

Decision No. 26087.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Thomas T. Porteous, Receiver of
 Elsinore Gas Works,
 Complainant,
 vs.
 Southern California Gas Company,
 Defendant.

ORIGINAL

Case No. 2608.

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In the Matter of the Investigation,
 on the Commission's own motion, into
 the rates, practices, regulations,
 operations and service of Elsinore
 Gas Works and Thomas T. Porteous, a
 Receiver of Elsinore Gas Works, serv-
 ing gas in and in the vicinity of
 Elsinore, Riverside County.

Case No. 2611.

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In the Matter of the Application of
 Southern California Gas Company, a
 California corporation, for a certifi-
 cate of public convenience and neces-
 sity to exercise certain franchise
 rights in the City of Elsinore, County
 of Riverside, under franchise applied
 for by applicant.

Application No. 15072.

Fred Hamblin, for the Complainant
in Case No. 2608.

T. J. Reynolds and L. J. Rice, by
T. J. Reynolds for Defendant in
Case No. 2608 and for the Appli-
cant in Application No. 15072.

BY THE COMMISSION:

O P I N I O N

Thomas T. Porteous, as Receiver of the Elsinore Gas
 Works, asks that Southern California Gas Company be directed to
 supply natural gas to Elsinore Gas Works at Elsinore and that the
 Commission fix a reasonable rate for such service. Southern

California Gas Company asks for a certificate to serve natural gas within the City of Elsinore, application for a franchise for such service having been made to the city. The Commission, upon its own motion, also instituted an investigation into the rates, practices and operations of Elsinore Gas Works.

Public hearings were held in Elsinore, October 10, 1928, and in Los Angeles, October 30, 1928. It was stipulated that the three proceedings be consolidated for hearing and decision.

Elsinore Gas Works has served manufactured oil gas of approximately 550 B.t.u. heat content per cubic foot in the City of Elsinore since service was first instituted in October, 1924, there being 330 to 340 consumers receiving service as of September 30, 1928.

Southern California Gas Company supplies natural gas of approximately 1,100 B.t.u. heat content per cubic foot over large areas in Los Angeles, San Bernardino and Riverside Counties, also in a lesser degree in Kern, Kings and Tulare Counties. This company has recently extended its distribution lines to serve certain large industrial users in the vicinity of Alberhill, about six miles distant from Elsinore.

Undoubtedly the residents of Elsinore will benefit by the introduction of natural gas service. An extension of such service from Alberhill to Elsinore is entirely feasible. Southern California Gas Company is willing to furnish natural gas to the Elsinore Company at a wholesale rate of 42 cents per M.C.F. delivered at Alberhill. We believe that 42 cents per M.C.F. is a reasonable wholesale rate for service at Alberhill.

In addition to fixing a reasonable rate for the sale of gas from one utility to the other at wholesale, we are confronted with the problem of deciding whether the public interest

requires that Southern California Gas Company itself be permitted to enter this field and serve natural gas within the City of Elsinore as a distributor in competition with the existing utility.

The evidence indicates that if a fair return is to be realized at the outset of natural gas service, Elsinore Gas Works must place in effect a rate averaging \$2.39 per M.C.F., as against an average rate of \$2.00 per M.C.F. required by Southern California Gas Company. Both companies, however, anticipate that with the delivery of a gas of higher heating value such as that now available for distribution in this territory, sufficient new business will soon develop to justify service at rates lower than those above. They both offer, therefore, to begin service at rates considerably lower than those required were such expected increase in consumption not taken into consideration.

The rate offered by Elsinore Gas Works averages approximately \$2.05 per M.C.F., while that offered by Southern California Gas Company averages about \$1.55 per M.C.F. The rate offered by Southern California Gas Company is the same as that established by that utility when instituting natural gas service in other communities similarly situated. Its experience in those communities, and its estimate of the new business which may be developed within the Elsinore area indicate that it can within a reasonable time make such rate remunerative.

On the other hand, it is doubtful whether Elsinore Gas Works can continue permanently to furnish natural gas at the schedule of rates proposed. Such rates are not sufficiently low to attract the volume of new business required, nor do the past practices and public relations of this utility reveal that ability to render a satisfactory and efficient public utility service to

which the community served is justly entitled. In addition, its owners have permitted it to fall into the hands of a receiver, due to litigation between them involving the ownership of the property, which alone, as long as it continues, will so limit the development of this utility as to make doubtful the proper fulfillment of its public duty. The receiver who now comes before the Commission on behalf of the legal owners is limited in his powers and unable to make definite declaration as to the extent of his ability to make necessary extensions and improvements in service.

We have already referred to the unsatisfactory relations existing between Elsinore Gas Works and the public. Complaints as to service and practices have been numerous. Though the responsibility for such deficiencies does not rest with the receiver who makes this application, we must, in deciding what the public convenience and necessity may demand, give consideration to the type of service which consumers have received and probably will receive from the real owners.

We are of the opinion that the public interest requires that Southern California Gas Company be permitted to serve natural gas in Elsinore and our order herein will so provide. In so doing, we are not unmindful of the principle adopted by this Commission to give proper protection to the utility which has pioneered in a particular field and has, to the best of its ability, performed its public duty to the community; but precedents early laid down and uniformly followed require us to permit competition when the existing utility has failed in its public duty and when the general public convenience will thereby be best served. (Dec. 107 (1 C.R.C., 203), Dec. 616 (2 C.R.C. 748), Dec. 3230 (9 C.R.C. 514)).

Southern California Gas Company has submitted to us

satisfactory evidence that it has obtained the necessary franchises or permits from the local political authorities for the construction of said plant or system. Permit to construct its lines within the City of Elsinore was granted by Ordinance No. 198, dated November 13, 1928, and permit to construct its lines within all of the County of Riverside granted by County Ordinance No. 139, dated March 5, 1919.

O R D E R

The above complaint and application having been filed, and the above investigation having been ordered by the Commission upon its own motion, public hearings having been held, the matters submitted and now being ready for decision,

The Railroad Commission of the State of California hereby declares that the present and future public convenience and necessity require and will require the construction by Southern California Gas Company of its line, plant or system for the distribution and delivery of natural gas from Alberhill to Elsinore and within the City of Elsinore, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to Southern California Gas Company for the construction of said line, plant or system and for the exercise of the franchises of permits for such construction heretofore granted by county and municipal authorities, subject to the following conditions:

1. The applicant shall, within fifteen days from the date hereof, file with the Commission its written acceptance of the certificate herein granted, and shall within thirty days from the date hereof begin the construction of said line, plant or system.
2. The applicant shall, within thirty days from date of this order, file with the Commission a stipulation duly passed by its Board of Directors, to the effect that the applicant, its successors

and assigns will never claim before the Railroad Commission or any court or other public body any value for rate making purposes for the aforesaid franchise granted by Ordinance No. 198 of the City of Elsinore in excess of the actual cost thereof.

IT IS HEREBY FURTHER ORDERED that Southern California Gas Company supply natural gas to Elsinore Gas Works in accordance with the following rate:

Natural gas delivered at Alberhill..... 42 cents per standard M.C.F.

IT IS HEREBY FURTHER ORDERED that, except as hereinabove ordered, the said investigation, on the Commission's own motion, into the rates, practices, regulations, operations and service of Elsinore Gas Works and Thomas T. Porteous as Receiver (Case No. 2611), is hereby dismissed.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 20th day of February, 1929.

Thos D. Lewis

C. Seamy

Leon Whitell

M. J. Lee

Commissioners.