

Decision No. 37583

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. 703 N.S. of the City
Council of the CITY OF MODESTO, County
of Stanislaus, State of California.
(Gas)

APPLICATION NO. 26176

ORIGINAL

R. W. DuVal, for Applicant.
Ronald E. Bates, City Attorney, for
the City of Modesto.

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 Modesto permitting the installation and maintenance of gas 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 the Franchise Act of 1937 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 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 City. The direct costs to applicant in obtaining this franchise are stated to have been \$5027.30 composed of the following items:

Publishing Notice of Sale	\$ 9.10
Bid	5,000.00
Publishing Ordinance	18.20
Total	\$ 5,027.30

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 City of Modesto, 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.

ORDER

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 Modesto, by Ordinance No. 703 N.S. adopted July 14, 1943.

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

Dated at San Francisco, California, this 3rd day of

January, 1945.

Richard L. ...
James F. ...
Frank ...
... ..
Commissioners