

Decision No. 42439

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

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. 162 of the Board of
 Supervisors of the COUNTY OF NAPA,
 State of California.
 (Gas)

Application No. 29692

Ralph W. DuVal and Frederick T. Searles, for applicant.O P I N I O N

Applicant requests a certificate of public convenience and necessity to exercise rights and privileges conferred by Ordinance No. 162 of the Board of Supervisors of Napa County, adopted February 10, 1948, granting a franchise to install, maintain and use gas facilities in unincorporated areas of the county. The application was submitted without opposition at a public hearing held January 14, 1949, at Napa before Examiner Gregory.

The franchise is of indeterminate duration and provides for an annual fee of 2% arising from its use, operation or possession, payable by grantee to the county.^{1/} Costs of acquisition of the franchise were stated to be \$293.75, exclusive of the \$50 filing fee paid to the Commission. Applicant stipulated that it, its successors

^{1/} Applicant has an agreement with the County of Napa under which flat sum payments made under the previous franchise (Ordinance No. 120) will continue until amounts payable under the 2% provision of Ordinance No. 162 exceed such flat sum payments.

or assigns will never claim before the Commission, any court, or public body any value for the grant in excess of its actual cost.

Pacific Gas and Electric Company and its predecessors have supplied gas in portions of Napa County for many years and there is presently no other public or private agency rendering gas service in the county.

Applicant will not surrender existing franchises but will henceforth make annual payments to the county in accordance with the terms of Ordinance No. 162 as modified by the flat sum payments heretofore referred to. The indeterminate type franchise, in contrast to a fixed-term grant, appears to applicant to be more desirable for qualifying its bonds as legal investments for savings banks and trust funds under various state laws which require, among other things, the possession either of indeterminate permits or of franchises extending beyond the due date of the bonds.

It is concluded that the requested certificate should be granted, subject, however, to the following provision 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, the Commission being fully advised and hereby finding that public convenience and necessity so require,

IT IS HEREBY ORDERED that Pacific Gas and Electric Company be and it is granted a certificate of public convenience and necessity to

exercise the rights and privileges conferred by Ordinance No. 162 of the Board of Supervisors of the County of Napa, State of California, adopted February 10, 1948, within such parts or portions of said county as are now 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, subject, however, to the following condition:

1. 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 after the date hereof.

Dated at San Francisco, California, this 25th day of

January, 1949.

P. F. Johnson

James H. Lavelle

Harold Hill

Samuel H. Potter
Commissioners.