

Decision No. 87367 May 24, 1977

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. 76-19 of the City Council  
of the City of Marina, County of  
Monterey, California.  
(Gas)

Application No. 57239  
(Filed April 19, 1977)

O P I N I O N

This is an application by Pacific Gas and Electric Company (PG&E) seeking authority to exercise the rights and privileges granted it by a franchise from the City of Marina, County of Monterey, California.

Applicant is engaged principally in the business of furnishing electricity and gas in California. It presently furnishes gas to the City of Marina.

PG&E now is and for many years past has been furnishing and supplying gas to persons, firms and corporations situated in the territory now comprising the City of Marina for heat and other uses. For these purposes, PG&E now is and for many years past has been the owner of, and operates and maintains the gas distribution and other properties situated in the territory now comprising the city, which properties are part and parcel of PG&E's general transmission and distribution systems.

On October 25, 1976, the City Council of the City of Marina adopted Ordinance No. 76-19 which grants the PG&E 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, a value for the franchise in excess of its original cost which is stated to be the sum of \$10.95.

Ordinance No. 76-19 is attached to the application as Exhibit "A". Examining of the ordinance indicates that the franchise granted therein is of the standard type between gas utilities and cities. It provides for 2% of applicant's annual gross receipts arising from the use, operation, or possession of the franchise, provided, however, that such payments shall in no event be less than 1% of the gross annual receipts of the applicant derived from the sale of gas within the limits of the city.

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. 76-19 of the City of Marina.

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.

