

Decision No. 54981**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 issuing a certificate of )  
 public convenience and necessity to )  
 exercise the right, privilege and )  
 franchise granted to applicant by )  
 Ordinance No. 26 of the City Council )  
 of the City of Cupertino, County of )  
 Santa Clara, State of California. )  
 (Electric) )

Application No. 38679

F. T. Searls and Malcolm A. MacKillon, 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 Cupertino 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 March 13, 1957, 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 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 electricity within the limits of the city under said franchise.

The costs incurred to date by applicant in obtaining the franchise are stated to have been \$20.53, which amount does not

include costs incident to this application. An additional amount will be paid representing the difference between the amount the city would have received under the general county electric franchise from January 1, 1956, to October 17, 1956, the effective date of the new franchise, and the amount the city would have received had the new franchise been in effect during that period. The Commission will be informed of said amount when finally determined.

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 Cupertino without competition. As of December 31, 1956, it served 584 electric customers within the city.

After consideration it is 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. 26, of the City of Cupertino.

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 ORDERED that a certificate of public convenience and necessity be and it is granted to Pacific Gas and Electric Company to exercise the rights and privileges granted by the City of Cupertino, by Ordinance No. 26, adopted September 17, 1956.

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 May, 1957.

[Signature]  
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.