

Decision No. 42388

ORIGINAL

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 conven-
 ience and necessity to exercise the right,
 privilege and franchise granted to
 applicant by Ordinance No. 423 of the
 Board of Supervisors of the COUNTY OF
 CONTRA COSTA, State of California.
 (Gas)

Application No. 29641

Ralph W. DuVal and Frederick T. Searls for
 applicant; W. E. Johns for Coast Counties Gas
 and Electric Company; J. K. Horton of Pillsbury,
 Madison and Sutro by Noel Dyer.

O P I N I O N

Pacific Gas and Electric Company, by this application, requests a certificate that public convenience and necessity require the exercise by it of the right, privilege and franchise conferred by Ordinance No. 423, adopted February 9, 1948, by the Board of Supervisors of the County of Contra Costa. Said Ordinance grants the right, privilege and franchise to construct, install, maintain and use gas transmission and distribution facilities in the public streets of the county.

The term of the franchise is indeterminate, running until its surrender, 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 by the grantee to the county equivalent to 2% of the gross annual receipts arising from the use, operation or possession of the franchise. The costs incurred by applicant in obtaining the franchise are stated to have

been \$361.10 and the applicant has stipulated that it, its successor 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 originally constructed and subsequently extended gas systems in Contra Costa County and engaged in the business of furnishing and supplying gas service therein under the grant of power and rights conferred by its charter and/or pursuant to franchises granted to it and/or under certificates of public convenience and necessity granted by the Commission to applicant in Decision No. 17625, dated November 15, 1926, in Application No. 13181, and in Decision No. 23964, dated August 17, 1931, in Application No. 16004. Applicant's statement shows franchises effective in Contra Costa County, prior to the adoption of Ordinance No. 423, identified as follows:

<u>Ordinance No.</u>	<u>Adopted</u>	<u>Expiring</u>	<u>Granting Franchise to</u>
134	May 4, 1914	June 3, 1964	Pacific Gas & Electric Co.
186	Aug. 2, 1926	Sept. 1, 1976	Pacific Gas & Electric Co.
203	Sept. 2, 1930	Oct. 2, 1980	Pacific Gas & Electric Co.

A hearing on the instant application was held before Examiner Knerr at which no opposition to the granting of the certificate was manifested. Pacific Gas and Electric Company for many years has served gas within the westerly portion of the County of Contra Costa. 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 gas in Contra Costa County is Coast Counties Gas and Electric Company which distributes and sells gas in those portions of the county lying east of an agreed boundary line which runs generally north and south along the route of Wild Cat Creek and the easterly boundaries of certain subdivisions in or adjacent to El Cerrito,

Richmond, and San Pablo and along State Highway No. 40 and thence to San Pablo Bay at Carrity. The respective service areas of the two companies are more particularly indicated on the map filed as Exhibit 3 and said boundary line is particularly described in Exhibit 4 in this proceeding.

From the evidence of record, the Commission finds that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to Pacific Gas and Electric Company by Ordinance No. 423 of the Board of Supervisors of Contra Costa County, subject to appropriate restrictions concerning the territory now served by Coast Counties Gas and Electric Company and the territory not now served.

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

Public hearing having been held on the above-entitled application, the matter having been submitted, and the Commission being fully advised,

IT IS HEREBY ORDERED that Pacific Gas and Electric Company be and it is granted a certificate that public convenience and necessity require the exercise by it of the right, privilege and franchise granted to it by Ordinance No. 423 adopted February 9, 1948 by the Board of Supervisors of Contra Costa County, subject, however, to the following conditions:

- (1) That Pacific Gas and Electric Company shall not exercise said franchise for the purpose of supplying gas to those parts or portions of Contra Costa County not now served by it except through extensions of its existing system made in the ordinary course of business as contemplated by Section 50(a) of the Public Utilities Act;
- (2) That Pacific Gas and Electric Company shall not exercise said franchise for the purpose of distributing or supplying gas in those parts or portions of Contra Costa County lying east of the boundary line particularly described in Exhibit 4 in this proceeding, except upon further certificate of this Commission first obtained; and
- (3) 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 29th day of December 1948.

R. J. [Signature]
Justus J. Calver
[Signature]

Commissioners