

Decision No. 31360 .

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. 535 N.S. of the City Council of the City of San Leandro, County of Alameda, State of California.

Application No. 22095.

R. W. DuVal, for Applicant.

A. L. Poe, City Attorney, for City  
of San Leandro.

BY THE COMMISSION:

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. 535 N.S. of the City Council of the City of San Leandro, County of Alameda, State of California, adopted January 24, 1938, a copy of which is attached as Exhibit "A" to the application. Said franchise is for an indeterminate period.

Public hearing was held at San Leandro on October 7, 1938. No one appeared to protest the granting of the application.

According to testimony introduced on behalf of the applicant, gas has been distributed in San Leandro by applicant or its predecessors in interest since about the year 1890. Applicant has a "constitutional franchise" for the use of the

public highways of said city, 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.

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

From the evidence it is clear that present and future public convenience and necessity require and will require that applicant exercise the franchise granted to it by said Ordinance No. 535 N.S. in order that applicant may continue to furnish gas to said city and to 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.

From the evidence it appears 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 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 statutes of other states also 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.

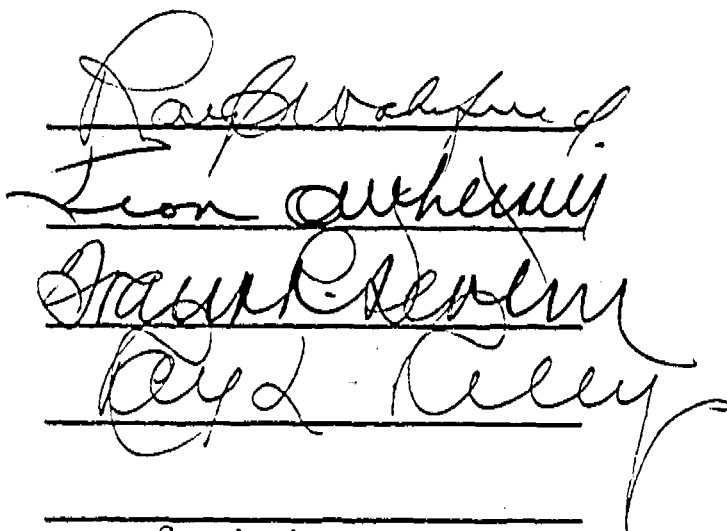
Applicant has stipulated that it, its successors or assigns, will never claim before the Railroad Commission of the State of California, or any court or public body, any value for said franchise in excess of the actual cost thereof, which is \$4,028.60, exclusive of the \$50.00 fee for the filing of 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. 535 N. S. of the City of San Leandro.

This Order shall be effective immediately.

Dated, San Francisco, California, October 17, 1938.

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Commissioners.