

Decision No. 25207

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of CHARLES E. McCARTNEY for a certificate of public convenience and necessity, authorizing him to exercise rights and privileges under a franchise which he contemplates securing from the City of Indio, and also authorizing him to construct and operate a plant and distributing system in said City of Indio for the purpose of supplying gas to the public, for heating and for domestic and other uses and purposes for which gas is now or may hereafter be used.

**ORIGINAL**

APPLICATION NO. 18375.

Jess E. Stephens, for Applicant.  
Wallace P. Rouse, for City of Indio.  
Edward S. Douglass, for Southeastern  
Service Corporation.

BY THE COMMISSION:

O P I N I O N

In this application Charles E. McCartney asks the Railroad Commission to make its order declaring that public convenience and necessity require and will require the exercise by applicant of the rights and privileges of a franchise about to be secured from the City of Indio, Riverside County, authorizing applicant to construct, maintain and operate a gas plant and distribution system within said city of Indio, and authorizing the sale and transfer of said plant, distribution system and franchise to Southeastern Service Corporation.

A public hearing before Examiner Kennedy was held September 13, 1932, in the city of Los Angeles, at which time testimony was introduced and the matter submitted for decision.

The record in this proceeding shows that the City of Indio heretofore entered into a contract with applicant's predecessor in interest, George Watson, pursuant to which agreement said George Watson constructed a gas vaporization plant and laid the necessary mains and pipe lines to supply petroleum gas to the inhabitants of the city of Indio; that said contract provided that such plant and distribution system should immediately be turned over to the City of Indio to be operated by it under an agreement for the purchase thereof; that said city took possession of the plant and distribution system and operated same for a number of months under the agreement and subsequently operated same under an agreement of lease executed with said George Watson and which was substituted for said above referred to contract; that applicant thereafter succeeded to all the right, title and interest of said George Watson in and to said plant, distribution system and contract; that the City of Indio and applicant have come to an agreement by which said contract is to be cancelled and applicant to become in full control and ownership of the plant and distribution system, and to operate same pursuant to the petitioned franchise hereinabove referred to; that pending the formal execution of said agreement and formal issuance of said franchise, the City of Indio has requested applicant to take over the operation and maintenance of said plant and distribution system, and that pursuant thereto, applicant is now operating the same.

It is also of record that applicant has entered into an agreement for the sale of said plant and distribution system to a corporation just formed by one C. W. Soderstrom, the said corpor-

ation being the Southeastern Service Corporation.

It appears that applicant's principal interest is in the production and sale of liquid gas by Petrolane, Ltd., a corporation located at Long Beach, California, and that applicant, as a part of the consideration involved in the proposed sale, will through said Petrolane, Ltd., enter into a contract with Southeastern Service Corporation whereby the former will supply to the latter all of the gas necessary to meet its needs for a period of five (5) years, at a price of 1.28 cents per pound, f. o. b. Long Beach, California. The total consideration involved in the transfer is \$6,000 and the terms of sale are described in Exhibit "C" attached to and made a part of the application herein.

Applicant alleges that sixty-eight (68) consumers in the city of Indio are now being served with gas and contemplates the securing of one hundred (100) additional consumers within the immediate future. Applicant also contemplates extending gas mains to the town of Coachella, some three miles south of the city of Indio, and supplying gas to the inhabitants thereof upon securing the necessary franchise rights and authority so to do.

The following rate for supplying this gas service is proposed by applicant:

First	25 lbs. per meter per month,	6¢ per lb.
Next	100 lbs. per meter per month,	5¢ per lb.
Next	400 lbs. per meter per month,	4¢ per lb.
All over	525 lbs. per meter per month,	3¢ per lb.
<u>Minimum Charge.</u>	per meter per month,	\$1.50.

The testimony shows that there is no other public utility rendering gas service in the city of Indio and no one appeared in opposition to the granting of the application herein.

It is apparent from the testimony and evidence introduced in this proceeding that public convenience and necessity require and will require the exercise by applicant of the rights and privileges of the franchise petitioned from the City of Indio, and the construction, operation and maintenance of a gas plant and distribution system for the supplying of gas service to the inhabitants of the city of Indio. It also appears from the record that Southeastern Service Corporation is competent and financially able to take over and carry out the operations of applicant in the supplying and distribution of gas to the residents of the city of Indio, and that the sale and transfer by applicant to said Southeastern Service Corporation of the property should be authorized. We are of the opinion, therefore, that the application should be granted. However, the granting of this application as herein provided does not authorize said Southeastern Service Corporation to issue any stock or evidences of indebtedness.

O R D E R

The Commission having been asked to enter its order as indicated in the foregoing opinion and having considered applicant's requests and the testimony in support thereof, and being of the opinion that such requests should be granted as herein provided; therefore,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY CERTIFIES AND DECLARES that public convenience and necessity require and will require the exercise by Charles E. McCartney

of the franchise rights petitioned from the City of Indio as described in the application herein and delineated by map in Exhibit "A" attached to and made a part of the application, and the construction, operation and maintenance of a gas plant and distribution system for the supply and sale of liquefied petroleum gas to the inhabitants of the city of Indio;

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY CERTIFIES AND DECLARES that public convenience and necessity require and will require that Charles E. McCartney construct, operate and maintain such gas plant and distribution system in the above named community;

IT IS HEREBY ORDERED that Charles E. McCartney be and he is hereby authorized to sell and transfer the above mentioned property to Southeastern Service Corporation, which may acquire, maintain and operate said properties.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the following conditions:

- (1) The authority herein granted to exercise rights and privileges obtained under a franchise from the City of Indio will become effective when said Charles E. McCartney has filed with this Commission a certified copy of said franchise, and a stipulation, executed by himself, wherein he agrees for himself, his successors and assigns, that he will never claim before the Railroad Commission, or any other public authority, a value for such franchise in excess of the actual cost thereof, which cost shall be set forth in the stipulation.
- (2) That Charles E. McCartney shall file with this Commission, as soon as possible, copies of all contract agreements under which applicant will receive or purchase the liquid gas that he proposes to use in this service.
- (3) That Charles E. McCartney shall file with this Commission, as soon as possible, a certified copy of the agreement between himself and the City of Indio, as referred to in the application herein, duly executed by himself and authorized officials of the City of Indio, in-

dicating the cancellation of all previous contracts between the City of Indio and himself and his predecessors in interest, pertaining to the control and ownership of the said gas plant and distributing system in the City of Indio, and indicating that Charles E. McCartney is in full control and ownership of said gas plant and distribution system.

- (4) That Charles E. McCartney shall file with this Commission and apply to all billing for gas in the community covered by this order, the following initial rate for general domestic and commercial gas service:

RATE:

First	25 lbs. per meter per month,	6¢ per lb.
Next	100 lbs. per meter per month,	5¢ per lb.
Next	400 lbs. per meter per month,	4¢ per lb.
All over	525 lbs. per meter per month,	3¢ per lb.

Minimum Charge per meter per month, \$1.50.

- (5) That the authority herein granted shall only apply within the incorporated limits of the city of Indio, as fully described and delineated by map in Exhibit "A" attached to and made a part of this application; provided, however, that the Railroad Commission may hereafter, by appropriate proceedings and orders, revoke or limit as to territory not then served by Charles E. McCartney, his successors or assigns, the authority herein granted.
- (6) That Charles E. McCartney and Southeastern Service Corporation shall file a statement with this Commission on or before November 1, 1932, indicating the terms and conditions under which the sale and transfer of the property has been made.
- (7) That upon filing of the franchise, stipulation and contract agreements referred to in Conditions (1), (2) and (3) above, in satisfactory form, the Commission will issue its supplemental order authorizing the exercise by applicant of the rights and privileges granted to him under his franchise.

The effective date of this order, except as otherwise specifically provided, shall be from and after the date hereof.

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 26<sup>th</sup> day of September 1932.

A. L. Stearns  
Leon Whitely  
W. J. Am  
M. B. Ross  
Fred G. Cleveland  
COMMISSIONERS.