

Decision No. 43040

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 con-
 venience and necessity to exercise the
 right, privilege and franchise granted
 to applicant by Ordinance No. 342 of the
 Board of Supervisors of the COUNTY OF
 SACRAMENTO, State of California.
 (ELECTRIC)

Application No. 30190

Frederick T. Searls and Ralph W. DuVal
 for applicant.

O P I N I O N

Pacific Gas and Electric Company by the above-entitled appli-
 cation requests a certificate of public convenience and necessity
 authorizing it to exercise the rights and privileges conferred by
 Ordinance No. 342, adopted December 15, 1948, by the Board of Super-
 visors of the County of Sacramento, 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 pur-
 chase by the state, county or other public corporations 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 fran-
 chise. On the basis of the level of business during 1948, the
 estimated annual fee is \$2,156. The costs incurred by applicant in
 obtaining the franchise are stated to have been \$617.34 in connection

with the publication and obtaining of the county ordinance, which is in addition to the \$50 filing fee paid to the state in connection with this application; and the applicant has stipulated that it, its successors or assigns will never claim before the Commission or before any court of public body any value for the aforesaid franchise in excess of the actual cost thereof.

Applicant's witness, James F. Pollard, testified that utility service was first rendered in Sacramento County in 1895 by the Folsom Power Company, a predecessor company. In 1946 a large portion of applicant's facilities were sold to the Sacramento Municipal Utility District, but applicant continues to serve parts of the county and now retains 238.4 miles of transmission line and 231.5 miles of distribution line as of December 31, 1948 within the county.

At the time that this franchise was granted by Ordinance No. 342, the utility claims it held seven franchises previously granted by Ordinances Nos. 65, 75, 76, 102, 115, 142 and 178. Applicant's witness stated that it is obtaining this indeterminate franchise so that the term of its rights to render service in the unincorporated territory of Sacramento County may be extended beyond the maturity date of its long term financial borrowings. The utility does not plan to abandon any previous franchise.

A hearing in the instant application was held before Examiner Edwards at Sacramento, on May 19, 1949. No one appeared in opposition to the granting of this certificate. 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 Sacramento County are the Alex Brown Electric Plant and the Sacramento Municipal Utility District.

The Alex Brown Electric Plant serves in Walnut Grove and vicinity in the southwest portion of the county. The Sacramento Municipal Utility District serves within the boundaries of the portion of the District lying in Sacramento County. Both of these utilities buy power at wholesale from the applicant and resell it to the regular customers and inhabitants of the county in these areas.

The present segregation of service area in Sacramento County is shown in a map identified as Exhibit No. 2 in this proceeding. Sacramento Municipal Utility District has acquired a major portion of applicant's facilities lying in the District's boundaries. A contract, dated April 9, 1946, the execution of which was authorized by the Commission in Decision No. 39108, Application No. 27443, dated June 18, 1946, makes provision for the supplying of electricity by the District of certain fringe customers outside the boundaries of said District. This decision also permits applicant to sell wholesale electric energy to the District until June 30, 1954. Applicant's commercial manager testified that there is an agreement between the District and the applicant limiting competition in the area of the District until the aforementioned contract terminates.

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 Sacramento. 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. 342 of the Board of Supervisors of Sacramento County, subject to appropriate restrictions concerning the territory now served by Alex Brown Electric Plant 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. 342, adopted December 15, 1948, by the Board of Supervisors of the County of Sacramento, 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 Alex Brown Electric Plant and the Sacramento Municipal Utility District.

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 28th day of June, 1949.

A. J. ...
Justus J. ...
Frank ...
Hazel ...
Kenneth ...