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Decision No. 43257

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. 207 of the City Council
of the Town of Yuba City, County of
Sutter, State of California.

(Gas)

Application No. 30197

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

O P I N I O N

Pacific Gas and Electric Company, by this application, requests a certificate that public convenience and necessity require the exercise by it of the right, privilege, and franchise granted by Ordinance No. 207 of the City Council of the Town of Yuba City, County of Sutter. Ordinance No. 207 grants, upon the terms and conditions set forth in the Franchise Act of 1937, a franchise to construct, install, maintain, and use gas transmission and distribution facilities in the public streets of the city.

The term of the franchise is indeterminate, running until its surrender, 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 by the grantee to the city, equivalent to 2% of 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 gas within the limits of Yuba City. The costs incurred by

applicant in obtaining the franchise are stated to have been \$60, and the applicant has stipulated that it, its successors, or assigns will never claim before this 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 originally constructed more than 40 years ago and subsequently extended the gas system in Yuba City and engaged in the gas business under the grant of rights conferred by their charters, under a so-called constitutional franchise, and under a franchise granted to applicant under Ordinance No. 111 by the City Council of the Town of Yuba City on March 12, 1936, which latter franchise will expire on April 11, 1986. This Commission, in its Decision No. 29234 (Application No. 20811) dated November 2, 1936, issued to applicant a certificate of public convenience and necessity to exercise the right, privilege, and franchise granted by said Ordinance No. 111.

A hearing in this matter was held before Examiner Ross, at which no opposition to the granting of the certificate was manifested. From the record in this proceeding, it appears 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 Yuba City, and that it and its predecessors for many years have served the territory 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. 207 of the City Council of the Town of Yuba City.

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 public 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 in 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. 207, adopted August 16, 1948, by the City Council of the Town of Yuba City, County of Sutter.—

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

Dated at San Francisco, California, this 29th day of August, 1949.

R. E. Anderson
James J. Coleman
Dean H. Lawrence
Harold P. Kula

Commissioners.