

Decision No. 4473

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. 307 of the Board of Supervisors of the County of Alameda, State of California.

ORIGINAL

Application No. 21011

R. W. DuVal, for Applicant

H. Albert George, City Attorney,
City of Alameda.

WAKEFIELD, COMMISSIONER:

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. 307 of the Board of Supervisors of the County of Alameda, adopted on June 16, 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 Alameda, 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>
179M Unnumbered 85	Dec. 18, 1899	Dec. 18, 1949	Standard Electric Company of California
88	Nov. 18, 1901	Nov. 18, 1951	Suburban Electric Light Company
Unnumbered	Jan. 27, 1908	Feb. 11, 1958	E. M. Downer
120	Apr. 25, 1910	May 10, 1960	Peoples Electric Light and Power Company.

Applicant now renders electric service in a large portion of the County of Alameda, but is not rendering such service in the entire county. Service of like character is being rendered by the City of Alameda to the residents of said city and of certain territory immediately adjacent to said city.

It is of record that applicant applied to the Board of Supervisors of the County of Alameda for the franchise granted by Ordinance No. 307 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 on 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 (75) 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 Two hundred sixty-five and 00/100 Dollars (\$265.00), exclusive of the Fifty Dollar (\$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 cannot 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 also be given to the fact that at the present time the City of Alameda renders 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 the 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. 307 of the County of Alameda as to 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 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 system of City of Alameda, existing at the time such extension is contemplated.

This order shall be 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
3, 1938.

Walter M. ...
Leon ...
Frank ...
Ray ...
Paul ...
Commissioners.