

ORIGINAL

Decision No. 43011

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. 162 of the Board of
 Supervisors of the COUNTY OF NEVADA,
 State of California.
 (Electric)

Application No. 29668

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. 162, adopted January 5, 1948, by the Board of Supervisors of the County of Nevada, 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 two per cent 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 \$542.25. 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 and its predecessors originally constructed and subsequently extended the electric systems in Nevada 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 franchises granted to applicant or its predecessors by the Board of Supervisors of the County of Nevada, as follows:

<u>Ordinance No.</u>	<u>Adopted</u>	<u>Expiring</u>	<u>Granting Franchise To</u>
64 ¹ 78	Aug. 4, 1900 May 24, 1902	Aug. 4, 1950 May 24, 1952	Bay Counties Power Company Central California Electric Company
134	Sept. 8, 1936	Oct. 8, 1986	Pacific Gas and Electric Company

(3) under a certificate of public convenience and necessity granted to applicant by the Commission in Decision No. 30453, in Application No. 20991, in connection with the aforesaid Ordinance No. 134.

A hearing on the instant application was held at Nevada City on April 21, 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 Nevada, although applicant's existing distribution facilities do not extend to all portions of the county. From the testimony received it appears that the only persons, firms or corporations, other than applicant, now engaged in the business of furnishing, distributing and selling electricity in portions of Nevada County are Sierra Pacific Power Company and Truckee Public Utility District.

Sierra Pacific Power Company purchases a substantial portion of its electricity from applicant through a connection at Summit, California, under an agreement between the parties dated March 4, 1948, the execution of which was authorized by the Commission in Decision No. 41537, in Application No. 29221. In the County of Nevada Sierra Pacific distributes and sells electricity to customers in and around the communities of Norden, Hobart Mills, Boca and Floriston, and in the area in and around Summit, and sells electricity at wholesale to said Truckee District for resale in the Town of Truckee and vicinity. By Decision No. 29213, issued October 26, 1936, in Application No. 20775, the Commission granted Sierra Pacific a certificate declaring that public convenience and necessity required and would require the exercise, in that portion of Nevada County lying west of the summit of the Sierra Nevada Mountains and east of a line parallel to and one and one-half miles west of the boundary line between Ranges 14 and 15 East, M.D.M., of the rights and privileges under the electric franchise granted to Sierra Pacific by the Board of Supervisors of Nevada County.

Truckee Public Utility District owns and operates an electric system by means of which it furnishes electric service to the inhabitants of the Town of Truckee and to customers situated in the territory immediately adjacent to said town, all in Nevada County. Truckee District also owns and operates a distribution system extending west from Truckee along Highway U.S. 40 to Donner Lake, a distance of about five miles.

Applicant alleges that it does not compete with either Sierra Pacific or Truckee District in furnishing electricity to the inhabitants of Nevada County, and has stipulated that it will not use the certificate of public convenience and necessity sought herein, or the franchise granted by Ordinance No. 162, for the

purpose of authorizing it to enter the territory in Nevada County now supplied by either Sierra Pacific or Truckee District, or to compete with either of said utilities in territory of said county 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 it by Ordinance No. 162 of the Board of Supervisors of the County of Nevada, subject to appropriate restrictions concerning the territory now served by Sierra Pacific Power Company and Truckee Public Utility District, and 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 full 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. 162, adopted January 5, 1948, by the Board of Supervisors of the County of Nevada, 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 Nevada 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 Nevada County now served by Sierra Pacific Power Company or Truckee Public Utility District, 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 20 days after the date hereof.

Dated at San Francisco, California, this 21st day of

June, 1949.

R. Z. [Signature]
James J. [Signature]
[Signature]
Harold A. [Signature]
[Signature]
Commissioners.