

ORIGINAL

Decision No. 42258

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 Public Utilities
 Commission of the State of California
 granting to applicant a certificate
 of public convenience and necessity
 to exercise the right, privilege and
 franchise granted to applicant by
 Ordinance No. 313 of the Board of
 Supervisors of the COUNTY OF MENDOCINO,
 State of California.
 (Electric)

Application No. 29549

R. W. DuVal, for applicant

O P I N I O N

In this application Pacific Gas and Electric Company asks for an order of this Commission, under Section 50(b) of the Public Utilities Act of the State of California, issuing to applicant a certificate declaring that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to it by Ordinance No. 313 of the Board of Supervisors of the County of Mendocino.

Said ordinance, a copy of which is attached to the application and marked Exhibit A, grants to applicant the right, privilege and franchise with respect to construction, installation, maintenance and use of electric lines and facilities in the public highways, streets, roads and places of the county. The term of the franchise is indeterminate, running until its surrender or abandonment or forfeiture for noncompliance or purchase by the state, county, or other public corporation either voluntarily or by condemnation. Under the ordinance a fee is payable annually by the grantee to the county equivalent to 2% of the gross annual receipts arising from the use,

operation or possession of said franchise. The costs incurred by applicant in obtaining the franchise are stated to have been \$273.50 and the applicant has stipulated that it, its successors or assigns, will never claim before the Commission or before any court or public body, any value for the aforesaid franchise in excess of the actual cost thereof.

In its application Pacific Gas and Electric Company alleges that it and its predecessors originally constructed and subsequently extended the electric systems in Mendocino County and engaged in the business of furnishing and supplying electric service therein, under the grant of power and rights conferred by their charters obtained under the laws of the State of California from time to time in effect, and/or under and pursuant to franchises granted to it and its predecessors, including 12 listed presently effective franchises and/or under certificate of public convenience and necessity heretofore granted by the Commission to applicant or its predecessors. The earliest listed franchise was adopted November 6, 1901, was of indeterminate term, and was granted to W. B. Lockwood. The most recent listed franchise is that granted by Ordinance No. 258, adopted December 16, 1936, expiring January 15, 1987, and granted to Pacific Gas and Electric Company. A certificate respecting the exercise of rights under the latter franchise was granted by this Commission by Decisions Nos. 32751 and 33946, dated January 23, 1940 and February 25, 1941, respectively, in Application No. 21744.

A hearing on the instant application was held before Examiner Knerr at which no opposition to the granting of the requested certificate was manifested. Pacific Gas and Electric Company and its predecessors, for many years, have served electricity within the County of Mendocino, although its existing distribution facilities do not extend to all portions of the county. From the testimony received it appears that the only person, firm, or public or private corporation,

other than Pacific Gas and Electric Company, now engaged in the business of furnishing, distributing and selling electricity in the County of Mendocino is the City of Ukiah. The City of Ukiah owns and operates an electric distribution system whereby it furnishes electric service to the residents and inhabitants in the greater part of said city and to certain inhabitants of territory adjacent thereto. From the evidence presented by applicant, it appears that the number of customers served by the city in the unincorporated territory of the county is approximately five and that the applicant is not now competing with the City of Ukiah. Applicant stipulates that it will not, without an order of the Commission authorizing it so to do, exercise any right or privilege granted by Ordinance No. 313 for the purpose of competing with the City of Ukiah in the furnishing of electricity within the area presently supplied with electric service by the city. The order herein will provide for a certificate for the presently served area, together with extensions made in the ordinary course of business subject to appropriate restrictions concerning the territory now served by the City of Ukiah.

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

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.

O R D E R

Application as above entitled having been filed, a public hearing having been held thereon, the matter having been submitted, the Commission being fully advised in the premises and hereby finding

that public convenience and necessity require the exercise by Pacific Gas and Electric Company, to the extent described herein, of the right, privilege and franchise described in this order,

IT IS ORDERED that Pacific Gas and Electric Company be and it is granted a certificate to exercise the right, privilege and franchise granted to it by Ordinance No. 313 of the Board of Supervisors of the County of Mendocino, adopted February 2, 1948, within such parts or portions of said county as now are served by Pacific Gas and Electric Company or hereafter may be served by it through extensions of its existing system made in the ordinary course of business as contemplated by Section 50(a) of the Public Utilities Act, provided further that this certificate shall be subject to the following conditions:

1. That except upon further certificate of this Commission first obtained, applicant shall not exercise said franchise for the purpose of supplying electricity in those parts or portions of said county now being served by the City of Ukiah; and
2. That the Commission may hereafter, by appropriate proceeding and order, limit the authority herein granted to applicant as to any territory within said county not then being served by it.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 23rd day of November, 1948.

R. B. Johnson
James R. Quinn
Harold Hills
Samuel L. Foster

Commissioners