

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of A. A. Weber for a certificate that public convenience and necessity require the exercise of franchise rights, applied for to the City of Dinuba.	} } } } }	Application No. 363
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Edwards and Smith for the City of Dinuba.

A. A. Weber for himself.

EDGERTON, COMMISSIONER.

O P I N I O N

This is an application that public convenience and necessity require the construction of a gas plant and distributing system, and that public convenience and necessity require the exercise of rights and privileges under a franchise applied for to the City of Dinuba by applicant, but not yet granted, and for an order authorizing applicant to mortgage said gas plant and distributing system.

Under a misapprehension as to the law, applicant without the consent of this Commission has proceeded to build a gas generating plant and install a distributing system in the City of Dinuba, so that at the present time, the entire plant is very nearly completed. However, upon being informed of the law, applicant promptly applied to this Commission for appropriate action, and I, therefore, recommend that no proceedings be taken by this Commission against applicant for his failure to comply with the law.

Dinuba is a town of between 1800 and 2000 population, and it is estimated that there will be 400 gas consumers immediately upon the completion of this plant. The plant, it is testified to, is capable of providing service for three or

four times this number of consumers, so that any reasonable increase in the number of consumers within four or five years can be supplied.

No franchise has been granted by the city, because the city authorities were under the impression that it would be first necessary to gain this Commission's consent. However, the City Trustees appeared at the hearing and declared that they were ready and willing to advertise a franchise for sale at the earliest possible moment.

It is insisted by the city, with the consent of applicant, that any franchise which may be granted shall contain two important provisions, one fixing a maximum rate of \$1.25 per thousand cubic feet, and the other that the city shall have the right at any time within three years from the date of the sale of the franchise, to purchase the plant for \$25,000, plus the cost of extensions, etc.

There is no gas now being produced or supplied in the town of Dinuba, and the community is very much in need of such service.

The mortgage asked to be authorized, has already been executed, is dated the 9th day of January, 1913, and is made by A. A. Weber, mortgagor, to W. B. Nichols and others, mortgagees. This mortgage is on a part of the plant of applicant, and it secures a promissory note for the principal sum of \$5,500, payable on or before January 8, 1914, with interest at 8 per cent per annum.

The money obtained through the execution of this note and mortgage was used in the building of the plant and is the only obligation outstanding against it.

No form of franchise has been prepared, and I recommend that this application be granted with the condition

that it become effective only upon the approval by the Commission of a franchise granted to applicant for the construction of said gas plant and distributing system in the City of Dinuba.

I submit herewith the following form of order:

O R D E R

Application having been made to the Railroad Commission of the State of California by A. A. Weber, for a certificate that public convenience and necessity require the construction of a gas plant and distributing system in the City of Dinuba, California, and for a certificate that public convenience and necessity require the exercise of rights and privileges under a franchise from said City of Dinuba, which said franchise has been applied for, but has not yet been granted, and for an order authorizing applicant to mortgage his said gas plant and distributing system in the City of Dinuba,

And a hearing having been duly held and it appearing to the Commission and it is hereby found as a fact that public convenience and necessity require the construction of a gas plant and distributing system in the City of Dinuba, California, and that public convenience and necessity require the exercise of rights and privileges under a franchise applied for but not yet granted by the City of Dinuba for the construction and operation of said gas plant and distributing system in said city, and that the mortgaging of said gas plant and distributing system is proper,

IT IS HEREBY ORDERED by the Railroad Commission of the State of California,

1. That public convenience and necessity require the construction of a gas plant and distributing system by A. A. Weber in the City of Dinuba, California.

2. That public convenience and necessity require the

exercise of rights and privileges under a franchise now applied for, but not yet granted by said City of Dinuba.

3. That A. A. Weber is hereby authorized to mortgage the said gas plant and distributing system for the principal sum of \$5,500 with interest at 8 per cent per annum thereon, said mortgage to be in form and substance as set out in a copy of said mortgage attached to the application herein.

Provided, that as a condition precedent to the effectiveness of this order there shall be submitted for the approval of the Commission a franchise granted by the City of Dinuba to applicant to construct and operate a gas plant and distributing system in said city.

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 7th day of April, 1913.

John M. Eschleman
H. D. ...
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Max ...

Commissioners.