

Decision No. 40087

BEFORE THE PUBLIC UTILITIES 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. 213 of the City Council of the CITY OF TRACY, County of San Joaquin, State of California.

(Gas)

ORIGINAL

Application No. 27996

R. W. DuVal for Applicant

O P I N I O N

Pacific Gas and Electric Company asks authority to exercise a franchise granted by the City of Tracy 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 is of indeterminate duration. 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. Notwithstanding these provisions, Applicant has agreed to pay the city not less than \$960 per annum until August 25, 1977<sup>a</sup>.

The costs incurred by Applicant in obtaining the franchise are stated to have been \$38.

A hearing on this application was held by Examiner Daly at which no opposition to the granting of the requested authority was manifested.

As this utility has for many years served gas within and about the city of Tracy without competition, it is evident that the requested authority should be given.

<sup>a</sup> Applicant paid the city \$960 during each of the years 1941 to 1945, inclusive, under the superseded franchise which would have expired August 25, 1977.

The authority herein granted 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 on the application of Pacific Gas and Electric Company having been held, the matter having been considered, it appearing to the Commission and being found as a fact that public convenience and necessity so require, therefore

IT IS ORDERED that Pacific Gas and Electric Company be and hereby is authorized to exercise the rights and privileges granted by the City of Tracy by Ordinance No. 213, adopted July 16, 1946.

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

Dated at Los Angeles, California, this 25<sup>th</sup> day of March 1947.

Harold P. Hule  
Justin J. Calver  
A. I. [unclear]  
Frederic Potter

Commissioners.