

Decision No. 48471**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)
 Commission of the State of California)
 issuing to applicant a certificate to)
 exercise the right, privilege and)
 franchise granted to applicant by)
 Ordinance No. 44 of the City Council)
 of the Town of Hercules, County of)
 Contra Costa, State of California.)
 (Electric))

Application No. 34101

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 Hercules, 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. 44 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 \$245.50, which amount does not include costs incident to this application.

Applicant introduced as a part of Exhibit 6 a map of the Town of Hercules. Shown on said map was an area designated as "Service Area of Pinole Light & Power Company Extending into the Town of Hercules." Applicant's witness testified that the Pinole Company was serving electricity to a customer in the designated area, and asked an amendment to the application to show applicant's information and belief that Pinole Light and Power Company is furnishing and distributing electricity as a public utility in its designated service area within the Town of Hercules.

Exhibit No. 8 introduced by applicant in this proceeding, shows that applicant served seven customers in the Town of Hercules as of December 31, 1952. Applicant's witness testified that applicant was ready, willing and able to supply electric service under the provisions of its electric tariff schedules to any applicant for such service within the Town of Hercules, excluding the portion thereof designated as the service area of Pinole Light and Power Company.

No objection to the granting of the requested certificate has been entered. As of April 1950, the population of Hercules was 343.

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.

ORDER

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. 44 of the Town of Hercules subject to limitation with respect to the service area of Pinole Light and Power Company.

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 Hercules by Ordinance No. 44 adopted October 30, 1952, subject to the condition that, except upon further certificate of this Commission first obtained, applicant shall not exercise said franchise for the purpose of supplying electricity in competition with Pinole Light and Power Company within the portion of the Town of Hercules designated as the service area of Pinole Light and Power Company.

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

Dated at San Francisco, California, this 14th day of April, 1953.

J. I. [Signature]
President
Justus F. [Signature]
[Signature]
[Signature]
Commissioners