

Decision No. 86367

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. 453 of the City Council
of the City of Victorville, County of
San Bernardino, California.

(Gas)

Application No. 56573
(Filed June 21, 1976)

O P I N I O N

This is an application by Pacific Gas and Electric Company (PG&E) to exercise the rights and privileges granted by Ordinance No. 453 of the City of Victorville. This ordinance was enacted by the City Council on December 15, 1975, and became effective on December 24, 1975. A copy of the ordinance is attached to the application as Exhibit A.

Ordinance No. 453 gives PG&E the right to lay and use pipes and appurtenances for transmitting and distributing gas for any and all purposes under, along, across or upon the streets of Victorville for a period of 25 years commencing July 1, 1974 and terminating July 1, 1999.

The ordinance further provides that PG&E shall during the term thereof pay to the City of Victorville 2% of the gross annual receipts of PG&E arising from the use, operation or possession of the franchise, but in no event less than 1% of the gross annual receipts of PG&E derived from the sale of gas within the limits of the City of Victorville.

On August 24, 1973, the City of Victorville annexed an area of San Bernardino County that includes the Southwestern Portland Cement Company. Said company is serviced by PG&E. Shortly thereafter the City of Victorville requested PG&E to obtain a franchise substantially as set forth in Ordinance No. 493. The application alludes to the city being serviced by Southwest Gas Corporation except for Southwestern Portland Cement Company. However, Ordinance No. 493 gives PG&E the right to service the city and makes no mention that Southwest Gas Company is vacating, transferring, or quitting the existing service they are providing for the City of Victorville.

Findings

1. Prior to December 24, 1975, Southwest Gas Company had provided gas service for the City of Victorville except for Southwestern Portland Cement Company which is serviced by PG&E.

2. Ordinance No. 493 became effective on December 24, 1975, and granted PG&E the right to lay and use pipes and appurtenances for transmitting gas for any and all purposes, under, along, across or upon the public streets, ways, alleys, and easements within the City of Victorville.

3. Public convenience and necessity require the exercise by PG&E of the rights, privileges, and duties granted by the franchise conferred by Ordinance No. 453.

4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions

1. The application should be granted in accordance with the findings.

2. A public hearing is unnecessary.

PG&E is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in

excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

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, privileges, and duties conferred by the franchise issued pursuant to Ordinance No. 453, adopted December 15, 1975, by the City Council of the City of Victorville.

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

Dated at San Francisco, California,
this 14th day of SEPTEMBER, 1976.

[Signature]
President
William Aguilar Jr.
Lernoy L. Stinson
for
Robert Bateman
Commissioners