

Decision No. 12506

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. 424 of the Board of
Supervisors of the COUNTY OF CONTRA
COSTA, State of California.
(Electric)

ORIGINAL

Application No. 29642

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 the above-entitled application, requests a certificate of public convenience and necessity to exercise the rights and privileges conferred by Ordinance No. 424, 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 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 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 \$362.48 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 Contra Costa County and engaged in the business of furnishing and supplying electric service therein under grant of powers and rights conferred by their charters and/or 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 the applicant in Decision No. 29272, dated November 16, 1936, in Application No. 20829 and to applicant's predecessor, Great Western Power Company, in Decision No. 759, dated June 30, 1913, in Application No. 557. Applicant's statement shows franchises effective in Contra Costa County, prior to the adoption of Ordinance No. 424, identified as follows:

<u>Ordinance No.</u>	<u>Adopted</u>	<u>Expiring</u>	<u>Granting Franchise To</u>
66	April 4, 1898	April 4, 1948	T. S. Bullock
71	Feb. 5, 1900	Feb. 5, 1950	Standard Electric Co. of Calif.
74	Aug. 13, 1900	Aug. 13, 1950	Yuba Electric Power Company
86	Dec. 1, 1902	Dec. 1, 1952	J. H. Lawrence
98	Nov. 14, 1904	Nov. 14, 1954	William Angus
110	July 8, 1907	July 8, 1957	E. M. Downes
119	Sept. 6, 1910	Sept. 6, 1960	Richmond Light and Power Corp.
129	June 9, 1913	June 9, 1963	Great Western Power Co.
242	June 1, 1936	June 1, 1986	Pacific Gas and 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 Contra Costa, although its existing distribution facilities do not extend to all portions of the county. From the testimony received, it appears that the

only persons, firms, or public or private corporations other than Pacific Gas and Electric Company now engaged in the business of furnishing, distributing and selling electricity in Contra Costa County are (1) Pinole Light and Power Company which distributes and sells electricity in, and in the vicinity of, the towns of Pinole, Hercules, and Rodeo, and (2) Bay Point Light and Power Company, which distributes and sells electricity in, and in the vicinity of, the towns of Port Chicago and Clyde. Pacific Gas and Electric Company alleges in its application that it is not competing with either of the above-mentioned public utilities, and further that the certificate sought is not for the purpose of authorizing it to enter into territory now supplied by either said Pinole Light and Power Company or Bay Point Light and Power Company, nor is its purpose to compete with either of them in the business of furnishing or supplying electric energy.

At the hearing applicant's witness testified that territorial agreements had been executed by Pacific Gas and Electric Company and Pinole Light and Power Company with respect to both the Pinole and the Rodeo areas. Under those agreements Pinole Light and Power Company has the right to serve customers, excepting those whose maximum demand exceeds 20 horsepower, within the areas depicted by circumscribing red lines on Pinole Light and Power Company's filed tariff sheets CRC No. 122-E and CRC No. 123-E, copies of which were filed as Exhibits Nos. 4 and 5, respectively, in this proceeding. Conversely, under these agreements applicant has the right to serve customers within the depicted areas whose maximum demand exceeds 20 horsepower.

With respect to the area served by the Bay Point Light and Power Company, applicant's witness testified that a territorial agreement had been executed by its predecessor, Great Western Power Company, and the Bay Point Light and Power Company, in which agreement it was understood that Bay Point Light and Power Company, within its service

area, would serve loads of lesser amounts than 300 horsepower and any loads in excess of 300 horsepower would be served by Great Western Power Company or its successors. The service area of Bay Point Light and Power Company is depicted by the area within a red line on the map filed as Exhibit No. 3 in this proceeding. Applicant's witness further testified that it intended to continue to handle its business in that area under the terms and conditions of the territorial agreement and that it wanted the right to serve those larger loads if and when they develop within that area.

While the above-mentioned territorial agreements are of record in this proceeding, we are not at this time called upon to determine the reasonableness thereof. It is sufficient to note that the provisions therein relating to territorial limitations are in substantial accord with the witness' testimony, that those limitations have been agreed to in each case by both parties, and that we have before us no evidence that those territorial provisions are not in the public interest.

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. 424 of the Board of Supervisors of Contra Costa County, subject to appropriate restrictions concerning the service areas of Pinole Light and Power Company and Bay Point Light and Power Company and 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. 424, 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 electricity in 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(2) of the Public Utilities Act;
- (2) That Pacific Gas and Electric Company shall not, except upon further certificate of this Commission first obtained, exercise said franchise for the purpose of supplying electricity directly to customers having loads of 300 horsepower or less in the territory now served by Bay Point Light and Power Company as indicated on the map filed as Exhibit No. 3 in this proceeding;
- (3) That Pacific Gas and Electric Company shall not, except upon further certificate of this Commission first obtained, exercise said franchise for the purpose of supplying electricity directly to customers having maximum demands of 20 horsepower or less in the territory now served by Pinole Light and Power Company as indicated on the maps filed as Exhibits Nos. 4 and 5 in this proceeding; and

- (4) 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 15th day of February, 1949.

R. E. Smith
Justin D. Galloway
Frank Russell
Harold P. Kula
Harold P. Kula
Commissioners.