

Decision No. 20590

ORIGINAL

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. 185 of the
 Board of Supervisors of the County of
 Humboldt; and a preliminary order un-
 der Section 50(c) of the Public
 Utilities Act re. the exercise of a
 franchise hereafter to be obtained
 from the City of Trinidad, Humboldt
 County, State of California.

Application No. 21041

R. W. DuVal, for applicant.

WAKEFIELD, COMMISSIONER:

O P I N I O N

Pacific Gas and Electric Company requests:

- (1) 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. 185 of the Board of Supervisors of the County of Humboldt adopted on November 10, 1936, a copy of which is attached as Exhibit "A" to the application.
- (2) An order preliminary to the issuance of a certificate declaring that the Commission will hereafter, upon application therefor by applicant, when it shall have obtained the franchise it contemplates securing from the City of Trinidad, County of Humboldt, issue a certificate authorizing the exercise of the rights and privileges granted thereunder, all as provided for by Section 50(c) of the Public Utilities Act, and
- (3) An order authorizing applicant to exercise the temporary permit granted to applicant by the City Council of the City of Trinidad adopted on February 1, 1937, a copy of which is attached to Exhibit "C" to the application.

Public hearing was held at Eureka, California, on May 27, 1937. No one protested the granting of the application.

By its Decision No. 29855, dated June 14, 1937, the Commission granted (2) and (3) above and (1),

"insofar as such exercise is necessary for the construction and operation of the aforementioned proposed extension to the City of Trinidad."

Subsequently, by its Decision No. 30276, dated November 1, 1937, the Commission granted to applicant a certificate authorizing the exercise of the rights and privileges granted to it by Ordinance No. 59 of the City Council of the City of Trinidad.

It appears from the record that for many years last past applicant or its predecessors in interest have been rendering electric service in the County of Humboldt and have used the public highways therein under and pursuant to the following special franchises granted by the Board of Supervisors of the County of Humboldt:

| <u>Ordinance No.</u> | <u>Adopted</u> | <u>Expiring</u> | <u>Grantee</u> |
|----------------------|--------------------|-------------------|---|
| 87 | September 21, 1903 | October 10, 1953 | Theodore H. Minor and Isaac N. Minor |
| 89 | August 12, 1904 | August 12, 1954 | Humboldt Milling Company |
| 93 | December 15, 1904 | January 3, 1955 | North Mountain Power Company |
| 95 | February 15, 1905 | March 5, 1955 | North Mountain Power Company |
| 103 | August 16, 1905 | September 1, 1955 | Ferndale Electric Light Co. |
| 105 | April 11, 1906 | May 1, 1956 | North Mountain Power Company |
| 116 | September 13, 1911 | October 1, 1961 | Western States Gas and Electric Company |

Applicant now renders electric service in a portion of the County of Humboldt, but is not rendering such service in all portions of said County. Service of a like character is now being rendered by Charles L. East in that portion of the County of

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Humboldt, extending from a point approximately one and one-half (1½) miles ^{SOUTH} ~~north~~ of the Town of Scotia, some thirty (30) miles in a southerly and south-easterly direction to and including the Town of Weott, and by the Benbow Power Company in that portion of said county including the Towns of Garberville and Benbow and the intervening area.

It is of record that applicant applied to the Board of Supervisors of the County of Humboldt for the franchise granted by Ordinance No. 185 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) per centum 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 of public body, any value for said franchise in excess of

the actual cost thereof, which is Two Hundred Fifty and 00/100 Dollars (\$250.00), 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 the 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, Charles L. East and Benbow 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 records in such 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. 185 of the County of Humboldt 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 Charles L. East or Benbow 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 February 7, 1938.

Walter W. W.

Leon Whitely
Frank D. W.

Ray & Rice
COMMISSIONERS.