

Decision No. 31749

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. 117 of the City Council of the Town of Atherton, County of San Mateo, State of California.

ORIGINAL

Application No. 22420.

R. W. DuVal, for Applicant.
J. A. Donohoe, Mayor, for the Town of Atherton.

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. 117 of the City Council of Atherton, San Mateo County, State of California, adopted April 26, 1938, a copy of which is attached to the application and marked Exhibit "A." Said franchise is for an indeterminate period.

A public hearing was held at Atherton on February 1, 1939, before Examiner R. A. Wehe. No one appeared to protest the granting of the application.

From the testimony introduced on behalf of the applicant, gas had been distributed in the Town of Atherton by applicant or its predecessors in interest since about the year 1907. This service has been supplied under and pursuant to the following general county franchises granted to applicant's predecessors by ordinances adopted by the Board of Supervisors of the County of San Mateo, (which said franchises, in so far as they relate to the territory comprising the Town of Atherton, were waived and surrendered by applicant at the time it accepted the franchise granted by said Ordinance No. 117) namely:

<u>Ordinance No.</u>	<u>Adopted</u>	<u>Expiring</u>	<u>Granting Franchise to:</u>
142	October 4, 1897	October 4, 1947	Peninsula Lighting Company
143	October 4, 1897	October 4, 1944	San Mateo Electric Light Company

Applicant now renders gas service in substantially all parts of the Town of Atherton 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 to it by said Ordinance No. 117 in order that it may continue to furnish gas to said town 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 applicant's program of qualifying its bonds under these laws. 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 \$1,020.25, 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. 117 of the Council of the Town of Atherton.

This Order shall be effective immediately.

Dated, San Francisco, California, February 17, 1939.

Robert W. Campbell
Charles DeWitt
W. K. Kelly
H. J. Miller
Justin D. Cameron
Commissioners