

ORIGINAL

Decision No. 43247

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. 462 of the Board of
 Supervisors of the COUNTY OF MARIN,
 State of California.
 (Electric)

Application No. 30327

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 application requests a certificate of public convenience and necessity authorizing it to exercise the rights and privileges conferred by Ordinance No. 462, adopted November 29, 1948, by the Board of Supervisors of the County of Marin, 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 equivalent to 2% of the gross annual receipts arising from the use, operation or possession of the franchise. Under franchises previously granted, the applicant made a total payment of \$6,960 to the County of Marin for the year 1948. On the basis of the level of business during 1948, and under the terms of Ordinance No. 462, the payments would have

been \$4,779. The payment to the county will be made in the future on the basis of a minimum of \$6,960 per annum until such time as the business increases to the point wherein the 2% formula will result in payments at least as great as that amount. The costs incurred by applicant in obtaining the franchise are stated to have been \$465.60 in connection with the publication and obtaining of the county ordinance, and are exclusive of the \$50 filing fee. The applicant has stipulated that it, its successors or assigns will never claim before the Commission or any court or public body any value for the aforesaid franchise in excess of the actual cost thereof.

Witness for the applicant testified that electric utility service has been generally available in the unincorporated portions of Marin County since about 1901, although some service was available in part of the county as early as 1895, when the San Rafael Gas and Electric Company extended its lines from San Rafael to Mill Valley. That company and several other small companies were predecessors to the applicant in this area. The utility had 68.24 miles of transmission line and 481 miles of distribution line, as of December 31, 1948, within the county.

At the time this franchise was granted by Ordinance No. 462, the utility stated that it held franchises previously granted by Ordinances Nos. 166 and 195. 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 Marin County may be extended beyond the maturity date of its long term financial borrowings. The utility does not plan to abandon any previous franchises.

A hearing in the instant application was held before Examiner Kimball at San Rafael on August 3, 1949, and no one appeared in opposition to the granting of this certificate. From the testimony

received, it appears that no other person, firm or public or private corporation is rendering public utility electric service within the unincorporated area of Marin County.

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. 462 of the Board of Supervisors of Marin County.

The certificate of public convenience and necessity granted herein is subject 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 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. 462 adopted November 29, 1948, by the Board of Supervisors of Marin County, subject, however, to the following conditions:

1. That Pacific Gas and Electric Company shall not exercise said franchise for the purpose of supplying electricity in those parts or portions of Marin County not now served by it except through extensions to its existing system made in the ordinary course of business as contemplated by Section 50(a) of the Public Utilities Act;

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 23rd day of August, 1949.

R. J. [Signature]
Justus F. Galles
James H. [Signature]
Howard F. [Signature]
Commissioners.