

Decision No. 20400

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. 133 of the
Board of Supervisors of the County of
Tuolumne, State of California.

ORIGINAL

Application No. 21357

R. W. DuVal, for Applicant.

WAKEFIELD, COMMISSIONER:

O P I N I O N

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 right and privilege granted to it by Ordinance No. 133 of the Board of Supervisors of the County of Tuolumne adopted on September 8, 1936, a copy of which is attached as Exhibit "A" to the application. Public hearing was held at Sonora, California, on August 27, 1937. No one appeared to protest the granting of the application.

It appears from the record that for more than thirty (30) years last past, applicant or its predecessors in interest have been rendering electric service in the County of Tuolumne and have used the public highways therein under and pursuant to a special franchise granted to Charles T. Linder by the County of Tuolumne, adopted on March 3, 1902 and expiring on March 3, 1952.

Applicant now renders electric service in a portion of the County of Tuolumne, but is not rendering such service in the entire county. Service of a like character is now being rendered by J. F. Partington in the Town of Groveland and territory immediately contiguous thereto and by Turn Back Creek Light & Power Company in the Town of Tuolumne.

It is of record that applicant applied to the Board of Supervisors of the County of Tuolumne for the franchise granted by Ordinance No. 133 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 One hundred sixty-three and 21/100 Dollars (\$163.21), 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 also be given to the fact that at the present time J. F. Partington and Turn Back Creek Light & Power Company 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 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. 133 of the County of Tuolumne, 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 systems of J. F. Partington or Turn Back Creek Light & Power Company 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, San Francisco, California, January 3, 1938.

Arthur M. Mose
Leon Outchell
Frank R. Munn
R. Swabine
W. L. Coker
Commissioners.