

ORDINANCE NO. 191

ORDINANCE GRANTING TO PACIFIC GAS AND ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE OF INSTALLING, MAINTAINING AND USING POLES, WIRES, CONDUITS AND APPURTENANCES, INCLUDING COMMUNICATION CIRCUITS, IN SO MANY AND IN SUCH PARTS OF THE PUBLIC ROADS WITHIN THE COUNTY OF MARIPOSA, STATE OF CALIFORNIA, AS THE GRANTEE OF SAID FRANCHISE MAY FROM TIME TO TIME ELECT TO USE FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING ELECTRICITY TO THE PUBLIC FOR ANY AND ALL PURPOSES.

THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIPOSA DOES
ORDAIN AS FOLLOWS:

Section 1. Whenever in this ordinance the words or phrases hereinafter in this section defined are used, they shall have the respective meanings assigned to them in the following definitions:

- (a) The word "grantee" shall mean Pacific Gas and Electric Company, and its lawful successors or assigns in respect to the franchise hereby granted;
- (b) The word "franchise" shall mean the right, privilege and franchise hereinafter more particularly described;
- (c) The phrase "public roads" shall mean the public highways, streets, roads, ways and places as the same now or may hereafter exist within the County of Mariposa, including state highways and/or freeways now or hereafter established within said county;
- (d) The phrase "poles, wires, conduits and appurtenances" shall mean poles, towers, supports, wires, conductors, cables, guys, stubs, platforms, crossarms, braces, transformers, insulators, conduits, ducts, vaults, manholes, meters, cut-outs, switches, communication circuits, appliances, attachments, appurtenances and, without limitation to the foregoing, any other property, located or to be located in, upon, along, across, under or over the public roads within said county, and used or useful in transmitting and/or distributing electricity;
- (e) The phrase "installing, maintaining and using" shall mean to construct, erect, install, lay, operate, maintain, use, repair or replace.

Section 2. The franchise of installing, maintaining and

using poles, wires, conduits and appurtenances, including communication circuits, in so many and in such parts of the public roads as grantee of said franchise may from time to time elect to use, subject to Section 4 hereof, for the purpose of transmitting and distributing electricity to the public for any and all purposes, is hereby granted by said county to Pacific Gas and Electric Company, its successors and assigns.

Section 3. The term of said franchise shall commence with the effective date hereof, and continue and remain in full force and effect until such time as grantee shall surrender or abandon same or said franchise shall be forfeited for noncompliance by the possessor thereof with its terms, or the State of California, said county or other public corporation thereunto duly authorized, shall purchase by voluntary agreement or shall condemn and take under the power of eminent domain in accordance with then existing law all property actually used and useful in the exercise of said franchise situate within the unincorporated area of said county. Said franchise shall never be considered or taken into account, in fixing the value of said property, in excess of the actual cost to grantee hereof in procuring the same.

Section 4. All poles, wires, conduits and appurtenances which shall be constructed and used under and pursuant to the provisions of this ordinance, and in the exercise of said franchise shall be installed, constructed and maintained in a good and workmanlike manner under the direction of the County Road Commissioner and shall be maintained in compliance with all valid laws and ordinances from time to time in force.

Section 5. Grantee of this franchise shall relocate, without expense to county, any poles, wires, conduits and appurtenances theretofore installed, and then maintained or used under this franchise, if and when made necessary by any lawful change of grade, alignment or width of any public road.

obligation on the part of grantee shall apply only in respect to county highways, and shall remain in force and effect only so long as the public road, in which said poles, wires, conduits and appurtenances to be relocated shall have been constructed or installed, shall remain a county highway, and such obligation shall cease to apply to any such public road when it shall cease to be a county highway, and shall at no time apply to any public road in the county now or hereafter established as a freeway, nor shall this provision constitute an express obligation of grantee in respect to any freeways within the purview of Section 703 of the Streets and Highways Code of the State of California, or any corresponding provisions of law.

Section 6. Grantee shall, immediately upon installing, maintaining and using said poles, wires, conduits and appurtenances, or any part thereof, at its own cost and expense place said public roads, or so much thereof as may have been damaged thereby, in as good order and condition as that in which they were before being disturbed or excavated for the purpose of installing, maintaining and using said poles, wires, conduits and appurtenances, or any part thereof.

Section 7. Grantee shall have the right of installing, maintaining and using any or all of such poles, wires, conduits and appurtenances from time to time as may be necessary and proper.

Section 8. Grantee shall, during the term for which this franchise is granted, pay to said county two per cent (2%) of its or their gross annual receipts arising from the use, operation or possession thereof; provided, however, that no percentage shall be paid for the first five (5) years succeeding the date of the grant of said franchise, but thereafter such percentage shall be payable annually, and if such payment shall not be made, such franchise shall be forfeited; provided, however, that if said franchise be a renewal of a right already in existence the payment of said percentage of gross receipts shall begin at once. The method of computing said payment shall be in accordance with that laid down by the Supreme Court.

and any future modification of such method set forth in any decision of the Supreme Court hereafter rendered shall supersede the method employed prior to such decision.

Section 9. The said franchise is granted under and pursuant to the provisions of the laws of the State of California which relate to the granting of franchises by counties.

Section 10. This franchise shall not be exclusive.

Section 11. This ordinance shall take effect and be in force upon the expiration of thirty (30) days after its passage, unless suspended from going into operation by a referendum petition filed as provided by law, and shall, before the expiration of fifteen (15) days after the passage thereof, be published once, with the names of the members of said Board of Supervisors voting for and against the same, in The Mariposa Gazette, a weekly newspaper published in said County of Mariposa.

PASSED this 10th day of April, 1958, by the following vote:

AYES: Supervisors McGregor, Ellis, McCay, Miller,
Conrad.

NAYS: Supervisors None

ABSENT: Supervisors None

Eugene McGregor
Chairman of the Board of Supervisors
of the County of Mariposa.

ATTEST:

Abigail Wilson
County Clerk of the
County of Mariposa.