

Decision No. 37351

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
PACIFIC GAS AND ELECTRIC COMPANY for
an order to exercise the rights,
privileges and franchise granted to
applicant by Ordinance No. 266 of the
City Council of the TOWN OF LOS GATOS
County of Santa Clara, California.
(Gas Franchise)

ORIGINAL

Application No. 26174

R. W. DuVal, for Applicant
C. B. Spotswood, Mayor, for the
Town of Los Gatos

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 Town of Los Gatos permitting the installation and maintenance of gas facilities upon the streets of said town.

The franchise referred to, a copy of which is attached to the application and marked Exhibit "A," is one granted by the town 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 town equivalent to two per cent of the gross receipts arising from the use of the franchise, but not less than one per cent of all sales of gas by Applicant within the town. The direct costs to Applicant in obtaining this franchise are stated to have been \$168.75.

A public hearing on this application was held by Examiner Daly at which no one appeared to oppose or protest the granting of the requested authority.

As this utility has for many years served gas within and about the Town of Los Gatos 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 Town of Los Gatos, by Ordinance No. 266, adopted June 21, 1943.

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

Dated San Francisco, California, this 26th day of September, 1944.

Justus F. Casper
Francis R. Havenue
Francis R. Havenue
Francis R. Havenue
Commissioners