

Decision No. 80245**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. 15879 of the City)
 Council of San Jose, Santa Clara)
 County, California.)
 (Gas)

Application No. 53397
 (Filed June 14, 1972)

O P I N I O N

Pacific Gas and Electric Company, in this proceeding, requests a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by the City of San Jose, permitting the installation, maintenance, and use of a gas distribution and transmission system in the streets of said city.

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 one per cent of the gross annual receipts from sales of gas within the limits of the city under said franchise, with provisions for modifying the rate of compensation under certain conditions.

The costs incurred by applicant in obtaining the franchise are stated to have been \$69.97, which amount does not include costs incident to this application.

Applicant has served gas in and about the City of San Jose without competition for many years. As of December 31, 1971, it served 144,600 customers within the city from approximately 1,331 miles of gas mains therein. No objection to the granting of the requested certificate has been received and a public hearing is not necessary.

After consideration the Commission finds that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to applicant by Ordinance No. 15879 of the City of San Jose.

The certificate of public convenience and necessity herein granted 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 grant 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 hereof.

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 granted by the City of San Jose by Ordinance No. 15879, adopted October 4, 1971.

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

Dated at Los Angeles, California, this 18th day of JULY, 1972.

Vernon L. Stinson
President
William Simpson
William Simpson
John Doe
John Doe
Commissioners