

ORIGINAL

BEFORE THE RAILROAD COMMISSION  
OF THE STATE OF CALIFORNIA.

Decision No. 1352

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In the Matter of the Application of  
SOUTHERN CALIFORNIA GAS COMPANY for  
a certificate of public convenience  
and necessity and authorization to  
exercise rights and privileges under  
a franchise heretofore granted to it  
by the Board of Supervisors of the  
County of Los Angeles.

Application No. 921.

O'Melveny, Stevens & Millikin and Sayre Macneil for applicant.  
A. J. Hill for Board of Supervisors of Los Angeles County.  
Albert Lee Stephens and Howard Robertson for City of  
Los Angeles.

ESHELMAN, Commissioner.

O P I N I O N .

This is an application on the part of the Southern California Gas Company for a certificate of public convenience and necessity and authority to exercise rights and privileges under a franchise granted by the Board of Supervisors of the County of Los Angeles in Ordinance No. 330, new series, adopted and approved July 28, 1913. This franchise grants to the applicant the right to lay, construct, maintain and operate a system of gas pipes and pipe lines under and along any of the public highways within the territory situate in the County of Los Angeles, described as follows:

Beginning on the line between Los Angeles and Orange Counties at the southwest corner of Township 2 South, Range 10 West; thence north along the west line of Township 2 South, range 10 West to the intersection with the southerly right-of-way line of the San Pedro, Los Angeles and Salt Lake Railroad; thence easterly following said southerly right-of-way line of San Pedro, Los Angeles and Salt Lake Railroad to its intersection with the north line of Township 2 South, Range 9 West; thence east along the north line of Township 2 South, Range 9 West to the west city limits of the City of Pomona; thence southerly and easterly along the city limits of the City of Pomona to the line between San Bernardino and Los Angeles Counties; thence southerly and westerly along line between San Bernardino and Los Angeles counties to the north line of Orange County; thence west along the line between Orange and Los Angeles counties to the point of beginning.

The ordinance here involved is in the usual form and unobjectionable, except as regards Sections 4 and 5 thereof, which read as follows:

Section 4. "That all the pipes and pipe lines to be laid and maintained under this franchise shall be of good material and workmanship and of sufficient size to supply all persons residing along the line of the said pipes or pipe lines with an adequate supply of gas for domestic or manufacturing purposes, and that the gas to be furnished and distributed through said pipe lines shall be of good quality, free from injurious ingredients and of sufficient purity to be suitable for domestic or manufacturing use; and that the grantee of the said franchise shall, upon request from any person residing, or having a place of business upon property abutting upon any street or highway along which a pipe line, under the provisions of this franchise, shall be constructed, and upon the payment of the grantee's reasonable charges for making the connection and for furnishing gas, furnish to such person an adequate supply of gas for domestic or manufacturing use."

Section 5. "That the Board of Supervisors of the County of Los Angeles shall have the right to regulate and fix the charges of said grantee, its successors or assigns, for gas furnished or distributed through said pipes or pipe lines and for the making of connections to said pipes or pipe lines when not otherwise provided by law, provided the rates so fixed shall be reasonable."

The language in Section 5, concerning the fixing of rates, is inoperative, of course, because the Railroad Commission of the State of California has that power in the territory here involved; but Section 4 and the language in Section 5 referring to service connections I find particularly objectionable. Under the terms of this section the applicant might well urge that it was relieved from the necessity of extending its facilities to consumers other than those residing upon the property abutting upon the highways involved, and that it was not obligated to make any extensions except on the payment by the consumers of the cost of making such extensions and connections. This Commission should not approve a franchise having such effect, and in view of this fact it was suggested to the applicant and the Board of Supervisors of Los Angeles County that a stipulation be entered into which might be the basis of a condition in the order which would avoid the necessity of requiring a new franchise to be granted which will eliminate these

objectionable provisions. Such stipulation has been entered into in the following form:

It is hereby stipulated and agreed by Southern California Gas Company, a corporation, the applicant herein, that the condition in the franchise mentioned in its application herein, being a portion of Section 4 of Ordinance No. 330 (New Series) of the Board of Supervisors of Los Angeles County, being in words and figures as follows:

"That the grantee of the said franchise shall, upon request from any person residing, or having a place of business upon property abutting, upon any street or highway along which a pipe line, under the provisions of this franchise, shall be constructed, and upon the payment of the grantee's reasonable charges for making the connection and for furnishing gas, furnish to such person an adequate supply of gas for domestic or manufacturing use", shall not be construed, nor shall any part thereof be construed, by or on behalf of said applicant, as limiting in any way the lawful power of the Railroad Commission of the State of California, at any time, to make and enforce, as fully and effectually as though said condition had not been inserted in said franchise, any order concerning or affecting the making by said applicant of extensions, or of service connections, or the payment of the cost of making any of the same or concerning or affecting the persons for whose benefit the extensions or connections shall be made; and the said applicant hereby stipulates and agrees for and on behalf of itself, its successors and assigns, that neither it, nor its successors or assigns, shall at any time interpose said condition above mentioned or any part thereof, as a defense or objection to the lawful order of said Railroad Commission as to any of the matters above enumerated.

Said applicant does not hereby waive any right to object to, or to resist, the making or enforcing of any order of said Commission upon any ground, or for any reason, other than as herein expressly set forth.

Applicant further stipulates that the substance and effect of this stipulation may be inserted as a condition or proviso in any order of the said Commission which may be made, granting to said applicant the certificate applied for in this matter.

WITNESS the corporate name and seal of said applicant, signed and affixed by its officers thereunto duly authorized.  
SOUTHERN CALIFORNIA GAS COMPANY,  
By W. C. Balch, Vice Pres.  
(CORPORATE SEAL) By L. M. Farnham, Secy.

Dated January 31st, 1914.

O'Melveny, Stevens & Millikin  
Sayre Macneil  
Attorneys for said applicant.

The foregoing stipulation is hereby approved.

A. J. Hill.  
Attorney for the County of Los Angeles.

On the basis of this stipulation, and treating it as a condition in the order upon which the affirmative action of this Commission is based, I recommend that the application be granted, as the section involved is in need of gas and is not served by any other utility of like character.

I recommend the following order:

O R D E R .

SOUTHERN CALIFORNIA GAS COMPANY having applied to this Commission for a certificate of public convenience and necessity to operate in certain territory in the County of Los Angeles, not now served by any other utility of like character, and to exercise rights and privileges under a franchise heretofore granted to it by the Board of Supervisors of the County of Los Angeles; and a hearing having been held and being fully apprised in the premises,

THE COMMISSION HEREBY FINDS AS A FACT that the present and future public convenience and necessity require and will require the construction, maintenance and operation of a system of gas pipes and pipe lines under and along the public highways within the County of Los Angeles, as described in the opinion hereto, and the exercise of rights and privileges granted to the applicant by the Board of Supervisors of the County of Los Angeles in Ordinance No. 330 (New Series), subject to the conditions imposed in this order, and not otherwise.

And basing this order on the foregoing findings of fact,

IT IS HEREBY ORDERED that permission is granted to the Southern California Gas Company to lay, construct, maintain and operate a system of gas pipes and pipe lines under and along the public highways within the territory described in the opinion hereto, in the County of Los Angeles, and to exercise rights and privileges granted to it under the provisions of Ordinance No. 330 (New Series) of the Board of Supervisors of Los Angeles County, on the following conditions and not otherwise:

The language set out in the stipulation in the opinion hereto and hereby referred to for particulars, shall not be construed, nor shall any part thereof be construed, by or on behalf of the applicant herein or the Board of Supervisors of Los Angeles County, as limiting in any way the lawful power of the Railroad Commission of the State of California at any time to make and enforce, as fully and effectually as though said condition had not been inserted in said franchise, any order concerning or affecting the making by said applicant of extensions or of service connections or the payment of the cost of making any of the same, or concerning or affecting the persons for whose benefit the extensions or connections shall be made.

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 17th day of March, 1914.

John W. Eckelman  
W. H. ...  
...  
Man ...  
Edwin O. Edgerton  
Commissioners.