

Decision No. 42931

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 convenience and necessity
 to exercise the right, privilege and
 franchise granted to applicant by
 Ordinance No. 153 of the Board of
 Supervisors of the COUNTY OF EL DORADO,
 State of California.
 (Electric)

Application No. 29872

Ralph W. DuVal, by 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 authorizing it to exercise the rights and privileges conferred by Ordinance No. 153, adopted July 6, 1948, by the Board of Supervisors of the County of El Dorado, 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 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 \$298. 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 El Dorado County and engaged in the business of furnishing and supplying electric service therein under one or more of the following authorizations:

- (1) under the grant of power and rights conferred by their charters;
- (2) under and pursuant to the franchises granted to applicant or its predecessors by the Board of Supervisors of the County of El Dorado;
- (3) under a certificate of public convenience and necessity granted by the Commission to applicant in Decision No. 30462, dated January 3, 1938, in Application No. 21356. Applicant's statement shows two franchises effective in El Dorado County prior to the adoption of the newest such ordinance. Those franchises are identified as follows:

<u>Ordinance No.</u>	<u>Adopted</u>	<u>Expiring</u>	<u>Granting Franchise to</u>
57	May 4, 1899	May 4, 1949	El Dorado Power Company
111	March 2, 1937	April 1, 1987	Pacific Gas and Electric Company

A hearing on the instant application was held at Placerville on April 20, 1949, before Examiner Gregory. 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 El Dorado, although applicant's existing distribution facilities do not extend to all portions of the county. 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 electricity in El Dorado County is Sierra Pacific Power Company. Sierra Pacific purchases a substantial portion of its electricity, through a connection at Summit, in Placer County, from

Pacific Gas and Electric Company, and distributes and sells said electricity to customers under an agreement between applicant and Sierra Pacific dated March 4, 1948, approved by the Commission in Decision No. 41537, dated April 27, 1948, in Application No. 29221. In El Dorado County, Sierra Pacific distributes and sells electricity in the territory lying east of the summit of the Sierra Nevada Mountains, including the territory lying along and adjacent to the west and south shores of Lake Tahoe. Applicant does not compete with Sierra Pacific in furnishing electricity to the inhabitants of El Dorado County, and has stipulated that the certificate of public convenience and necessity requested herein is not sought for the purpose of authorizing it to enter into territory now supplied by Sierra Pacific, or to compete with Sierra Pacific in territory of the County of El Dorado now served by Sierra Pacific.

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. 153 of the Board of Supervisors of El Dorado County, subject to appropriate restrictions concerning the territory now served by Sierra Pacific Power Company.

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 in 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. 153, adopted July 6, 1948, by the Board of Supervisors of El Dorado 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 El Dorado 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 supplying electricity in those parts or portions of El Dorado County now served by Sierra Pacific Power Company, 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 after the date hereof.

Dated at Los Angeles, California, this 1st day of June, 1949.

R. J. [Signature]
[Signature]
[Signature]
[Signature]
Commissioners.