

Decision No. 30947

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. 2599 of)
the Council of the City of San Jose,)
County of Santa Clara, State of)
California.)

Application No.
21920.

ORIGINAL

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 rights and privileges under the gas franchise granted to it by Ordinance No. 2599 of the City Council of the City of San Jose, County of Santa Clara, adopted January 3, 1938, a copy of which is attached as Exhibit "A" to the application. Said franchise is for a term of fifty years.

Public hearing was held at San Jose, on May 25, 1938. No one appeared to protest the granting of the application.

According to the testimony introduced on behalf of the applicant, gas has been distributed in San Jose by applicant or its predecessors in interest since 1861. Applicant has a franchise for the use of the public highways of said city, for the distribution of gas, under and pursuant to Section 19

of Article XI of the Constitution of the State of California as it existed from 1885 to October 10, 1911, and as to parts of said city, applicant has franchises under certain county ordinances. The franchises under these county ordinances are abandoned by the acceptance of the franchise granted by Ordinance No. 2599.

Applicant now renders gas service in substantially all parts of the City of San Jose, and no other utility renders like service therein.

It is clear from the evidence that present and future public convenience and necessity require and will require that applicant exercise the franchise granted by said Ordinance No. 2599, in order that applicant may continue to furnish gas to said city and its inhabitants and further in order that applicant may qualify its first and refunding mortgage bonds as legal investments for savings banks and trust funds in certain states.

It appears from the evidence that the laws of the State of New York permit investments by savings banks in the 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 franchise 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 (5) years beyond the maturity of such bonds, * * *", and that the statutes of other states contain similar provisions. Ability to comply with these statutory provisions materially assists the applicant in selling its securities and the granting of this

application is one step in the applicant's program of qualifying its bonds under these laws. Other applications involving other areas in which applicant is rendering service are now pending before the Commission.

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 \$12,605.00, exclusive of the \$50.00 fee for the filing of the present application.

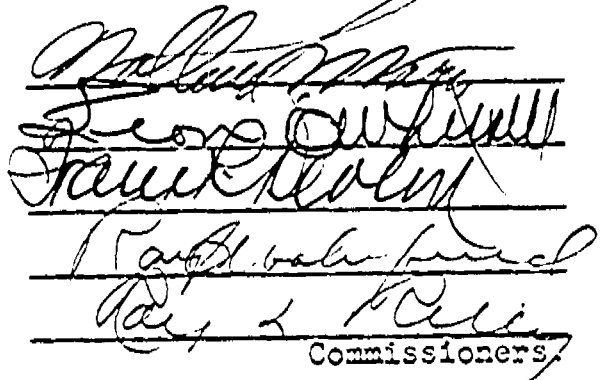
O R D E R

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. 2599 of the City of San Jose.

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~~ ^{Los Angeles} California, June 6th, 1938.



Commissioners.