

Decision No. 12185

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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LOS ANGELES GAS AND ELECTRIC CORPORATION, a corporation,

Complainant,

vs.

SOUTHERN CALIFORNIA GAS COMPANY, a corporation,

Defendant.

Case No. 1785.

**ORIGINAL**

BY THE COMMISSION:

O P I N I O N

The plaintiff, Los Angeles Gas and Electric Corporation, claiming the right under certain franchises to serve all the territory included within the corporate limits of the City of Inglewood, complains that the defendant, Southern California Gas Company, a similar utility serving territory outside of the City of Inglewood, has unlawfully begun the extension of its lines into a territory recently annexed to the City of Inglewood. Plaintiff contends that by such annexation, any rights which the defendant Company had to serve unincorporated territory were terminated. The Railroad Commission is asked to order the defendant Company to desist from extending its lines into the disputed territory recently annexed to the City of Inglewood. A hearing was held in this matter before Examiner Gordon on the 21st of September, 1922; briefs were thereafter filed and the matter submitted and is now ready

for decision.

The plaintiff claims the right to serve the territory included within the city limits of Inglewood under two franchises. The City of Inglewood, by Ordinance adopted March 18, 1912, in effect March 23, 1912, granted a franchise to the Inglewood Gas Company. This franchise was assigned to the plaintiff, Los Angeles Gas and Electric Corporation March 19, 1912. No certificate of public convenience and necessity was ever granted by the Railroad Commission, authorizing either the plaintiff or its grantor to exercise the rights under this franchise. The second franchise held by the plaintiff was granted by the Board of Supervisors of Los Angeles County by Ordinance No. 319 N. S., passed January 13, 1913, in effect thirty days thereafter. This Ordinance authorized the Los Angeles Gas and Electric Corporation to construct and maintain its pipe lines on certain named streets within the County, some of which streets are included within the disputed territory recently annexed to the City of Inglewood. The Railroad Commission by its decision No. 427, rendered January 30, 1913, granted a certificate of public convenience and necessity authorizing the exercise of rights under this franchise.

The defendant holds a franchise granted by Ordinance No. 463 N. S. of the Board of Supervisors of the County of Los Angeles, passed March 26, 1917, in effect April 25, 1917. This franchise authorized the construction and maintenance of a system of pipes by the defendant, thruout a large section of the unincorporated portion of Los Angeles County, including all of the disputed territory recently annexed to the City of Inglewood. A certificate of public convenience and necessity was granted by the Railroad Commission, authorizing the exercise by the defendant of the rights granted under this franchise (Application No. 2682, Decision No. 4254, decided April 17, 1917).

The disputed territory is a section approximately three-quarters of a mile wide by one mile long on the Eastern side of the City of Inglewood, which was annexed to that City by annexation proceedings completed September 21, 1921. The evidence shows that the defendant has laid a pipe line into this territory beginning at the intersection of Manchester Avenue and the Easterly city limits of Inglewood, extending therefrom Westerly along Manchester Avenue to its intersection with Cypress Avenue, thence Southerly approximately one-half mile along Cypress Avenue. This line connects with the mains of the defendant lying to the East of the City of Inglewood and has been used for the purpose of supplying an oil well situated near the Eastern limits of Inglewood. There are no other lines or service connections of the defendant within the disputed territory. The defendant, however, does have an extensive system of pipe lines immediately to the East of the City of Inglewood from which it serves a great number of domestic and industrial consumers.

The plaintiff, Los Angeles Gas and Electric Corporation, has heretofore and is now serving the entire urban community to the North, West and Southwest of the disputed territory, including all of the City of Inglewood and large portions of the City of Los Angeles. Within the disputed territory, the plaintiff has established service connections and maintained service to a few scattered domestic consumers along the Northerly edge of this section.

Under the facts as above set forth, we are of the opinion that this is a case in which public convenience and necessity is best served by dividing the disputed territory between the two competing utilities. The defendant utility should be permitted and required to serve that portion of the disputed territory South of Manchester and East of

Cypress Avenues; also such consumers along the Northerly side of Manchester and the Westerly side of Cypress Avenues who can be conveniently reached by a service extension of not more than one hundred fifty (150) feet from the mains of defendant on Manchester and Cypress Avenues. The remainder of the disputed territory should be served by the plaintiff, Los Angeles Gas and Electric Corporation. In the event that the plaintiff should ever decline to make extensions at its own expense within that portion of the disputed territory allocated to it, the defendant should be permitted, upon application to it by the prospective consumers, to extend its lines into this territory so far as may be necessary to render the service applied for, together with future service along the line of such extension. The order herein will provide for a division of the territory in accordance with the foregoing recommendations.

In deciding that the defendant should serve a part of the disputed territory, we conclude adversely to plaintiff's contention that the annexation proceedings had the effect of terminating the rights which defendant held under the County franchise as to this annexed territory. We think it is well settled that annexation does not affect franchise rights theretofore acquired, except in so far as the holder of such rights may be subject to additional police regulations imposed by the municipality. (Russell v. Sebastian, 233 U. S. 195; People ex rel Woodhaven Gas and Light Co. v. Deeham, 153 N. Y. 528, 47 N. E. 787; People ex rel Rockwell v. Chicago Tel. Company, et al, 91 N. E. 1065; referred to and quoted in Hill v. City of Oxnard, 46 Cal. Ap. 624, 630.)

O R D E R

For the reasons above set forth;

IT IS HEREBY ORDERED that the Southern California Gas Company construct no more mains or distribution lines for the service of gas within that portion of the territory annexed to the City of Inglewood, September 21, 1921, which lies North of Manchester Avenue or West of Cypress Avenue, except service pipes to a distance of not more than One Hundred Fifty (150) feet, for the service of consumers along Manchester Avenue from the point of intersection with Cypress Avenue Easterly to the city limits of Inglewood and along Cypress Avenue from the point of intersection with Manchester Avenue Southerly to the city limits of Inglewood.

PROVIDED, HOWEVER, that in the event of the refusal of the Los Angeles Gas and Electric Corporation or other similar utility to extend service at its own expense to an applicant residing within that portion of the annexed territory North of Manchester or West of Cypress Avenues, then the said Southern California Gas Company may upon application for such service and upon notice to this Commission of its intention so to do, extend its lines within said portion of the annexed territory to serve such applicant or applicants and may thereafter serve other consumers along the line of such extension and within one hundred fifty (150) feet thereof.

IT IS HEREBY FURTHER ORDERED that the Los Angeles Gas and Electric Corporation make no further extensions of its pipe lines for the distribution of gas into that portion of the territory annexed to the City of Inglewood, September 21, 1921, lying South of Manchester and East of Cypress Avenues.

FURTHERMORE, THE COMMISSION HEREBY DECLARES that public convenience and necessity requires the amendment and modification of the Commission's order of January 30, 1913, Decision No. 427, granting a certificate of public convenience and necessity to the Los Angeles Gas and Electric Corporation and of the Commission's order of April 17, 1917, Decision No. 4254, granting a certificate of public convenience and necessity to the Southern California Gas Company and the same are hereby modified and amended, in so far as the rights thereunder are limited by the provisions of the foregoing order.

Dated at San Francisco, California, this 29th day of May, 1923.

C. S. Lewis

Dwight Mastood

J. T. White  
Commissioner.