

Decision No. 42444

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. 199 of the Board of
 Supervisors of the COUNTY OF TUOLUMNE,
 State of California.
 (Electric)

Application No. 29328

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

Pacific Gas and Electric Company, by the above-entitled application, requests a certificate of public convenience and necessity to exercise the rights and privileges conferred by Ordinance No. 199, adopted February 2, 1948 by the Board of Supervisors of the County of Tuolumne, granting a franchise to construct, install, maintain and use electric transmission and distribution facilities in the public streets 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 the franchise. The costs incurred by applicant in obtaining the franchise are stated to have been \$581, 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 electric systems in Tuolumne County and engaged in the business of furnishing and supplying electric service therein under grant of powers and rights conferred by its charters and/or under and pursuant to franchises granted to it or its predecessors and/or under certificate of public convenience and necessity granted by the Commission to the applicant in Decision No. 30463, dated January 3, 1938, in Application No. 21357 as amended in Decision No. 39190, dated July 9, 1946, in Application No. 27626 and Decision No. 39290, dated July 31, 1946, in Application No. 27486. Applicant's statement shows two franchises effective in Tuolumne County at the time of the adoption of the newest such ordinance. Those franchises are identified as follows:

<u>Ordinance No.</u>	<u>Adopted</u>	<u>Expiration Date</u>	<u>Granting Franchise To</u>
Unnumbered 133	March 3, 1902 Sept. 8, 1936	March 3, 1952 Oct. 8, 1986	Charles T. Lindner 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 and its predecessors for many years have served electricity within the County of Tuolumne, although the existing distribution facilities do not extend to all portions of the county. From the testimony received, it appears that no person, firm, or public or private corporation other than Pacific Gas and Electric Company is now engaged in the business of furnishing, distributing and selling electricity in Tuolumne County.

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. 199 of the Board of Supervisors of Tuolumne

County, subject to appropriate restrictions concerning 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. 199, adopted February 2, 1948 by the Board of Supervisors of Tuolumne County, subject, however, to the following conditions:

1. That Pacific Gas and Electric Company shall not exercise said franchise for the purpose of supplying electricity in those parts or portions of Tuolumne 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; 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 after the date hereof.

Dated at San Francisco, California, this 25th day of January, 1949.

R. J. [Signature]

[Signature]

[Signature]

[Signature]
Commissioners.