

Decision No. 50490

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 of)
 public convenience and necessity to)
 exercise the right, privilege and)
 franchise granted to applicant by)
 Ordinance No. 551 of the City Council)
 of the City of San Rafael, County of)
 Marin, State of California.)
 (Electric))

Application No. 34577

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

O P I N I O N

By its application as amended, Pacific Gas and Electric Company seeks a certificate of public convenience and necessity to exercise the right and privilege of a franchise granted by the City of San Rafael by Ordinance No. 551 and as amended by Ordinance No. 576 permitting 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 Daly on September 21, 1953 at San Francisco and on August 16, 1954 at San Anselmo.

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. Because certain language was omitted by Ordinance No. 551 relative to the fee payable annually to the city said Ordinance was amended by

Ordinance No. 576. As a result of the amendment it is provided that a fee is payable annually to the city equivalent to 2 per cent of the gross annual receipts arising from the use, operation or possession of the franchise but not less than 1/2 per cent of the gross annual receipts from the sale of electricity within the limits of the city under said franchise and Pacific's constitutional franchise.

The total cost incurred by applicant in obtaining the franchise was \$1,229.73, 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 electricity in and about the City of San Rafael without competition. As of December 31, 1952, it served 5,568 electric customers within the city.

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.

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. 551 and as amended by Ordinance No. 576 of the City of San Rafael.

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 San Rafael by Ordinances Nos. 551 and 576 adopted May 4, 1953 and April 5, 1954 respectively.

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

Dated at San Francisco, California, this 31st day of August, 1954.

[Signature]
President

[Signature]

[Signature]

Commissioners

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