

Decision No. 37280

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 PACIFIC GAS AND ELECTRIC COMPANY for
 an order of the Railroad Commission
 granting to applicant a certificate
 of public convenience and necessity
 to exercise the rights, privileges
 and franchise granted to applicant
 by Ordinance No. 283 of the City
 Council of the CITY OF LAKEPORT,
 County of Lake, State of California.
 (Electric)

ORIGINAL

Application No. 25715

R. W. DuVal, for Applicant
 Lovett K. Fraser, City Attorney, for
 City of Lakeport

BY THE COMMISSION:

O P I N I O N

In this application Pacific Gas and Electric Company seeks authority to exercise a franchise granted by the city of Lakeport, permitting the installation and maintenance of electric facilities upon the streets of said city:

The franchise referred to, a copy of which is attached to the application and marked Exhibit "A," is one granted by the city in accordance with the Franchise Act of 1937, and it is provided therein that it shall be of indeterminate duration. It is also provided therein that a fee is payable annually to the city equivalent to 2% of the gross receipts arising from the use of the franchise, but not less than one-half of 1% of all sales of electricity by applicant within the city.

The direct costs to applicant in obtaining the franchise are stated to have been \$36.70.

A hearing on this application was held by Examiner Daly, and during the course of the testimony it developed that applicant and its predecessors

had, for a number of years, made payments to the city in excess of those which would have resulted from a strict application of the "Dinuba Formula." When this error was discovered, applicant, not wishing to seriously impair established municipal budgeting practices, agreed that it would maintain its annual payments at a level of \$330 with certain exceptions until electric sales within the city had increased to such an extent that the computed payments under the franchise provisions equaled or exceeded \$330.

This amount is in excess of the amount that would result from the application of the franchise provisions to present operations, but because of the smallness of any excess payments included, and because of its eventual disappearance with the return of normal operations and development, it appears that the above plan of payment need not be disturbed.

As this utility has for many years served electricity within and about the city of Lakeport, without competition, it is evident that its request for a certificate to exercise its franchise should be granted.

The certificate of public convenience and necessity granted herein is subject to the following provisions of law:

- (a) That the Commission shall have no power to authorize the capitalization of the franchise involved herein or this certificate of public convenience and necessity or the right to own, operate or enjoy such franchise or certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, certificate of public convenience and necessity or right.
- (b) That the franchise involved herein shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the municipality therefor at the time of the acquisition thereof.

O R D E R

A public hearing having been held upon the application of Pacific Gas and Electric Company, the matter considered, it appearing to the Commission and it being found as a fact that public convenience and necessity so require,

therefore,

IT IS HEREBY ORDERED that Pacific Gas and Electric Company, be and hereby is granted a certificate to exercise the right and privilege granted by the city of Lakeport, by Ordinance No. 283, adopted September 8, 1942.

The effective date of this Order shall be the date hereof.

Dated at ~~San Francisco~~, California, this 16th day of August
Los Angeles

1944.

Richard L. Baker
Justus F. Carlson
Francis R. Havens
Thomas Olin
Wesley Louie

(Commissioners)