

Decision No. 44322**ORIGINAL**

## 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. 139 of the City Council  
 of the City of Walnut Creek, County of  
 Contra Costa, State of California.  
 (Electric)

Application No. 31369

Ralph W. DuVal and Frederick T. Searls  
 by Frederick T. Searls for applicant;  
John A. Nejedly for City of Walnut Creek.

O P I N I O N

Pacific Gas and Electric Company, a California corporation, by the above-entitled application filed May 5, 1950, requests a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by Ordinance No. 139 of the City of Walnut Creek. This franchise permits the installation, maintenance, and use of an electric distribution and transmission system upon the streets of said city. A public hearing was held before Examiner Edwards on June 8, 1950, at Walnut Creek.

The franchise referred to, a copy of which is attached to the application and designated as Exhibit "A," was granted by the City in accordance with the Franchise Act of 1937, and is of indeterminate duration. A fee is payable annually to the City equivalent to 2% of the gross receipts arising from the use, operation or possession of the franchise, but not less than 1% of the gross annual receipts from sales of electricity within the limits of such city under franchise.

The costs incurred by applicant in obtaining the franchise are stated to have been \$22.99, which amount does not include costs incident to the filing of this application.

This franchise will replace one granted by the City of Walnut Creek in 1936 for a fifty-year term. In the opinion of applicant, it is desirable that it procure franchises which will extend beyond the termination date of its current and proposed bond issues. It declares that a broader market for its securities is thus maintained in those states which require that if a utility's securities are to be legal investments for savings banks, at least 75% of its revenues must be derived from operations covered by franchise rights.

This utility has for many years served electricity in and about the City of Walnut Creek without competition. No objection to the granting of the certificate was manifested.

The certificate of public convenience and necessity herein granted 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

The above-entitled application having been filed, a public hearing having been held, the matter having been submitted and now being ready for decision,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to applicant by Ordinance No. 139 of the City of Walnut Creek.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity is granted to the Pacific Gas and Electric Company to exercise the rights and privileges granted by the City of Walnut Creek by Ordinance No. 139 adopted February 8, 1950.

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

Dated at San Francisco, California, this 20<sup>th</sup> day of August, 1950.

R. Z. Jaraman

Clayton Powell

Harold Hulse

Herbert Pottel  
Commissioners.