

FG

Decision No. 91127 DEC 18 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PACIFIC POWER & LIGHT COMPANY for an order preliminary to the issue of a certificate of public convenience and necessity to exercise a franchise which Applicant contemplates securing from the Board of Supervisors of the County of Modoc, California.

Application No. 58965  
(Filed June 28, 1979)  
(Amended October 2, 1979)

O P I N I O N

This is an application by Pacific Power & Light Company (Applicant), pursuant to Section 1003 of the Public Utilities Code, requesting an order authorizing Applicant to seek an electric franchise preliminary to the negotiation of such franchise from the Board of Supervisors of the County of Modoc. Following the filing of the application, but before any order had been issued from this Commission, the Board of Supervisors of Modoc County, on August 20, 1979, adopted Ordinance No. 258, granting Applicant an electric franchise for a fifty-year term from an effective date of September 19, 1979. Applicant thereupon, on October 2, 1979, filed an amendment to its application applying for an ex parte order for a certificate, pursuant to Section 1002 of the Public Utilities Code, authorizing the exercise of such granted franchise rights.

Applicant is engaged principally in the business of furnishing electricity; its transmission, distribution and other facilities which Applicant operates and maintains in the County of Modoc are a part of its general transmission and distribution system used in furnishing electric service to its customers in northern California and southern Oregon.

The other entity furnishing electricity to the public in Modoc County is Surprise Valley Electrification Corporation; a copy of the application and the amendment to the application has been served on that utility and no objection or comment has been received.

Examination of Ordinance No. 258 discloses that the electric franchise granted therein is of a standard type between electric utilities and cities and counties. It provides that Applicant shall pay to Modoc County a sum of two percent (2%) of the gross annual receipts arising from its Modoc County operations.

Included in Section 9, of Ordinance No. 258, is the following:

"Nor shall this franchise ever be given any value before any court or other public authority in proceedings of any character in excess of the actual cost to Grantee in procuring the same."

#### Findings of Fact

1. Applicant or its predecessors have been distributing electricity in portions of Modoc County under electric franchise Ordinance No. 88, of the County of Modoc, for which a certificate to exercise such franchise was authorized by Commission Decision No. 47987, dated December 2, 1952. Franchise No. 88 expired on September 2, 1979.

2. Applicant is now applying for a Certificate of Public Convenience and Necessity to exercise the rights and privileges of a new electric franchise granted by the County of Modoc, which became effective on September 19, 1979.

3. Public convenience and necessity require the exercise by Applicant of the rights and privileges of the electric franchise granted to it by Ordinance No. 258, of the County of Modoc.

#### Conclusions of Law

1. The application should be granted.
2. A public hearing is not necessary.

3. The Certificate of Public Convenience and Necessity granted herein is subject to the following provisions of law:

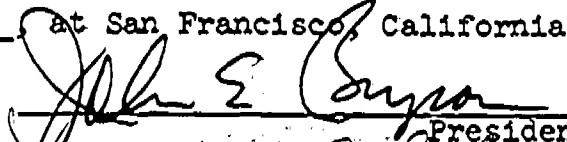
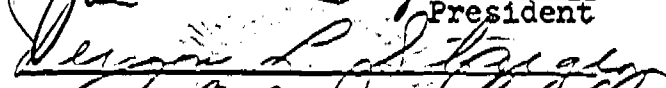



- (a) The Commission shall have no power to authorize the capitalization of the franchise involved herein or this certificate of public convenience and necessity, or the right to own, operate or enjoy such franchise or certificate of public convenience and necessity, in excess of the amount (exclusive 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 county 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 Power & Light Company for exercise of the rights and privileges conferred by the electric franchise issued pursuant to Ordinance No. 258, of the County of Modoc, effective September 19, 1979.

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

Dated DEC 18 1979 at San Francisco, California.

  
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President  
  
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Commissioners