

Decision No. 43013

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. 23 of the City Council
of the CITY OF KERMAN, County of
Fresno, State of California.
(Electric)

Application No. 30130

Ralph W. DuVal and 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 to exercise the rights and privileges conferred by Ordinance No. 23, adopted April 10, 1947, by the City Council of the City of Kerman, Fresno County, granting a franchise to construct and use electric transmission and distribution facilities in the public streets of the city. The franchise granted by said ordinance is upon the terms and conditions set forth in the Franchise Act of 1937.

The term of the franchise is indeterminate, running until its surrender or abandonment or forfeiture for noncompliance or purchase by the state, municipal or other public corporation either voluntarily or by condemnation. Under the ordinance a fee is payable annually by the grantee to the city equivalent to 2% of the gross annual receipts arising from the use, operation, or possession of the franchise, but in no event less than 1% of the gross annual receipts derived by the grantee from the sale of electricity within the limits of the City of Kerman.

Applicant's witness stated the annual payments under the formula were \$423.49 for the year 1948. The costs incurred by applicant in obtaining the franchise are stated to have been \$27.50, and the applicant has stipulated that it, its successors or assigns will never claim before the Commission or before any court or public body a value for said franchise in excess of the actual cost thereof.

A hearing on the instant application was held before Examiner Cooper on June 2, 1949, at which no opposition to the granting of the certificate was manifested. From the testimony received, it appears that no person, firm, public or private corporation other than Pacific Gas and Electric Company is now engaged in the business of furnishing, distributing, and selling electricity in the City of Kerman, but that it or its predecessors for many years have so served the territory now comprising said city.

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. 23 of the City Council of the City of Kerman.

The certificate of public convenience and necessity granted herein is subject to the following provisions of law:

- (a) 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.
- (b) That the franchise involved herein shall never be given any value before any court or other authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the municipality therefor at the time of the acquisition thereof.

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. 23, adopted April 10, 1947, by the City Council of the City of Kerman, County of Fresno.

The effective date of this order shall be twenty (20) days after the date hereof.

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

June, 1949.

R. F. [Signature]
Justice F. [Signature]
[Signature]
[Signature]
[Signature]
Commissioners.