

Decision No. 56839**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 to applicant a)
 certificate of public convenience)
 and necessity to exercise the right,)
 privilege and franchise granted to)
 applicant by Ordinance No. 1166 New)
 Series of the Council of the City)
 of Bakersfield, County of Kern, State)
 of California.)

Application No. 39919

(Gas)

F. T. Searls, John C. Morrissey and
John S. Cooper, for applicant.
 T. J. Reynolds and Harry P. Letton, Jr., for
 Southern California Gas Company,
 interested party.

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 Bakersfield, 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 Thomas E. Daly, on May 26, 1958, 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 50 years 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 \$69.12, 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 Bakersfield without competition. As of December 31, 1957, it served 18,302 customers within the city from approximately 186.3 miles of gas mains therein.

The interest of Southern California Gas Company was stimulated by the following language set forth on page 8 of the application:

"Applicant intends to exercise the rights and privileges granted by said Ordinance No. 1166 New Series throughout said City of Bakersfield in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form."

Southern California Gas Company does not serve within the present city limits of Bakersfield, but does serve areas immediately adjacent thereto. The exact boundaries of applicant's service area and the service area of Southern California Gas Company are presently uncertain and are the subject of negotiation. The matter was resolved upon applicant's assurance that in the event of any future annexation to the City of Bakersfield it would honor any area that Southern California Gas Company was serving or the boundaries of any subsequently agreed service area.

The parties are hereby placed upon notice that any agreement concerning respective service areas is subject to the jurisdiction of this Commission.

After consideration 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. 1166 New Series of the City of Bakersfield.

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 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 Bakersfield, by Ordinance No. 1166, New Series adopted January 20, 1958, provided, however, that the Commission may hereafter by appropriate proceeding and order limit the authority herein granted to applicant as to any additional territory, which subsequent to the effective date of this order, is included within the city limits of Bakersfield.

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

Dated at San Francisco, California, this 17th day of June, 1958.

[Signature]
 President

[Signature]

[Signature]

[Signature]

[Signature]
 Commissioners