

Decision No. 37390

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

**ORIGINAL**

In the matter of the application  
of **PACIFIC GAS AND ELECTRIC COMPANY**  
for an order of the Railroad Commis-  
sion granting to applicant a certifi-  
cate of public convenience and neces-  
sity to exercise the rights, privi-  
leges and franchise granted to appli-  
cant by Ordinance No. 815 of the City  
Council of the CITY OF NAPA, County  
of Napa, State of California.

Application No. 26178

(Electric)

R. W. DuVal, for Applicant.  
Charles E. Martin, City Clerk, for  
the City of Napa.

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 Napa 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," was granted by the City in accordance with its charter and contains a provision 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 this franchise are stated to have been \$685.50 composed of the following items:

Publishing Notice of Sale	\$ 151.50
Bid	500.00 (a)
Publishing Ordinance	<u>34.00</u>
Total	\$ 685.50

(a) Section 111 of the City's charter provides that franchises "will be awarded to the highest and best bidder; provided, that no franchise or privilege shall be sold for less than \$500.00."

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 electricity within and about the City of Napa, 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

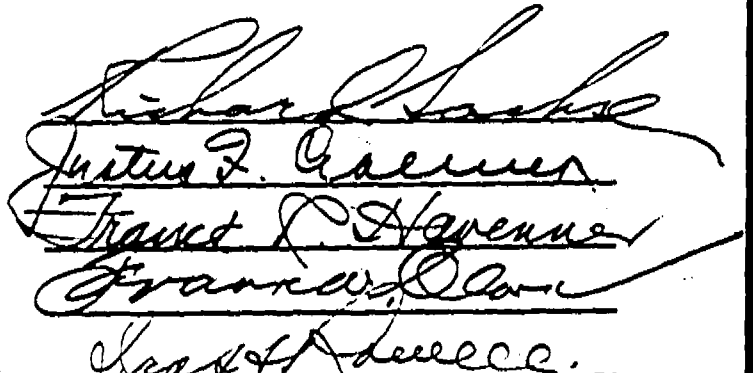
A public hearing having been held upon the application of Pacific Gas and Electric Company, the matter considered, it appearing to the Commission and it being found as a fact that public convenience and necessity so require, therefore,

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 Napa, by Ordinance No. 815, adopted June 21, 1943.

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

Dated at San Francisco, California, this 10<sup>th</sup> day of

October, 1944.

  
Richard L. Lusk  
Justin Z. Gaerem  
Frank D. Havenner  
Francis J. O'Connell  
Leah H. Deerce  
 Commissioners