

Decision No. 42390**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 Com-
 mission 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. 5 of the City Council
 of the CITY OF BRENTWOOD, County of
 Contra Costa, State of California.
 (Electric)

Application No. 29643

Ralph M. DuVal and Frederick T. Searls,
 for applicant.

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 granted by Ordinance No. 5, adopted March 29, 1948, by the City Council of the City of Brentwood, Contra Costa County. Said Ordinance grants, upon the terms and conditions set forth in the Franchise Act of 1937, a franchise to construct, install, maintain and use electric transmission and distribution facilities in the public streets of the city.

The term of the franchise is indeterminate, running until its surrender or abandonment or forfeiture for noncompliance or purchase by the state, municipal or other public corporation either voluntarily or by condemnation. Under the Ordinance a fee is payable by the grantee to the city equivalent to 2% of the gross annual receipts arising from the use, operation or possession of the franchise, but in no event less than 1% of the gross annual receipts derived by the grantee from the sale of electricity within the limits of the City of Brentwood. The costs incurred by applicant in obtaining the franchise are stated

to have been \$63.58 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 system in the territory now comprising the recently incorporated City of Brentwood, and, prior to the adoption of Ordinance No. 5, engaged in the business of furnishing and supplying electric service therein under the grant of power and rights conferred by their charters and under and pursuant to franchises granted to it or its predecessors and/or under certificates of public convenience and necessity granted by the Commission to applicant in Decision No. 29272, dated November 16, 1936 in Application No. 20829, and to applicant's predecessor, in Decision No. 759, dated June 10, 1913 in Application No. 557.

A hearing on the instant application was held before Examiner Knerr at which no opposition to the granting of the certificate was manifested. From the testimony received, it appears that no person, firm, public or private corporation other than Pacific Gas and Electric Company is now engaged in the business of furnishing, distributing, and selling electricity in the City of Brentwood, and that it and its predecessors for many years have served the territory now comprising said city.

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. 5 of the City Council of the City of Brentwood.

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 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

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

IT IS ORDERED that Pacific Gas and Electric Company be and it is hereby 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. 5 adopted March 29, 1948 by the City Council of the City of Brentwood, County of Contra Costa.

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. B. [Signature]
Justice F. Palmer
[Signature]

Commissioners.