

Decision No. 11184

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application
of SOUTHERN COUNTIES GAS COMPANY
for a certificate that public con-
venience and necessity require the
exercise of rights and privileges
under franchise which applicant
has secured by Ordinance No. 574
from the County of Los Angeles.

ORIGINAL
Application No. 8101

A. F. Bridge, for Applicant.

Thomas J. Reynolds &
A. B. Macbeth, for Southern California Gas Co.

BRUNDIGE, COMMISSIONER:

O P I N I O N

This is an application by Southern Counties Gas Company of California for an order declaring that public convenience and necessity require the exercise by it of the rights and privileges granted by Ordinance No. 574 (New Series) of the County of Los Angeles. A hearing was held in Los Angeles on August 7, 1922, at which time evidence was submitted and the matter taken under submission.

Applicant was granted by the Board of Supervisors of Los Angeles County a franchise under Ordinance No. 408 (New Series) for the installation, maintenance and operation of gas lines in a certain portion of the eastern part of Los Angeles County adjacent to the town of Whittier. This franchise was limited to a period of three years in which construction work was to be completed.

Application was made to the Railroad Commission, and by Decision No. 2869, Opinions and Orders of the Railroad Commission, Volume 8, Page 358, a limited certificate of public convenience and necessity was granted, authorizing the installation of only two specific lines.

Subsequent to the expiration of the three year construction period of Ordinance No. 408 (New Series), Applicant obtained from the County of Los Angeles a new franchise with a forty year construction period, under Ordinance No. 574 (New Series) which covered the same territory as the previous franchise. Since that time Applicant has extended its gas distribution system in this district. It has failed, until this application was filed, to petition for a certificate of public convenience and necessity to exercise rights and privileges under this franchise.

The territory covered by Applicant's new franchise is also covered by a franchise and certificate held by Southern California Gas Company. This company has not attempted to serve the particular district involved, whereas Southern Counties Gas Company has been rendering service to consumers therein for some time. It does not appear proper that this Commission should grant a second certificate for service within the same territory without withdrawing or limiting the other; otherwise needless competition might occur. This situation would result unless the present certificate of Southern California Gas Company be in part rescinded, or unless other definite measures be taken which would fully avoid unnecessary duplication of facilities. There has previously been experienced certain controversies between the two utilities relative to serving a portion of this district, which indicate the

necessity of a definite understanding at this time. A mutual agreement was entered into, providing for a division of the territory whereby Southern California Gas Company agreed not to compete at this time in the territory in question.

Pursuant to suggestions on this matter made at the hearing, Southern California Gas Company and Southern Counties Gas Company have filed with the Commission a stipulation which provides for a division of service within the district, prevents improper competition and is, in fact, a voluntary waiver by Southern California Gas Company of a portion of its franchise rights which makes unnecessary further action in this regard by the Commission. Under the stipulation Southern California Gas Company retains rights for the collection and transmission of gas as distinguished from the distribution within the area relinquished to Southern Counties Gas Company, as shown on the map marked "Exhibit B" filed with and made a part of said stipulation. This area is wholly within the territory covered by Ordinance No. 574 (New Series). The stipulation filed provides as follows:

" IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

" 1. The Southern California Gas Company hereby consents to an issuance of an order by this Commission certifying and declaring that public convenience and necessity require the exercise by Southern Counties Gas Company of the right, privilege and franchise granted by said Ordinance No. 574 upon the two following conditions, however:

" (a) That in its said order this Commission shall declare that said Southern Counties Gas Company

shall never sell natural, artificial or mixed gas within the territory described in said Ordinance No. 574 and lying south of that certain green line described, drawn upon and appearing on the map which is attached hereto and marked Exhibit "B", but may lay and maintain pipe lines within said territory for the purpose of collecting and transmitting gas therein.

" (b) That each and all of its existing rights, privileges and franchises shall remain in full force and effect and that its right to exercise said rights, privileges and franchises, and each of them, shall in no way be prejudiced or affected, except as agreed to in paragraph two hereof.

" 2. The Southern California Gas Company hereby consents to the issuance of an order by this Commission to the effect that the Southern California Gas Company shall never sell natural, artificial or mixed gas under any or all of its existing franchises within the certain territory described in said Ordinance No. 574 lying north of said green line, described, drawn upon and appearing upon said map attached hereto and marked Exhibit "B", but may lay and maintain pipe lines within said territory for the purpose of collecting and transmitting gas therein."

This agreement upon the part of the two utilities sufficiently assures the prevention of future controversy relative to franchise rights of the two utilities, and satisfactorily provides for the service of gas for heat, light and power purposes now being rendered by Southern Counties Gas Company to inhabitants of the territory herein considered.

Subsequent to the hearing of this matter, the Board of Directors of Southern Counties Gas Company, by resolution dated October 20, 1922, duly stipulated that that company nor its successors nor assigns would ever claim before the Railroad Commission

or any court or other public body, a value for the rights and privileges granted in said franchise under Ordinance No. 574 (New Series) of the County of Los Angeles in excess of the actual cost to Southern Counties Gas Company of acquiring said franchise, which cost is stated in said stipulation to be the sum of \$100.

I find as a fact that public convenience and necessity require the exercise by Southern Counties Gas Company of California of the rights and privileges of the franchise granted to it by Ordinance No. 574 (New Series) of the County of Los Angeles within the particular area hereinbefore described in above mentioned stipulation between the two companies.

I submit the following form of order.

O R D E R

Southern Counties Gas Company of California having applied to the Railroad Commission for a certificate declaring that public convenience and necessity require the exercise of the rights and privileges under a certain franchise of the County of Los Angeles as provided by Ordinance No. 574 (New Series), a hearing having been held, copies of said franchise and stipulations as to its claim for value thereof and further stipulation relative to division of territory with Southern California Gas Company having been duly filed in form satisfactory to the Commission,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require and will require the exercise by Southern Counties Gas Company of California of the rights and privileges under Ordinance No. 574 (New Series) of the County of Los Angeles, except as follows:

Southern Counties Gas Company of California shall not distribute or sell natural, artificial or mixed gas within the territory described in said Ordinance No. 574 (New Series) and lying south of that certain green line described, drawn upon and appearing on the map marked Exhibit "B" attached to and made a part of a certain stipulation and agreement between Southern California Gas Company and Southern Counties Gas Company dated September 6, 1922 and filed in this proceeding, but may lay and maintain pipe lines within said territory for purposes of collecting and transmitting gas.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 31st day of October, 1922.

H. B. Brundage
Erving Martin
Charles H. Towner
J. F. Benedict

Commissioners.