

ORIGINAL

Decision No. 4314S

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. 222 of the City Council
 of the City of Oakdale, County of
 Stanislaus, State of California.
 (Electric)

Application No. 30311

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. 222, adopted October 4, 1948, by the City Council of the City of Oakdale, granting a franchise to construct, install, maintain and use electric transmission and distribution facilities in the public streets, ways and places within the City of Oakdale. This franchise, as granted under the provisions of the Franchise Act of 1937, is for any and all purposes other than those authorized by applicant's constitutional franchise in this area.

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-half of one per cent of the gross annual receipts from the sale of electricity within the city. Applicant's witness stated that the annual payment under the formula is \$555 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 \$45, 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 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 in interest for many years last past have been furnishing and supplying electricity to persons, firms and corporations situated in the City of Oakdale. Electric service in the community was first rendered in 1896. Electricity for this community is obtained from a 2,400-volt network supplied from a substation, which is in turn fed from a 17 kv network. The 17 kv network receives energy through substations from the utility's 60 kv and 110 kv transmission network, bringing energy from the utility's interconnected hydroelectric and steam electric generating plants. Applicant's present local system comprises 26.2 miles of overhead distribution pole line and 8.0 miles of street lighting circuit.

Applicant's witness testified that heretofore the company was rendering electric service within the present city boundary under a "constitutional franchise," and under a franchise of the County of Stanislaus, unnumbered, dated December 17, 1903, of 50-year term, granted to a predecessor, Stanislaus Milling and Mining Company. No

prior certificate of public convenience and necessity was granted on this franchise because it was effective before the date of the Public Utilities Act. The "constitutional franchise" right was acquired through acceptance of the offer contained in Section 19 of Article XI of the Constitution of the State of California, as said section existed prior to its amendment on October 10, 1911.

Applicant plans to conduct its future business in Oakdale jointly under the "constitutional franchise" and under Ordinance No. 222. 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 electricity 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. 222 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. 222, 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.

R. E. Anderson
Justice J. C. Cramer
Deputy Council
Harold A. Hule
Permeth Potter
Commissioners.