

ORIGINAL

Decision No. 48479

## 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 )  
 issuing to applicant a certificate to )  
 exercise the right, privilege and )  
 franchise granted to applicant by )  
 Ordinance No. 72 of the City Council )  
 of the Town of Pinole, County of )  
 Contra Costa, State of California. )  
 (Electric) )

Application No. 34100

R. W. DuVal, for applicant.L. R. Knerr, for the Commission's staff.O P I N I O N

Pacific Gas and Electric Company in this proceeding asks for a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by the Town of Pinole, permitting the installation, maintenance and use of an electric distribution and transmission system upon the streets of said town. A public hearing was held before Examiner Daly on April 1, 1953 at San Francisco.

The franchise referred to, a copy of which is attached to the application and designated as Exhibit A, was granted by the town by Ordinance No. 72 and is of indeterminate duration. A fee is payable annually to the town equivalent to two per cent of the gross 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 \$274.18, which amount does not include costs incident to this application.

Applicant stated that the Pinole Light and Power Company is engaged in the public utility business of furnishing and supplying electric service in and in the vicinity of the Town of Pinole. In this connection, as a part of Exhibit No. 6 in this proceeding, applicant filed a copy of Pinole Light and Power Company's tariff sheet "Original Sheet C.R.C. No. 122-E" showing a map of Pinole and vicinity with markings thereon in red showing the boundaries of the service area of the Pinole Light and Power Company. Applicant's witness stated that applicant recognized the area so delineated as the service area of Pinole Light and Power Company. Said area encompasses the entire corporate area of the Town of Pinole as shown on said map.

Applicant also introduced as Exhibit No. 7, a copy of its resale electric service contract dated March 27, 1951 under which the electric energy distributed and sold by the Pinole Light and Power Company is purchased from applicant. Section 5 of said agreement provides that Pinole Light and Power Company shall purchase from applicant all electric energy required for Pinole's use and for resale in Pinole's service area, "...excepting however from said service area customers whose maximum demand for electric energy shall exceed twenty (20) horsepower, and Pinole shall not have the right to sell or dispose of any of the electric energy which it shall purchase from Pacific, under the terms of this contract outside of said service area, nor to any person within said service area whose maximum demand shall exceed twenty (20) horsepower without first obtaining the written consent of Pacific." Applicant's witness stated that applicant does not now serve any customer within the Town of Pinole other than the Pinole Light and Power Company.

Section 5 of Ordinance No. 72 provides as follows:

"The grantee shall not be entitled to exercise said franchise for the purpose of extending its services to customers of the Pinole Light and Power Company or for serving any customers that Pinole Light and Power Company shall have the right to serve pursuant to any certificate of convenience and necessity from time to time obtained by it from the Public Utilities Commission of California or under any territorial agreement between grantee and said Pinole Light and Power Company from time to time entered into."

No objection to the granting of the requested certificate has been entered. As of April, 1950, the population of Pinole was 1,041.

The certificate of public convenience and necessity herein granted 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

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. 72 of the Town of Pinole.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and is granted to Pacific Gas and Electric Company to exercise the rights and privileges granted by the Town of Pinole by Ordinance No. 72 adopted November 3, 1952.

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

Dated at San Francisco, California, this 14<sup>th</sup> day of April, 1953.

[Signature]  
President

[Signature]  
[Signature]

[Signature]  
[Signature]  
Commissioners