

jmd

Decision No. 79800

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. 31 of the City Council)
of Foster City, San Mateo County,)
California.)

Application No. 53116
(Filed January 31, 1972)

(Gas)

O P I N I O N

This is an application by Pacific Gas and Electric Company seeking authority to exercise a franchise from Foster City.

Applicant is engaged in the purchase, distribution and sale of gas in various places in California. It presently furnishes gas service in Foster City. As of December 31, 1971, it had 37.96 miles of gas distribution mains serving 3,203 customers in the City.

The verified application avers that applicant has been furnishing gas service in Foster City pursuant to a franchise granted by the County of San Mateo; that on October 26, 1971, the City Council of Foster City enacted Ordinance No. 31 which grants applicant a franchise to conduct its gas business in the City and that the new franchise will more definitely establish applicant's rights within the City and will be of value to it in connection with the qualification and sale of its bonds. Pacific Gas and Electric Company 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 \$191.64.

Ordinance No. 31 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 counties. It provides for a payment of 2 percent of applicant's annual gross receipts arising from 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 the applicant derived from the sale of gas within the city limits.

The Commission makes the following findings and conclusions in this matter.

Findings of Fact

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. 31 of the City Council of Foster City.

Conclusions of Law

1. The application should be granted.
2. The certificate of public convenience and necessity issued herein is subject to the following provisions of law:
 - (a) 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.
 - (b) 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. 31 of the City Council of Foster City.

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

Dated at San Francisco, California, this 14th
day of MARCH, 1972.

[Signature]
Chairman
[Signature]
[Signature]
[Signature]
Commissioners