

MS

Decision No. 77474

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. 70-4 of the City Coun-
cil of Waterford, Stanislaus County,
California.
(Gas)

Application No. 51905
(Filed May 18, 1970)

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 granted it by a franchise from the City of Waterford.

The record indicates that PG&E and its predecessor in interest have provided gas utility service in the area which now comprises the City of Waterford since 1936. PG&E has been operating in the area under a franchise granted by Stanislaus County. A certificate of public convenience and necessity to exercise the county franchise was granted by this Commission. Waterford was incorporated as a City on November 7, 1969.

The application states that the City Council of the City of Waterford enacted Ordinance No. 70-4 which grants applicant a franchise to indefinitely conduct its gas business in the city. PG&E 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 the sum of \$92.75.

Ordinance No. 70-4 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 particular franchise, provided however, that such payment shall in no event be less than 1 percent of the gross annual receipts of the 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 PG&E of the rights and privileges granted in the franchise conferred by Ordinance No. 70-4 of the City Council of the City of Waterford.

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 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 issuance of such franchise, certificate
of public convenience and necessity or right.

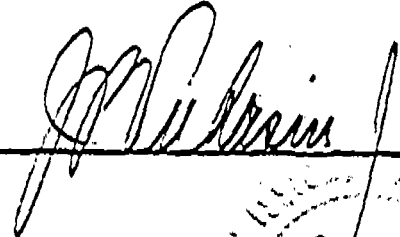
2. The franchise involved herein shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the municipality therefor at the time of the acquisition thereof.

O R D E R

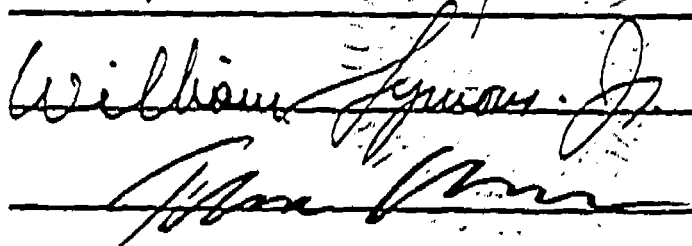
IT IS ORDERED that a certificate of public convenience and necessity is granted to Pacific Gas and Electric Company to exercise the rights and privileges conferred by the franchise issued pursuant to Ordinance No. 70-4 of the City Council of the City of Waterford.

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

Dated at San Francisco, California, this 7th
day of JULY, 1970.



Chairman



Commissioners

Commissioner A. W. Gatev, being
necessarily absent, did not participate
in the disposition of this proceeding.

Commissioner Vernon L. Sturgeon, being
necessarily absent, did not participate
in the disposition of this proceeding.