

Decision No. 43012

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. 195 of the Board of  
 Supervisors of the COUNTY OF PLACER,  
 State of California.  
 (Electric)

Application No. 29987

Ralph W. DuVal, by Frederick T. Searls, for applicant.  
Martin McDonough, for Sacramento Municipal Utility  
District.

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. 195, adopted March 5, 1948, by the Board of Supervisors of the County of Placer, 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 \$296.25. 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 system in Placer 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 Placer; (3) under a certificate of public convenience and necessity granted to applicant by the Commission in Decision No. 30458, in Application No. 21110. Applicant's statement shows four franchises effective in Placer County under which applicant was operating prior to the adoption of the newest such ordinance. These franchises are identified as follows:

<u>Ordinance No.</u>	<u>Adopted</u>	<u>Expiring</u>	<u>Granting Franchise to</u>
106	June 6, 1899	June 6, 1949	Yuba Electric Power Co.
119	March 4, 1902	March 4, 1952	Central Calif. Elec. Co.
162	July 5, 1911	July 5, 1961	Great Western Power Co.
82-Series B	Sept. 1, 1936	Oct. 1, 1986	Pacific Gas and Elec. Co.

A hearing on the instant application was held at Auburn 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 Placer, 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 public or private corporations other than Pacific Gas and Electric Company, now engaged in the business of furnishing, distributing and selling electricity in portions of Placer County are Sierra Pacific Power Company, the City of Roseville and the Sacramento Municipal Utility District.

Sierra Pacific Power Company purchases a substantial portion of its electricity from applicant through an interconnection at Summit, in Placer County, and distributes and sells said electricity to customers under an agreement between the two companies dated March 4, 1948, the execution of which was authorized by the Commission in Decision No. 41537, in Application No. 29221. By Decision No. 17790 (29 CRC 868), issued December 20, 1926, in Application No. 13123, the Commission granted Truckee River Power Company (now Sierra Company) a certificate declaring that public convenience and necessity required and would require the exercise, in that portion of the County of Placer lying east of the summit of the Sierra Nevada Mountains, of the rights and privileges conferred by Ordinance No. 41, Series B, of the Board of Supervisors of the County of Placer. In the County of Placer, Sierra Pacific Power Company distributes and sells electricity to customers in the Sugar Bowl resort area near Donner Pass and to customers in the Lake Tahoe area, including the communities of Tahoe City, Carnelian Bay, King's Beach, Brockway, and Homewood. Applicant alleges that it does not compete with Sierra Pacific Power Company in furnishing electricity to the inhabitants of Placer County and has stipulated that it will not use the franchise granted by Ordinance No. 195 for the purpose of competing with the Sierra Pacific Power Company in the area now served by that company.

With respect to the City of Roseville, the evidence of record shows that the city furnishes electric service to residents and industries situated within the city limits and in certain territory adjacent thereto, and that the electric energy used by the city for that service now is, and for a number of years last past has been, purchased from applicant. In its application, the company alleges that in conducting its public utility business of furnishing and supplying electricity to the inhabitants of Placer County it is not competing with the City of Roseville and does not seek the certificate requested herein for the purpose of authorizing it "to enter into territory now supplied" by the city. At the hearing, however, it developed that the company's position was

somewhat different than as stated in its application. James F. Pollard, applicant's commercial manager, testified that while the company has no plans to invade the city with competitive service and did not intend, in applying for the requested certificate, to compete with the city, no stipulation would be made for the future concerning territory outside the present city limits, since he considered the franchise to cover all territory outside the city limits and the company, he stated, reserved the right to serve anyone now situated outside the city limits.<sup>1/</sup> Counsel for applicant concurred in this view.

The Sacramento Municipal Utility District owns and operates, among other electric properties, an electric distribution system by which it furnishes electric service to the inhabitants in a limited portion of southwestern Placer County. All of the electricity received, distributed and sold by the Sacramento District in Placer County and other areas now is, and for some time last past has been, purchased from applicant under an agreement between the parties dated April 9, 1946, the execution of which was authorized by the Commission in Decision No. 39108 (46 CRC 521), in Application No. 27443. Generally speaking, the portion of Placer County in which the District provides electric service covers an area along the southern boundary of the county lying south of the area served by the City of Roseville. Applicant alleges that, in conducting its public utility business of furnishing electricity to the inhabitants of Placer County, it is not competing with the Sacramento District and 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 the District. At the hearing, applicant's commercial manager testified that it was not the intention

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<sup>1/</sup> Except certain territory in the county served by Sacramento Municipal Utility District, to which we will refer later.

of the company to compete with the District during the life of the contract referred to above, which expires July 30, 1954, and offered a stipulation to the effect that the company agreed not to compete with the District during the life of the contract.

It is the practice of the Commission, in granting a certificate of public convenience and necessity to exercise a franchise right, to condition such certificate against the exercise of the franchise for the purpose of rendering service in any area being supplied by other public or private agencies, except upon further certificate being first obtained from the Commission. It is believed appropriate to include such a condition for the exercise of the franchise granted by the County of Placer. The condition set forth in the following order shall not be construed to prohibit the company and the Sacramento Municipal Utility District from carrying out the provisions of the above-mentioned contract.

From the evidence of record, the Commission finds that public convenience and necessity require the exercise by Pacific Gas and Electric Company of the right, privilege and franchise granted to it by Ordinance No. 195 of the Board of Supervisors of Placer County, subject to appropriate restrictions concerning the territory now served by Sierra Pacific Power Company, the City of Roseville and the Sacramento Municipal 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 and numbered 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. 195, adopted March 5, 1948, by the Board of Supervisors of the County of Placer, within such parts or portions of said county as are now served by it or as hereafter may be served by it through extensions of its existing system made in the ordinary course of business as contemplated by Section 50(a) of the Public Utilities Act; provided, further, that this certificate shall be subject to the following conditions:

1. That, except upon further certificate of this Commission first obtained, applicant shall not exercise such franchise for the purpose of supplying electricity in those parts or portions of said county now being served by the City of Roseville, the Sacramento Municipal Utility District, or the Sierra Pacific Power Company.
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 21<sup>st</sup> day of June, 1949..

A. Z. [Signature]  
Justin F. [Signature]  
[Signature]  
Harold P. [Signature]  
[Signature]  
Commissioners.