

Decision No. 42932

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. 175 of the Board of  
 Supervisors of the COUNTY OF SIERRA,  
 State of California.  
 (Electric)

Application No. 29871

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. 175, adopted February 2, 1948, by the Board of Supervisors of the County of Sierra, 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 \$501.25. 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 originally constructed and subsequently extended the electric system in Sierra County and engaged in the business of furnishing and supplying electric service therein under the grant of power and rights conferred by its charter, or under and pursuant to the franchise granted by Ordinance No. 128 of the Board of Supervisors of the County of Sierra under date of April 7, 1930, said franchise to expire May 7, 1980; and under the certificate of public convenience and necessity granted by the Commission to applicant in Decision No. 22875 in Application No. 16635, as supplemented by Decision No. 38615 in Application No. 27105.

A hearing on the instant application was held at Downieville on April 22, 1949, before Examiner Gregory. No opposition to the granting of the certificate was manifested. Pacific Gas and Electric Company for many years has served electricity within the County of Sierra, 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 Sierra County are Sierra Pacific Power Company and Plumas Sierra Rural Electric Cooperative, Inc. Sierra Pacific purchases a substantial portion of its electricity, through a connection at Summit, in Placer County, from Pacific Gas and Electric Company, pursuant to a contract dated March 4, 1948, approved by the Commission in Decision No. 41537 in Application No. 29221. In Sierra County, Sierra Pacific distributes and sells electricity in the city of Loyaltan and in an area adjacent thereto, but does not serve any customers west of Loyaltan. Cooperative furnishes electric service in Sierra County in an area lying within portions

of T. 21 N., R. 14 and 15 E., and within portions of T. 20 N., R. 14 and 15 E., including the unincorporated towns of Calpine, Sattley and Sierraville. All of the electricity received, distributed and sold by Cooperative now is, and for a number of years last past has been, purchased from applicant pursuant to an agreement between applicant and Cooperative. From testimony of applicant's commercial manager, James F. Pollard, it appears that an understanding exists between applicant and Cooperative not to serve each other's customers during the life of the agreement and that, generally speaking, the utility whose lines are closest to any new customer will be allowed to serve such customer. Applicant states that it does not compete with either Sierra Pacific or Cooperative in furnishing electricity to the inhabitants of Sierra County, and has stipulated that it will not use the certificate of public convenience and necessity sought herein for the purpose of authorizing it to enter the territory now supplied by either Sierra Pacific or Cooperative, or to compete with either of said utilities in territory of the County of Sierra now served by them.

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. 175 of the Board of Supervisors of Sierra County, subject to appropriate restrictions concerning the territory now served by Sierra Pacific Power Company and Plumas Sierra Rural Electric Cooperative, Inc.

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. 175, adopted February 2, 1948, by the Board of Supervisors of Sierra 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 Sierra 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 Sierra County now served by Sierra Pacific Power Company and by Plumas Sierra Rural Electric Cooperative, Inc., 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 1<sup>st</sup> day of

June, 1949.

[Signature]

[Signature]

[Signature]

[Signature]  
Commissioners.