

LBM

Decision No. _____

21006

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SANTA MARIA GAS COMPANY,)
a corporation, for a certificate)
under Section 50 of the Public Util-) Application No. 15330
ities Act and for authority to ex-)
tend its facilities.)

In the Matter of the Amended Applica-)
tion and Petition of)
CONSUMERS GAS COMPANY,)
a corporation, for a certificate of)
public convenience to furnish gas to)
the City of Paso Robles, County of)
San Luis Obispo, State of California,)
and for an order authorizing the)
issue and sale of \$100,000.00 of its) Application No. 15332
common stock and \$100,000.00 of its)
first mortgage bonds to finance its)
contemplated improvements.)

ORIGINAL

Le Roy M. Edwards and Ray B. Lyon, for Santa
Maria Gas Company (Application No. 15330)
and for said company as protestant in
Application No. 15332;

Edward Schary and F. Emerson Hoar, for Consumers
Gas Company (for Application No. 15332) and
for said company as protestant in Applica-
tion No. 15330;

D. H. Craig of Atascadero, appearing in favor
of granting Application No. 15330 and pro-
testing the granting of Application No. 15332.

R. J. Williams of Paso Robles, appearing in
favor of granting Application No. 15330 and
protesting the granting of Application No.
15332.

BY THE COMMISSION:

O P I N I O N

In Application No. 15330 filed January 17, 1929, the
Santa Maria Gas Company requests that this Commission make its order

declaring;-

1. That public convenience and necessity require the construction of a gas transmission line by said Santa Maria Gas Company between San Luis Obispo and Paso Robles, as set forth in the application, and
2. That public convenience and necessity require and will require the exercise of the rights and privileges granted to applicant, Santa Maria Gas Company, under Ordinance No. 38 of the City of El Paso de Robles, hereinafter referred to as Paso Robles, which ordinance was adopted by the Council of said city on March 11, 1929.

At the time the application was filed, Santa Maria Gas Company, hereinafter sometimes referred to as the Santa Maria Company, had applied to the City Council of Paso Robles for a franchise, but the same had not yet been granted at the time of the hearing on the application. The franchise has since been obtained and a certified copy filed with the Commission. The application will be regarded as asking for authority to exercise rights and privileges under said franchise.

In Application No. 15332 filed January 18, 1929, the Consumers Gas Company, hereinafter sometimes referred to as the Consumers Company, asks the Commission to declare that public convenience and necessity require, and will require, it to construct, maintain and operate a gas generating plant and distribution system in the City of Paso Robles and to exercise the rights and privileges granted by said city under its Ordinance No. 37 N.S. The company further asks permission in its application, as amended at the hearing, to issue \$87,500.00 of its common stock so as to net \$68,000. and \$100,000. of six and one half percent twenty year bonds at a price which will net it \$90,000.00.

By Decision No. 20625, dated December 28, 1928, the Commission denied without prejudice Application No. 15135, in which application the Consumers Gas Company asked for a certificate of

public convenience and necessity to construct, operate and maintain an artificial gas plant in the City of Paso Robles and exercise franchise rights, and for an order authorizing the issue and sale of \$100,000.00 of its common stock, \$25,000.00 of its preferred stock, and \$100,000.00 of its first mortgage bonds to finance its contemplated improvements. The application was denied, among others, for the reason that the company failed to submit competent evidence as to the construction and operating costs of its proposed gas plant; that its stock and bond issues and expenses and discounts incident thereto were excessive, and that it was unwilling to disclose to the Commission the names of the parties who would be responsible in the final analysis for the financing, construction and operation of its proposed gas plant.

On January 18, 1928, Consumers Gas Company filed with the Commission what it designated an amended application and stated that it filed the application in lieu of a petition for rehearing in Application No. 15135. The petition filed on January 18th was treated by the Commission as a new proceeding because it felt that it was not proper to receive an amended application in a proceeding which had been denied without prejudice.

It is of record that on January 7, 1929, the Santa Maria Company filed an application with the City Council of Paso Robles for a franchise which would give it permission to construct and operate gas pipe lines along the public streets of the City of Paso Robles. This franchise was obtained and a certified copy thereof (Ordinance No. 38) is on file in Application No. 15330.

The Santa Maria Company is a public utility which is engaged in the business of furnishing natural gas to the residents and industries in the cities of San Luis Obispo and Santa Maria and to other places in the counties of San Luis Obispo and Santa Barbara. It proposes to extend its existing gas transmission and distribution system from the City of San Luis Obispo north through

the towns of Santa Margarita, Atascadero and Templeton to the City of Paso Robles. It further proposes to construct the necessary distribution facilities so that it can distribute gas at Santa Margarita, Atascadero, Templeton and in the City of Paso Robles. The company alleges that it is now the owner of a franchise granted by the Board of Supervisors of San Luis Obispo County on August 9, 1911, and that such franchise (Exhibits Nos. 9 and 10, Application No. 15330) authorizes it to construct, maintain and operate gas pipe lines along the county highways.

The Commission's attention is called also to the fact that where the proposed pipe line would cross or follow the state highway, permits would be secured from the State Department of Public Works and that for part of the distance the transmission line may be on private right of way. The distribution system in Paso Robles would be constructed under Ordinance No. 38.

The Consumers Company contends that the Santa Maria Company's franchise from San Luis Obispo County does not authorize it to extend its pipe line to Paso Robles, for the reason, among others, that the company for more than ten years past has done no construction under such franchise. The Santa Maria Company is not asking for a certificate to exercise any rights and privileges obtained under the county franchise. It is asking permission to extend its transmission line from San Luis Obispo to Paso Robles. It may be that this line and the distributing system other than in Paso Robles can be constructed without crossing or following any county highways. It is not for this Commission to determine the validity of the franchise granted by the County of San Luis Obispo insofar as it relates to the proposed extension. If it is found that the Santa Maria Company has no county franchise but needs such a franchise, it no doubt will take the proper steps to procure one.

During the past year the Santa Maria Company has constructed a natural gas transmission line to connect with the line of the Southern Counties Gas Company of California at or near Gaviota, and by means of such line it is obtaining natural gas from the gas and oil fields of Ventura County and also from the newly discovered gas and oil field at Elwood, Santa Barbara County. The extension of the transmission lines has greatly increased the company's supply of natural gas. Because of its augmented gas supply the company feels that it is warranted in extending its system and taking on additional consumers.

The Santa Maria Company in its Exhibit No. 6 estimates the cost of extending its gas transmission and distribution system to and including the City of Paso Robles of \$283,300.00. This estimate is composed of the following items;-

I. Transmission mains-estimated distance, 30 miles.

a. San Luis Obispo to Union Oil Pump Station 2 miles north of Santa Margarita;		
70,000' 6" pipe laid @ \$1.00 per ft.		\$70,000.
b. Union Oil Pump Station to Paso Robles;		
85,000 ft. 4" pipe laid @ .75¢ per ft.	64,000.	
Wrapping to protect portion of pipe		2,000.
Rights of way		5,000.
Overhead, engineering and incidentals		<u>3,000.</u>
Subtotal.....		\$144,000.
c. 400,000 cu.ft. H.P. gas holder at Paso Robles		35,000.
d. Additional compressor facilities at San Luis Obispo		<u>15,000.</u>
Subtotal.....		\$194,000.

II. Distribution systems and services;

a. Paso Robles:		
32,000 ft. 2" pipe, 10,000 ft. 4" pipe and cost of laying mains under paving and services, regulators and meters for 450 consumers		<u>50,000.</u>
Forward.....		\$244,000.

Forward		\$244,000.
b. Atascadero:		
15,000 ft. 3" pipe laid, and services, regulators and meters for 100 consumers		15,000.
c. Templeton:		
13,000 ft. 3" pipe laid and services, regulators and meters for 50 consumers		11,500.
d. Atascadero Gardens:		
6,000 ft. 3" pipe laid, and services, regulators and meters for 30 consumers		5,900.
e. Santa Margarita:		
8,000 ft. 3" pipe laid, and services, regulators and meters for 30 consumers		6,900.
Grand total.....		<u>\$283,300.</u>

The Santa Maria Company proposes to finance its proposed extension through moneys obtained from the Pacific Lighting Corporation which owns all of its outstanding stock, except shares necessary to qualify directors, and which company has agreed in turn to accept common stock of the Santa Maria Company at par in payment for such advances. It is of record that the gas which the Santa Maria Company would distribute through the territory it now proposes to serve, would have a heat content of about 1100 B.T.U. The rates which it intends to put into effect (Exhibit No. 12) are as follows:-

Domestic	Per Meter	Per Month
First	500 cu.ft.	\$ 1.50.
Next	4,500 " "	1.50 per M
"	5,000 " "	1.40 " "
"	10,000 " "	1.25 " "
Minimum monthly charge.....		\$ 1.50
<u>Commercial</u>		
First	20,000 cu.ft.	\$.95 per M
Next	30,000 " "	.85 " "
"	50,000 " "	.80 " "
All over	100,000 " "	.55 " "
Minimum monthly charge.....\$10.00, except in the case of churches, school, and libraries on which no minimum charge shall be made.		

The Santa Maria Company estimates in Exhibit No. 13 the monthly consumption at 4,936,000 cubic feet, of which 1,830,000 would be sold to ^{domestic} consumers, 2,600,000 cubic feet to commercial users and 1,100,000 for boiler purposes. Its annual estimated consumption is 59,232,000 cubic feet. It estimates its number of consumers at Paso Robles 450; at Atascadero 100; at Templeton 50; at Atascadero Gardens 30; and at Santa Margarita at 30.

The Consumers Company in Application No. 15332, as recited, asks permission to exercise the rights and privileges granted by Ordinance No. 37 N.S. of the City of Paso Robles and construct, operate and maintain an artificial gas plant. The company in its Exhibit No. 1 reports its estimated cost of a gas plant and distributing system sufficient to serve Paso Robles, and a proposed extension to Atascadero and way points. Its estimated cost of the entire project is summarized as follows:-

<u>Paso Robles City:</u>		
A.	Production capital	\$62,390.00
	Lands	\$1,500.00
	Production plant	<u>60,890.00</u>
B.	Distribution capital including mains, services, meters, etc.	65,615.00
C.	General capital including general office, shop and other equipment	5,500.00
	Sub total	<u>\$133,505.00</u>
D.	Overhead, indirect and intangible capital	<u>18,000.00</u>
E.	Total fixed capital for Paso Robles City	<u>\$151,505.00</u>
<u>San Luis Obispo County:</u>		
F.	Transmission mains and equipment	32,900.00
G.	Distribution mains, services, meters, etc.	32,900.00
H.	Overhead, indirect and intangible capital	<u>2,700.00</u>
	Total for San Luis Obispo Co.	<u>\$68,500.00</u>
	GRAND TOTAL	<u>\$220,005.00</u>

The company has not applied for any franchise from the Board of Supervisors of the County of San Luis Obispo. Neither does the record show that the company is definitely committed to the extension of its system from Paso Robles to Atascadero. The testimony merely shows that if the demand for service at Atascadero warrants the ex-

tension of the system from Paso Robles to Atascadero, such extension will be installed. It is the plan of the company if it extends its lines, to install a two inch transmission line from Paso Robles to Atascadero. It estimates its total gas sales at 26,250,000 cu.ft. It has proceeded on the assumption that it can secure 600 consumers at Paso Robles and 400 elsewhere, making a total of 1000 consumers.

The record shows that the Consumers Company proposes to issue \$100,000.00 of six and one half percent 20-year bonds at a price to net it \$90,000.00, and \$87,500.00 of common stock at a net price of \$70,000.00. This amount of securities would yield the company a sum sufficient to install its production plant and its distribution system in Paso Robles, if its estimated costs are correct. No agreements, subject to the approval of the Commission, have been entered into for the sale of any of the securities. Reference has been made to the fact that some discussions have been had with representatives of investment companies and that they have been advised that the company could make no definite offer until it has obtained an order from the Railroad Commission permitting the sale of the securities. Counsel for Consumers Company was not in a position to inform the Commission as to who would actually be in control through stock ownership of the company.

It is the company's plan to serve artificial gas having a heat content of 550 B.T.U. This gas would be sold under the following rates;-

First	400 cu.ft. or less	per meter per month	\$1.50		
Next	1600 cu.ft.	per meter per month	2.00	per M.C.F.	
Next	3000 cu.ft.	per meter per month	1.50	"	"
All over	5000 cu.ft.	per meter per month	1.00	"	"

Both the Santa Maria Company and the Consumers Company are asking to exercise rights and privileges granted to them by ordinances of the City of Paso Robles and to sell gas for domestic and

industrial purposes in said city. The Santa Maria Company's application is broader in its scope than that of the Consumers Company, for the reason that said Santa Maria Company would also, if its application is granted, sell gas in Templeton, Atascadero and Santa Margarita. Witnesses called by the Santa Maria Company testified that gas service was desired in Santa Margarita, Atascadero, Templeton and Paso Robles. The Consumers Company called no witnesses to prove that public convenience and necessity required the construction of a gas plant, but adopted the testimony submitted by witnesses of the Santa Maria Company as part of its testimony on that point.

The Santa Maria Company would sell natural gas with a heat content of from 1050 to 1100 B.T.U, while the Consumers Company would sell artificial gas with a heat content of about 550 B.T.U. The Santa Maria Company has funds available to immediately install its plant, the Consumers Company submitted evidence showing that the incorporators would purchase about \$25,000.00 of stock. No other funds are assured. The Santa Maria Company would ultimately finance the enterprise through the issue of common stock at par, the Consumers Company wants to spend twenty percent of the proceeds realized from the sale of its stock to pay stock selling expenses and sell 6-1/2 percent bonds at 90 percent of their face value plus accrued interest and in addition pay the expenses incident to such issue. These facts seem to warrant the granting of the certificate of public convenience and necessity to the Santa Maria Gas Company. The only testimony which raises any doubt about it is Exhibit one filed in Application No. 15332 and the testimony of F. Emerson Hoar, consulting engineer. In this exhibit, as corrected in a memorandum filed March 18th, he shows comparative cost of gas service in Paso Robles and vicinity and that the Santa Maria Company will have an investment per consumer of \$578.50, and the Consumers Company under its revised plan, an investment of \$220. per consumer. The operating revenues

of the Santa Maria Company, he estimates at \$52.50 and those of the Consumers Company, the same. The operating expenses, including taxes and depreciation, of the Santa Maria Company, he estimates at \$65.00 per consumer and of the Consumers Company at \$38.70. He takes the position that the Santa Maria Company cannot hope to operate at a profit, while the Consumers Company can earn 7.3 percent on its investment.

An analysis of the exhibit and his testimony shows that Mr. Hoar used the figures submitted by the Santa Maria Company where they proved to be advantageous to his clients, and revised them where they were otherwise. To illustrate; he assumes that Consumers Company can obtain 1000 consumers, but as for the Santa Maria Company, he uses 450, because that was the figure submitted by the company. The 450 represents the number of consumers which the Santa Maria Company estimated it could obtain in Paso Robles. True, in his Exhibit one he has a chart showing that the Santa Maria Company estimated 50 consumers at Templeton, 150 at Atascadero and 30 at Santa Margarita. For the Consumers Company he estimated 1000 consumers, of which 600 would be in Paso Robles and 350 in Templeton and Atascadero. The Santa Maria Company in its exhibit estimated the cost of its extension at \$283,300.00. Mr. Easton testified that he believed the cost could be reduced by \$20,000.00. Mr. Hoar, in his exhibit, starts with the \$283,300.00 and allocates to the extension \$98,500.00 of the investment of Santa Maria Company in its present system. He revises the company's estimate of revenue per consumer by reducing it from \$94.22 per consumer to \$52.50 per consumer, which he says is the maximum that consumers will pay for gas, whether it be natural or artificial.

Mr. J. E. Spelce, one of the Commission's assistant engineers, testified (Exhibit 4) that in his opinion the Consumers Company would have to invest \$225,792.00 in its proposed gas plant, whereas the investment of the Santa Maria Company (Exhibit No. 5) necessary to serve

the territory mentioned in their application would be about \$245,243.00. Mr. Spelce testified that in his opinion a 4" transmission line and a 200,000 cu.ft. holder will be sufficient. The Santa Maria Company would issue \$245,243.00 of stock, while the Consumers Company would issue its stock at par less twenty percent for selling expenses, and its bonds at 90 percent of their face value plus accrued interest. On this basis, the Consumers Company would have to issue about \$265,000.00 of stock and bonds.

Mr. Spelce finds that the cost of gas of Consumers Company (Exhibit No. 6) on a per million B.T.U. basis is \$3.81, while for the Santa Maria Company it is \$3.34, if one assumes the cost of natural gas at San Luis Obispo at 20¢ per 1000 cu.ft. and \$3.51 if a cost of 35¢ per 1000 cu.ft. is assumed.

Counsel for the Consumers Company objected to the admission of Exhibits Nos. 5 and 6 in evidence on the ground that they contained figures not submitted by either of the applicants. Mr. Spelce was not called as a witness by either applicant. There is no reason why he should confine his testimony to matters already submitted by applicants. He endeavored to set forth in his exhibits what it will cost to install and operate a gas system adequate to serve the territory referred to in these applications. He revised the cost and operating figures of both applicants where he felt such revision was justified, and did not accept the figures of one or the other applicant merely because they were submitted in evidence. His report and testimony reflect an impartial attitude and there is no good reason why such reports and testimony should not be a part of the record in these applications.

It is urged by Consumers Company that it would be more economical to construct an artificial gas plant in Paso Robles to develop the territory and then at a later date substitute natural gas for artificial. We cannot subscribe to such a theory. We believe that it is decidedly to the advantage of the consumers to be furnished

with natural gas of 1050 B.T.U. or 1100 B.T.U. rather than with artificial gas of 550 B.T.U. and that the natural gas will be a more efficient agent to develop the territory. It occurs to us that the sale of natural gas will result in a greater and more diversified use of gas and in lower rates to the consumers.

O R D E R

Santa Maria Gas Company and Consumers Gas Company having applied to the Railroad Commission for certificates of public convenience and necessity to exercise rights and privileges granted by ordinances adopted by the City Council of the City of El Paso de Robles and to construct, maintain and operate gas transmission and distribution lines, as more particularly set forth in the foregoing opinion, public hearings having been held before Examiner Fankhauser and the Commission having considered the evidence submitted at such hearings, and being of the opinion that the application of Santa Maria Gas Company (Application No. 15330) should be granted subject to the provisions of this order, and that the application of Consumers Gas Company (Application No. 15332) should be denied without prejudice, therefore,

IT IS HEREBY ORDERED AND DECLARED, that public convenience and necessity require and will require the exercise by the Santa Maria Gas Company of the rights and privileges granted to it by Ordinance No. 38 of the City of El Paso de Robles, passed and adopted by the City Council of said city on March 12, 1929; provided, however, that the Santa Maria Gas Company shall first have filed with this Commission a stipulation to the following effect;-

a. Declaring that Santa Maria Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body, a value for said rights and privileges granted by said Ordinance No. 38 of said City of El Paso de Robles

in excess of the actual cost of the Santa Maria Gas Company to acquire the said rights and privileges, which cost shall be set forth in said stipulation.

b. That the natural gas to be furnished by said Santa Maria Gas Company throughout the territory in which it is hereby authorized to operate, shall be of the same quality as that distributed by said company to its patrons and consumers in other territory supplied by it.

IT IS HEREBY FURTHER ORDERED AND DECLARED that public convenience and necessity require, and will require, Santa Maria Gas Company to construct, maintain and operate a gas transmission line from the City of San Luis Obispo to the City of El Paso de Robles and to construct, maintain and operate distribution lines necessary to serve the towns, cities and communities of Santa Margarita, Atascadero, Templeton and El Paso de Robles.

IT IS HEREBY FURTHER ORDERED that Application No. 15332 be, and the same is hereby, denied without prejudice.

IT IS HEREBY FURTHER ORDERED that for all other purposes the authority herein granted will become effective fifteen days after the date hereof.

DATED at San Francisco, California, this 24th day of April, 1929.

Thos D. Louder
Chas. W. ...
Frank ...
Leon ...
W. J. ...
Commissioners.