

ORIGINAL

Decision No. 87544 July 6, 1977

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. 76-20 of the City Council
 of the City of Marina, County of
 Monterey, California.

Application No. 57240
 (Filed April 19, 1977)

(Electric)

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 (City), County of Monterey, California.

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

PG&E now is and for many years past has been furnishing and supplying electricity to persons, firms and corporations situated in the territory now comprising the City for light, heat, power and all other lawful uses. For these purposes, PG&E now is and for many years past has been the owner of, and operates and maintains the electric 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. 76-20 which grants PG&E a franchise to indefinitely conduct its electric 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. 76-20 is attached to the application as Exhibit "A". Examination of the ordinance indicates that the franchise granted therein is of the standard type between electric 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 electricity 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. 76-20 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.

(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 therefore 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. 76-20 of the City of Marina.

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

Dated at San Francisco, California, this 6th day of JULY, 1977.

Lobstain
Clare J. DeRoch

Robert B. ...

President
William ...

Vernon ...

Robert W. ...

Commissioners