The franchise is for a term of fifty (50) years. The Commission can not foretell future conditions nor make a finding now that public convenience and necessity require the exercise of such franchise in its entirety. However, the exercise of such rights should be authorized as to territory now served by applicant and as to extensions made in the normal course of business as contemplated by Section 50(a) of the Public Utilities Act.

In this proceeding consideration must be given to the fact that at the present time, Coast Counties Gas and Electric Company, the City of Palo Alto and the City of Santa Clara render like service within the county.

Existing utilities should be protected as to territory now served by them, and also as to extensions made in the normal course of business, and applicant should not be authorized to

exercise franchise rights as to such territory or extensions. Should a situation arise in the future where more than one utility desires to enter into the same locality or territory the Commission reserves the right to adjudicate such dispute upon the facts disclosed in an appropriate proceeding, and to modify the present order or to make such order prescribing the terms and conditions under which service may be rendered as may be warranted by the record in such future proceeding.

O R D E R

IT IS FOUND AS A FACT that public convenience and necessity require, and Pacific Gas and Electric Company is hereby granted a certificate to exercise the rights and privileges granted to it by Ordinance No. 113 of the County of Santa Clara, as to the territory now being served by it and as to extensions to its existing system made in the normal course of business as contemplated by Section 50(a) of the Public Utilities Act, provided, that as to the territory not now served by applicant the rights and privileges granted by such franchise shall not be exercised to extend its facilities into territory served by the systems of Coast Counties Gas and Electric Company, the City of Palo Alto or the City of Santa Clara, existing at the time such extension is contemplated.

This Order shall become effective immediately.

The foregoing Opinion and Order are hereby approved
and ordered filed as the Opinion and Order of the Railroad
Commission of the State of California.

Dated at San Francisco, California, January 3 1938.

Wallace Wood
Leon Whittell
Frank Weston
Ray Washburn
Ray S. Kelley
Commissioners