

ORIGINAL

Decision No. 76155

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. 158 of the City Council)
 of SUTTER CREEK, Amador County,)
 California.)
 (Gas)

Application No. 51290
(Filed July 31, 1969)

O P I N I O N

This is an application by Pacific Gas and Electric Company seeking authority to exercise the rights and privileges under a franchise granted it by the City of Sutter Creek.

Applicant presently furnishes gas service in Sutter Creek. The verified application avers that the City Council of Sutter Creek enacted Ordinance No. 158 granting applicant the franchise to indefinitely conduct its gas business in the city in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form. Applicant has included in the application a stipulation that it will not claim before this Commission, or any court or other public body, any value for the franchise in excess of its original cost which is stated to be \$74.20.

The franchise here under consideration is contained in Ordinance No. 158 of the City Council of the City of Sutter Creek which is attached to the application as Exhibit A. Examination of the ordinance indicates that the franchise granted therein is of the standard type between gas utilities and cities. It provides for a payment of 2 percent of applicant's annual gross receipts

arising out of the use, operation or possession of the franchise, provided however, that such payment shall in no event be less than 1 percent of the gross annual receipts of applicant derived from the sale of gas within the city limits. The Commission is of the opinion that the application should be granted. No other points require discussion. The Commission makes the following findings and conclusions in this matter.

Findings of Fact

The Commission finds that:

1. A public hearing is not necessary in this matter.
2. Public convenience and necessity require the exercise by Pacific Gas and Electric Company of the rights and privileges granted in the franchise conferred by Ordinance No. 158 of the City Council of the City of Sutter Creek.

Conclusions of Law

The Commission concludes that:

1. The application should be granted.
2. The certificate of public convenience and necessity issued herein is subject to the following provisions of law:
 1. The Commission shall have no power to authorize the capitalization of the franchise involved herein or those certificates of public convenience and necessity, or the right to own, operate or enjoy such franchise or certificates 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 issuance of such franchise, certificates of public convenience and necessity or right.
 2. 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

IT IS ORDERED that a certificate of public convenience and necessity is granted to Pacific Gas and Electric Company to exercise the rights and privileges conferred by the franchise issued pursuant to Ordinance No. 158 of the City Council of Sutter Creek.

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

Dated at San Francisco, California, this 10th day of SEPTEMBER, 1969.

William J. Lyons, Jr.
President

Augustine
J. H. ...

Vernon L. Stinger
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.