

ORIGINALDecision No. 43146

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. 221 of the City Council
 of the City of Oakdale, County of
 Stanislaus, State of California.

Application No. 30310

(Gas)

Ralph W. DuVal and F. T. Searls
 by F. 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. 221, adopted October 4, 1948, by the City Council of the City of Oakdale, granting a franchise to construct, install, maintain and use gas transmission and distribution facilities in the public streets, ways and places within the City of Oakdale. This franchise is granted under the provisions of the Franchise Act of 1937.

The term of the franchise is indeterminate, running until its voluntary surrender or abandonment by the grantee, 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 by the grantee to the city equivalent to two per cent of the gross annual receipts of said grantee arising from the use, operation or possession of the franchise, but in no event will the payment be less than one per cent of the gross annual receipts from the

sale of gas within the city. Applicant's witness stated that the annual payment under the formula is \$703 on the basis of the 1948 level of business and should be higher in the future if annual sales increase. . . Grantee is also required to pay the city a sum of money sufficient to reimburse it for all publication expenses in connection with the granting of the franchise. The costs incurred by applicant in obtaining the franchise are stated to have been \$38.50 exclusive of the \$50 filing fee required by Section 57½ of the Public Utilities Act, and the applicant has stipulated that it, its successors or assigns will never claim before the Commission or before any court or 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 in interest for many years last past have been furnishing and supplying gas to persons, firms and corporations situated in the City of Oakdale. Gas service in the community was first rendered in 1913. Natural gas for this community is now obtained from a transmission line connected to Rio Vista, Lodi, and other gas fields. Applicant's present local system comprises 18.73 miles of distribution main which serves 1,288 customers.

Applicant's witness testified that heretofore the company was rendering gas service within the present city boundary under a franchise, Ordinance No. 79, effective June 16, 1939, of the Board of Trustees of the City of Oakdale, granted to a predecessor, J. R. Anderson. Certificates of public convenience and necessity to exercise this franchise were granted by the Commission in Decision No. 926, Application No. 712, and Decision No. 23964, Application No. 16004.

Applicant plans to conduct its future business in Oakdale under Ordinance No. 221. While applicant was not required to obtain this franchise to continue operations within the city, it believes that it will obtain benefits and advantages commensurate with the annual

cost. In particular, it will assist in the qualification of applicant's securities as legal investments for saving banks and trust funds under the laws of various states.

A hearing on the instant application was held before Examiner Edwards on July 12, 1949, at Oakdale. At this hearing, no one entered any objection to the granting of this certificate. From the evidence 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 gas in the City of Oakdale, 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. 221 of the City Council of the City of Oakdale.

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

A public hearing having been held on 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. 221, adopted October 4, 1948, by the City Council of the City of Oakdale, County of Stanislaus, State of California.

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

Dated at San Francisco, California, this 26th day of July, 1949.

A. E. [Signature]
James F. [Signature]
[Signature]
Harold P. [Signature]
[Signature]
Commissioners.