

ORIGINAL

Decision No. 43767

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 COAST COUNTIES GAS AND ELECTRIC COMPANY,
 a corporation, for a certificate, under
 the provisions of Section 50 (b) of the
 Public Utilities Act, that public
 convenience and necessity require the
 exercise of the right, privilege, and
 franchise to transmit and distribute
 electricity for any and all purposes,
 granted to applicant by Ordinance No. 415
 of the COUNTY OF SANTA CLARA.

Application No. 30792

Eert B. Snyder for Coast Counties Gas and
 Electric Company; Ralph W. DuVal and
Frederick T. Searles for Pacific Gas and
 Electric Company.

O P I N I O N

Coast Counties 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. 415, adopted April 25, 1949, by the Board of Supervisors of the County of Santa Clara, 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 to the county equivalent to 2% of the gross annual receipts arising from the use, operation or possession of the franchise. The costs incurred by applicant in obtaining the franchise are stated to have been \$151.25, which is exclusive of the \$50 filing fee required

by Section 57½ of the Public Utilities Act, and the applicant has stipulated that it, its successor 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.

Coast Counties Gas and Electric Company and its predecessors have for many years furnished electric service under a county franchise in unincorporated territory of Santa Clara County. The territory served covers, generally, the area to the south and east of Coyote and includes the cities of Morgan Hill and Gilroy. The Pacific Gas and Electric Company serves generally in the portion of the county to the north and west of Coyote. The cities of Palo Alto and Santa Clara, in Santa Clara County, own and operate electric distribution systems which provide electric service to the residents and inhabitants of the respective cities and to customers in immediately adjacent territory. Applicant does not now compete nor does it intend to compete with Pacific Gas and Electric Company or the cities of Palo Alto or Santa Clara, in supplying electric service in the territory now served by Pacific Gas and Electric Company or by the cities.

A witness for applicant stated that prior to the adoption of Ordinance No. 415, the applicant held a 50-year franchise under a Santa Clara County Ordinance, enacted April 2, 1901. Applicant proposes to abandon its existing fixed-term franchise and will henceforth operate under the terms and conditions of Ordinance No. 415.

A hearing on the instant application was held before Examiner Kimball at San Jose on December 16, 1949, and no one appeared in opposition to the granting of this certificate. We conclude from the evidence of record that public convenience and necessity require that the requested certificate should be granted covering the presently served area, together with extensions made in the ordinary course of

business, subject to appropriate restrictions concerning the territory now served by Pacific Gas and Electric Company and by the Cities of Palo Alto and Santa Clara.

The certificate of public convenience and necessity granted herein is subject to the following provision 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 Coast Counties 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. 415, adopted April 25, 1949, by the Board of Supervisors of Santa Clara County within such parts or portions of said county as are now served by Coast Counties Gas and Electric Company or 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, subject, however, to the following conditions:

1. That except upon further certificate of this Commission first obtained, applicant shall not exercise said franchise for the purpose of supplying electricity in those parts or portions of said county now being served by Pacific Gas and Electric Company or by the Cities of Palo Alto and Santa Clara; and

- 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 7th day of February, 1950.

R. Z. Johnson
Justice J. Callahan
James H. Ruel
Harold Kula
Penelope Pottel
 Commissioners.