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ORIGINAL

Decision No. 90500 JUL 3 1979

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. 767 (1978 Series) of  
the City Council of San Luis Obispo,  
County of San Luis Obispo, California.

Application No. 58451  
(Filed November 2, 1978)

(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 San Luis Obispo (City), County of San Luis Obispo, 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 August 1, 1978, the City Council of the City of San Luis Obispo adopted Ordinance No. 767 (1978 Series) 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 \$10,228.73.

Ordinance No. 767 (1978 Series) 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  $\frac{1}{2}$ % 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

1. Applicant has been distributing electricity in the City of San Luis Obispo under franchise Ordinance No. 248 N.S. granted by the City of San Luis Obispo and independently authorized by Commission Decision No. 37147, dated June 27, 1944.

2. Applicant is now applying for a certificate of public convenience and necessity to exercise the rights and privileges of a new franchise granted by Ordinance No. 767 (1978 Series) of the City of San Luis Obispo, which became effective on July 18, 1978.

3. Public convenience and necessity require the exercise by applicant of the rights and privileges of the franchise granted to it by Ordinance No. 767 (1978 Series) of the City of San Luis Obispo.

4. The City of San Luis Obispo is demanding a \$10,000 payment as a consideration for the granting of franchise Ordinance No. 767 (1978 Series). This Commission has authority to direct applicant to dispose of this payment in its financial records in such manner

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that it will not impose an inequitable burden upon ratepayers who reside outside of the City of San Luis Obispo. When rates of applicant are reviewed by this Commission at some future date, appropriate consideration will be given to the said \$10,000 franchise payment.

Conclusions

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

2. A public hearing is unnecessary.

3. The certificate of public convenience and necessity granted 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 grant 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.

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ORDER

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. 767 (1978 Series) of the City of San Luis Obispo, adopted July 18, 1978.

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

Dated at San Francisco, California, this 3rd day of JULY, 1979.

John E. Goyne  
President  
Robert W. Goble  
Edward J. Radwin  
Commissioners