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ORIGINAL

Decision No. 50485

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. 13 of the City Council )  
 of the City of Milpitas, County of )  
 Santa Clara, State of California. )  
 (Gas) )

Application No. 35500

F. T. Searls 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 right and privilege of a franchise granted by the City of Milpitas, 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 August 13, 1954 at San Jose.

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 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 \$71.25, which amount does not include costs incident to this application.

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 Milpitas without competition. As of June 30, 1954 it served 116 customers within the city from approximately 3.92 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. 13 of the City of Milpitas.

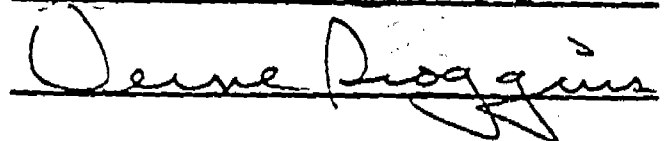
IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Pacific Gas and Electric Company to exercise the right and privilege granted by the City of Milpitas by Ordinance No. 13 adopted April 20, 1954.

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

Dated at San Francisco, California, this 31<sup>st</sup> day of August, 1954.

  
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President

  
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Commissioners

Commissioner Justus F. Craemer, being necessarily absent, did not participate in the disposition of this proceeding.