

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
C. S. S. Forney, for an order pre-
liminary under Section 50 of the
Public Utilities Act, that an order
will hereafter issue, finding that
public convenience and necessity re-
quire the exercise of such right or
privilege to furnish the inhabitants
of Newman, Stanislaus, California,
with gas for light, heat and power,
as may hereafter be obtained by
C. S. S. Forney or by a corporation
to be formed by C. S. S. Forney.

Application No. 1681.

A. McDonald, for Newman Gas Company;

C. S. S. Forney, in propria persona;
Bradley V. Sargent, Henry W. Burkhart,
for C. S. S. Forney.

GORDON, Commissioner.

OPINION

This is an application by C. S. S. Forney for an order, under Section 50, Public Utilities Act, preliminary to the issue of a certificate that public convenience and necessity require the exercise by him of such rights and privilege as petitioner may hereafter obtain for the furnishing of gas to the inhabitants of the Town of Newman.

It appears that some five years ago a gas plant was established in the Town of Newman, Stanislaus County, by one A. B. McDonald and associates, and that gas service was furnished to the inhabitants of that community for some sixteen months. Some time prior to the passage by Legislature of the Public Utilities Act, and following an accident at the plant and the injury of one of its owners, the plant was shut down and service discontinued. Since the discontinuance of the supply of gas, as above related, no attempt has apparently been made either to give service or to maintain the plant.

The original cost of the plant and distribution system at Newman cannot be ascertained, but Mr. A. B. McDonald, the present owner, testified that it may have been between \$16,000.00 and \$17,000.00. It appears from the evidence that a large portion of the pipe originally laid was secondhand, and that, in all probability, a considerable portion, at least, of the distribution system would have to be reconstructed before it could be again used. The present plant equipment appears to be useless, and it would be necessary to install entirely new equipment.

Applicant alleges that he has an option to purchase the present physical gas properties, not including real estate, from McDonald for \$2,500.00 cash, and proposes to install a new and modern plant and rehabilitate the distribution system at an expense, roughly estimated, as between \$12,000.00 and \$15,000.00.

Petitioner has neither secured nor applied for

a franchise in the Town of Newman, has made no adequate examination of the present gas properties, and apparently he has conducted no investigation to determine the amount of business available. Notwithstanding what appears to be an almost total lack of knowledge concerning the present property, and with indefinite plans for future development, petitioner asks that the Commission issue its preliminary order merely upon the showing that he has secured an option to purchase the existing properties presumably owned by Mr. McDonald, and that he or his associates or successors may, at some future time, apply for a franchise to serve the Town of Newman.

Under the circumstances, and considering the matter in the light of the evidence introduced at the hearing, it is perfectly obvious that the Commission could make no other order than to dismiss the application. However, in order to be perfectly fair to petitioner, and although he requested only four days, he was allowed two weeks in which to prepare and submit to the Commission a statement giving the following information:

First. - An estimate of the cost to rehabilitate and reconstruct the present distribution system and install new equipment.

Second. - An estimate of the probable number of consumers to be supplied with gas and the rate proposed to be charged.

Third. - A plan for financing.

At the expiration of the two weeks allowed for furnishing the additional information desired, no statement had

been filed by petitioner, nor had any request been made by him for an extension of time. Notwithstanding the fact that petitioner's failure to comply with the Commission's request could have reasonably and properly been considered ample justification for dismissing the application forthwith, the Commission, desiring to give every opportunity to supply the necessary information, directed a communication to petitioner under date of June 29th, 1915, asking when the information previously requested would be supplied. No reply was received to the communication above mentioned until July 15th, when a letter was received to the effect that the information requested would "probably" be forwarded during the next thirty days.

Inasmuch as petitioner's evasive statement as to the probable time required to comply with the requests heretofore made is not at all satisfactory, and in view of the fact that there has been submitted to the Commission absolutely nothing upon which to base an order such as that covered by the application, I recommend that the application be dismissed, and I submit the following form of order:

O R D E R

A public hearing having been held in the above entitled proceeding, and the same having been submitted and being now ready for decision

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby dismissed without prejudice.

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, the 19th
day of July, 1915.

H. J. Leonard
W. G. Gordon
Edwin C. Edgerton
Frank R. Decker

COMMISSIONERS.