

Decision No. 22584

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 CONSUMERS GAS COMPANY,
 a corporation, and COAST COUNTIES
 GAS & ELECTRIC COMPANY, a corporation,
 for an order of the Railroad Com-
 mission of the State of California,
 authorizing the former to sell and
 convey and the latter to purchase and
 acquire the properties and rights
 referred to in this application, and
 for a further order granting to Coast
 Counties Gas & Electric Company a
 certificate of public convenience and
 necessity authorizing it to serve gas
 in the Towns of Dos Palos and South
 Dos Palos in the County of Merced,
 State of California.

ORIGINAL

Application No. 16535

W. F. Williamson, Wallace & Vaughan,
 by R. L. Vaughan, for Coast Counties
 Gas & Electric Company;

Pillsbury, Madison & Sutro, by Felix Smith,
 for Consumers Gas Company.

BY THE COMMISSION:

OPINION

In the above entitled matter the Railroad Commission
 is asked to make its order:-

1. Authorizing Consumers Gas Company to grant,
 bargain, sell and convey unto Coast Counties Gas and
 Electric Company, and authorizing Coast Counties Gas and
 Electric Company to purchase and acquire from Consumers Gas
 Company, all of the properties and rights which the former
 has agreed to sell and convey to the latter under and in
 accordance with the provisions of the agreement of sale
 dated May 1, 1930; and

2. Granting to Coast Counties Gas and Electric Company a certificate of public convenience and necessity which will authorize it to construct plants and systems for the purpose of serving gas in the communities of Dos Palos and South Dos Palos in the County of Merced.

Consumers Gas Company is a corporation organized during June, 1928, under the laws of the State of California, for the purpose of engaging in the business of supplying gas for domestic and commercial consumption within the State. It appears that the corporation obtained certain franchises to construct and operate gas systems in Stanislaus and Merced Counties and also a certificate of public convenience and necessity from this Commission which was granted by Decision No. 21594 entered on the company's Application No. 15604 on September 23, 1929. The order of the Commission reads in part as follows:

"THE RAILROAD COMMISSION HEREBY DECLARES, that public convenience and necessity require, and will require, Consumers Gas Company to engage in the business of transmitting, distributing, supplying and selling gas for domestic, commercial and industrial purposes in the cities of Los Banos and Gustine in the County of Merced, and Newman and Patterson in the County of Stanislaus, and in the territory immediately adjacent thereto, and require and will require the exercise by Consumers Gas Company of the rights and privileges granted by the ordinances passed by the Boards of Trustees of the Cities of Los Banos, Gustine, Newman and Patterson, and the ordinances granted by the Boards of Supervisors of the Counties of Merced and Stanislaus, provided that said rights and privileges granted by the two latter franchises may be exercised only in the territory immediately adjacent to the cities referred to herein, and in the territory immediately adjacent to the transmission lines which applicant must construct, to enable it to transmit gas to said cities and territory adjacent thereto; and provided further, that applicant shall file with the Railroad Commission for approval a stipulation duly authorized by its Board of Directors declaring that it, 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 in excess of the amounts actually paid as the consideration for the granting of said franchises, which amounts shall be stated; and

IT IS HEREBY ORDERED that a certificate in accordance with the foregoing declaration be, and it hereby is, granted to Consumers Gas Company."

It seems that it was concluded to construct the systems in and about Gustine and Los Banos and not to extend the service to Patterson and Newman. Applicant, accordingly, filed with the Commission, on June 3, 1930, the stipulations required by the Commission in its order, relating to the rights and privileges granted by the ordinances passed by the City Councils of the Cities of Los Banos and Gustine, and the Board of Supervisors of Merced County, which stipulations were approved by the Commission by Decision No. 22507, dated June 4, 1930.

The record here shows that only a nominal amount of construction work has been done to date under the Los Banos, Gustine and Merced County franchises. It appears that arrangements have been made to transfer the properties, together with operative rights and other intangibles to Coast Counties Gas and Electric Company at a price equal to the actual cost to Consumers Gas Company. The properties to be transferred are described in Exhibit "A" as including all real estate, fixtures and/or personal property owned by Consumers Gas Company and used in connection with, or to facilitate the production, generation, transmission, delivery and furnishing of gas to the inhabitants of, and those adjacent to, the towns of Los Banos and Gustine, together with the right, title and interest of the seller in and to:-

- (a) Certificate of public convenience and necessity granted by the Railroad Commission by Decision No. 21594 in Application No. 15604;
- (b) Gas franchise Ordinance No. 130 of the City of Los Banos, County of Merced, dated April 17, 1929;
- (c) Gas franchise Ordinance No. 52 of the City of Gustine, County of Merced, dated May 13, 1929;
- (d) Gas franchise Ordinance No. 180 of the Board of Supervisors of the County of Merced, dated July 2, 1929.

It is alleged that Coast Counties Gas and Electric Company, because of its widespread organization and personnel, is in a better position to operate and manage the properties than is Consumers Gas Company and that the proposed transfer accordingly is in the public interest. We are inclined to agree with this allegation and therefore will permit the transfer. We believe, however, that the purchaser should proceed forthwith to complete and place in operation the Los Banos and Gustine plants, and the authority herein granted is with the understanding that it will do so. The record herein indicates that such will be the case. The estimated cost of the distributing system at Gustine is reported at \$26,362.23 and that at Los Banos at \$37,166.50.

Coast Counties Gas and Electric Company also desires authority to extend its service to the unincorporated communities of Dos Palos and South Dos Palos, Merced County, and requests a certificate of public convenience and necessity authorizing it to serve gas at those points. Subsequent to the hearing, applicant Coast Counties Gas and Electric Company requested that the Commission defer action on this part of its application.

ORDER

Application having been made to the Railroad Commission for an order authorizing the transfer of properties and certifying that public convenience and necessity require the construction and operation of a gas system in and about Dos Palos and South Dos Palos, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that this application should be granted at this time insofar as it involves the transfer of properties, therefore,

IT IS HEREBY ORDERED that Consumers Gas Company be,

and it hereby is, authorized to grant, bargain, sell and convey unto Coast Counties Gas and Electric Company, and Coast Counties Gas and Electric Company be, and it hereby is, authorized to purchase and acquire all the properties and rights which the former has agreed to sell and convey to the latter under and in accordance with the provisions of the agreement of sale dated May 1, 1930, a copy of which agreement is filed in this proceeding as Exhibit "A".

The authority herein granted is subject to the following conditions:

(1) Within sixty days after acquiring the properties herein authorized to be transferred, Coast Counties Gas and Electric Company shall file with the Commission a certified copy of deed, or deeds, of conveyance, as finally executed, and copies of each and every entry made on its books of account to record the purchase of such properties and the distribution to primary accounts.

(2) The authority herein granted shall become effective ten days from the date hereof.

DATED at San Francisco, California, this 25th day of June, 1930.

C. C. Scamier
James W. [unclear]
Leon [unclear]
Paul [unclear]

Commissioners.