

Decision No. 32751.

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. 258 of the Board of Supervisors of the County of Mendocino, State of California.

Application No. 21744.

R. W. DuVal, Attorney, for Applicant.
E. H. Maize, for Central Mendocino
County Power Company.
E. N. Frost, for Long Valley Light and
Power Company.

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 electric franchise granted to it by Ordinance No. 258 of the Board of Supervisors of the County of Mendocino, adopted December 16, 1936, a copy of which is attached as Exhibit "A" to the application. Said franchise is for a period of fifty (50) years.

Public hearing was held before Examiner Wehe at Ukiah, California, on April 13, 1938. No one appeared to protest the granting of the application.

According to the testimony introduced on behalf of the applicant, it or its predecessors in interest have been supplying electricity in Mendocino County since about 1907, pursuant to the

following special and/or general county franchises granted to applicant's predecessors by the following ordinances:

<u>Ordinance No.</u>	<u>Adopted</u>	<u>Expiring</u>	<u>Franchise Granted to</u>
40	July 20, 1907	July 20, 1957	Snow Mountain Water and Power Company
151	June 6, 1906	June 21, 1956	Snow Mountain Water and Power Company
183	June 6, 1911	Oct. 6, 1961	Mt. Konocti Light and Power Company
200	Feb. 2, 1914	Mar. 30, 1964	California Telephone and Light Company
224	Sept. 14, 1927	Sept. 14, 1977	Snow Mountain Water and Power Company.

While applicant now renders electric service generally in Mendocino County, service of a like character is now being rendered in their respective territories in Mendocino County by Central Mendocino County Power Company, the City of Ukiah (a municipal corporation), California Public Service Company, Bonbow Power Company, Point Arena Electric Light and Power Company and E. N. Frost (Long Valley Light and Power Company).

The testimony further shows that applicant applied to the Board of Supervisors of Mendocino County for the franchise granted under Ordinance No. 258 primarily to enable it 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, inasmuch as the laws of a number of states permit, under definite restrictions, the investment of savings banks and trust funds in public utility securities. For instance, 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, * * * *." 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. The franchise referred to herein is essential to meet such statutory requirements.

Existing utilities should be protected as to territories now served by them and also as to extensions made in the normal course of business (where such extensions do not encroach or infringe on the rights already held by applicant to serve) and no authorization to exercise franchise rights as to such territory or extension should be granted. 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. Witness for applicant has stated that the certificate herein sought by it is not being obtained to enable it to compete with any persons, firms or corporations supplying electric service in the County of Mendocino.

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 Sixty (60) Dollars, exclusive of the Fifty (50) Dollar fee for the filing of the present application.

O R D E R

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and hereby is made and granted to Pacific Gas and Electric Company to exercise in part the rights and privileges granted to it by the County of Mendocino, State of California, by Ordinance No. 258 adopted December 16, 1936, namely, for the construction, maintenance and operation of electrical lines, plant, or system within such portion or portions of said county as are now served by Pacific Gas and Electric Company and which hereafter may be served by it through extensions of its existing system when made in the ordinary course of business as permitted by any applicable rule or rules prescribed by or approved by the Commission governing the making of such extensions, or in accordance with any general or special authority granted, provided, however, that no such extension of line, plant or system shall be made into any territory in said county at the time receiving electric service through the facilities of another utility or political body unless express authority of the Commission first be obtained, and provided further, that no claim of value for such franchise or the authority hereby granted in excess of the actual cost thereof shall ever be made before the Commission or before any court or other public body.

This Order shall be effective immediately.

Dated at Los Angeles, California, this 23rd day
of January, 1940.

Ray L. Allen
Raymond B. Allen
Raymond B. Allen
Justice J. Caemen
(Commissioners).