

ORIGINAL

Decision No. 49175

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 of)
 public convenience and necessity to)
 exercise the right, privilege and)
 franchise granted to applicant by)
 Ordinance No. 282 N.C.S. of the City)
 Council of the City of Petaluma,)
 County of Sonoma, State of California.)
 (Gas))

Application No. 34544

R. W. DuVal and John C. Morrissey,
 for applicant.

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 City of Petaluma, permitting the installation, maintenance and use of a gas distribution and transmission system in the streets of said city. A public hearing was held before Examiner Daly on September 21, 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 city in accordance with its charter provisions and the Franchise Act of 1937, and is of indeterminate duration. A fee is payable annually to the city equivalent to 2 per cent of the gross receipts arising from the use, operation, or possession of the franchise, but not less than 1 per cent of the gross annual receipts from sales of gas within the limits of the city under said franchise.

The costs incurred by applicant in obtaining the franchise are stated to have been \$3,819.12, which amount does not include costs incident to this application. It was stated that \$3,750 of this amount was paid as a compromise to avoid possible litigation costs as the result of disputed payments arising out of the old franchise arrangement. Assertedly the present franchise would not have been granted unless the above amount had been paid.

Evidence was introduced to show the effect that the duration of franchises has in certain states with respect to qualifying utility bond issues as legal investments. Massachusetts, it was asserted, requires that 75 per cent of the gross revenues of a utility seeking to qualify a bond issue must be derived from territory within which they have franchises of undeterminate nature or of determinate nature, provided the periods of said franchises extend three years beyond the maturity date of the issue sought to be qualified.

No objection to the granting of the requested certificate has been entered. Furthermore, this utility or its predecessors have, for many years, served gas in and about the City of Petaluma without competition. As of December 31, 1952, it served 4,321 customers within the city from approximately 44.81 miles of gas mains therein.

The certificate of public convenience and necessity herein granted is subject to the following provisions of law:

1. 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.

- 2. 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. 282 N.C.S. of the City of Petaluma.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Pacific Gas and Electric Company to exercise the rights and privileges granted by the City of Petaluma by Ordinance No. 282 N.C.S. adopted June 18, 1953.

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

Dated at San Francisco, California, this 6th day of October, 1953.

A. J. [Signature]
President

Justin J. [Signature]

[Signature]

[Signature]

Commissioners