

LEM

Decision No. 29567

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
LOS ANGELES GAS AND ELECTRIC CORPORA-
TION and SOUTHERN CALIFORNIA GAS COM-
PANY for authority to merge under the
provisions of Section 361 of the Civil
Code of California, and, in connection
therewith, for authority to Southern
California Gas Company to issue and
exchange stock, and for a certificate
of public convenience and necessity to
exercise certain franchise rights.

ORIGINAL

Application No. 21079

2. LeRoy M. Edwards and J. T. Reynolds, for applicants.
Ray L. Chesebro, City Attorney, and Wm. J. Carr,
Public Utilities Counsel, for the City of
Los Angeles, interested party.
Leonard A. Diether, Special Counsel, City of Pasadena,
interested party.
Harold P. Euls, City Attorney, City of Pasadena,
interested party.
S. M. Lanham, for the Board of Public Utilities and
Transportation of the City of Los Angeles,
interested party.
Bart F. Wade, for F. H. Asbury, stockholder in both
companies.

BY THE COMMISSION:

OPINION

In this application the Railroad Commission is asked to make
an order authorizing:

- (a) The merger of Los Angeles Gas and Electric Corporation and
Southern California Gas Company into Southern California
Gas Company, under the provisions of Section 361 of the
Civil Code of the State of California, upon the terms and
conditions set forth in the proposed merger agreement
filed as Amended Exhibit D;
- (b) Southern California Gas Company to issue its Preferred
Stock, Series A, and its Common Stock in the amounts and
for the purposes set forth in said proposed merger agree-
ment, filed as Amended Exhibit D.

The Railroad Commission is also asked to make an order cer-
tifying that public convenience and necessity require the exercise of
all rights and privileges under all franchises and permits of the

Los Angeles Gas and Electric Corporation to which the Southern California Gas Company shall succeed as the surviving corporation under the merger provided for in amended Exhibit D.

The Los Angeles Gas and Electric Corporation and the Southern California Gas Company are through stock ownership controlled by Pacific Lighting Corporation.

Pursuant to the authority granted by Decision No. 29438 dated January 6, 1937 in Application No. 20933 Los Angeles Gas and Electric Corporation sold all of its electric properties to The City of Los Angeles through the Department of Water and Power of said The City of Los Angeles. The company is now engaged as a public utility in the transmission, delivery and sale of gas to its consumers within The City of Los Angeles and other incorporated and unincorporated communities in Los Angeles County.

Southern California Gas Company, hereinafter sometimes referred to as the Surviving Corporation is engaged as a public utility in the transmission, sale and delivery of gas to its consumers within the City of Los Angeles and to consumers within incorporated and unincorporated territory within the counties of Los Angeles, San Bernardino, Riverside, Kern, Tulare, Fresno and Kings. It has also pipe lines and other facilities for the collection and transportation of gas within the County of Ventura.

Applicant's petition shows Los Angeles Gas and Electric Corporation has authorized 300,000 shares of 6% preferred capital stock of the par value of \$100. each, of which 190,191 shares are issued and outstanding and 4,992 are treasury shares, and has authorized 300,000 shares of common capital stock of the par value of \$100. each, of which there are issued and outstanding 200,000 shares. The Southern California Gas Company has authorized 160,000 shares of preferred capital stock of the par value of \$25. each, of which there

are issued and outstanding 159,956 shares (\$3,998,900. par value); and has authorized 2,240,000 shares of preferred stock, Series A, of the par value of \$25. each, of which there are issued and outstanding 22,268 shares(\$556,700. par value); and has authorized 1,600,000 shares of common capital stock of the par value of \$25. each, of which there are issued and outstanding 352,000 shares (\$8,800,000. par value).

The articles of incorporation of Southern California Gas Company provide that the holders of both classes of preferred stock are entitled, without preference or distinction as between such two classes of stock, to receive a fixed yearly dividend of six percent (6%) before any dividend is paid on common stock. The dividends on both classes of preferred stock are cumulative and any deficiency shall be paid before any dividend is paid on common stock. In case of liquidation or dissolution, the holders of Preferred Stock and the holders of Preferred Stock, Series A, are entitled, without preference or distinction as between such two classes of stock, to be paid in full both the par value of their shares and the accrued dividend charge before any amount is paid to the holders of Common Stock. But on any such liquidation or dissolution, after the payment to the holders of Common Stock of its par value, no further distribution shall be made to the holders of Preferred Stock, Series A, and the remaining assets and funds shall be divided pro rata among the holders of Preferred Stock and the holders of Common Stock.

The merger agreement, amended Exhibit D, provides that each share of preferred stock of Los Angeles Gas and Electric Corporation, having a par value of \$100., shall become and be converted into four fully paid shares of preferred stock, Series A, of the Surviving Corporation, having a par value of \$25. each. Each share of common stock of Los Angeles Gas and Electric Corporation having a par value

of \$100., shall become and be converted into four fully paid shares of common stock of the Surviving Corporation, having a par value of \$25. each.

Upon the consummation of the merger the Surviving Corporation will have issued 159,956 shares of its preferred capital stock of the par value of \$25. each (\$3,998,900. par value); 803,000 shares of its preferred capital stock, Series A, of the par value of \$25. each (\$20,075,000. par value) and 1,152,000 shares of its common capital stock of the par value of \$25. each (\$28,800,000. par value).

The Los Angeles Gas and Electric Corporation has no funded debt. The funded debt of the Surviving Corporation now is and will be as follows:- \$12,500,000. of 4 $\frac{1}{2}$ % bonds due March 1, 1961 and \$15,000,000. of 4% bonds due August 1, 1965.

Mr. A. B. Macbeth, President of Southern California Gas Company, testified that savings in the operation of the two corporations would result from the proposed merger and that such merger would be a convenience to the consumers.

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No one appearing at the hearing objected to the granting of the application. Leonard A. Diether, special counsel for the City of Pasadena, requested applicants to stipulate that the Surviving Corporation will assume any obligation under the judgment in Case No. 375,061³ in the Superior Court of Los Angeles County which is an action of the City of Pasadena against the Los Angeles Gas and Electric Corporation, in the event the Supreme Court of the State of California affirms the judgment. LeRoy M. Edwards stated that under the law the Surviving Corporation will automatically do that and that the Surviving Corporation has no objection to making a stipulation that if and when any judgment becomes final in that case, the Surviving Corporation will respond to it. Paragraph 7 of Section 361 of the Civil Code of California reads-

"Upon the merger or consolidation, as provided herein, the separate existence of the constituent corporations shall cease, except that of the surviving corporation in case of merger, and the consolidated or surviving corporation shall succeed, without other transfer, to all the rights and property of each of the constituent corporations, and shall be subject to all the debts and liabilities of each, in the same manner as if the surviving or consolidated corporation had itself incurred them.

All rights of creditors and all liens upon the property of each of said former corporations shall be preserved unimpaired, limited in lien to the property affected by such liens immediately prior to the time of the consolidation or merger.

Any action or proceeding pending by or against any of such constituent corporations may be prosecuted to judgment, which shall bind the consolidated or the surviving corporation, or the consolidated or surviving corporation may be proceeded against or substituted in their place."

As said, the Commission is asked to make an order certifying that public convenience and necessity require the exercise of all rights and privileges under all franchises and permits of Los Angeles Gas and Electric Corporation to which the Southern California Gas Company shall succeed as the Surviving Corporation. Applicants have filed a list of the franchises owned by Los Angeles Gas and Electric Corporation. Such list is attached hereto as Exhibit A. The list also shows the numbers of the Commission's decisions granting Los Angeles Gas and Electric Corporation certificates of public convenience and necessity to exercise the rights granted by the several franchises. Inasmuch as the order herein will authorize the transfer of the certificates which the Commission has granted to Los Angeles Gas and Electric Corporation to Southern California Gas Company, we do not think it necessary to grant said Southern California Gas Company a new certificate of public convenience and necessity.

O R D E R

The Commission having been asked to enter its order, as indicated in the foregoing opinion, a public hearing having been held before Examiner Fankhauser and the Commission having considered applicant's requests and it being of the opinion that the issue of the stock referred to in the foregoing opinion is reasonably required for the purposes herein stated and that the expenditures for such purposes are not in whole or in part reasonably chargeable to

operating expenses or to income and that this application should be granted as herein provided, therefore,

IT IS HEREBY ORDERED that Los Angeles Gas and Electric Corporation and Southern California Gas Company be, and they hereby are authorized to execute a merger agreement in substantially the same form as the merger agreement filed in this proceeding as Amended Exhibit D for the purpose of merging said Los Angeles Gas and Electric Corporation and said Southern California Gas Company into Southern California Gas Company.

IT IS HEREBY FURTHER ORDERED that Southern California Gas Company may issue, for the purposes and on the basis stated in said merger agreement, not exceeding 780,732 shares of its 6% preferred stock, Series A, said shares having a par value of \$25. each, and not exceeding 800,000 shares of its common stock, said shares having a par value of \$25. each.

IT IS HEREBY FURTHER ORDERED that if, as and when said merger agreement becomes effective, Los Angeles Gas and Electric Corporation may transfer to Southern California Gas Company the certificates of public convenience and necessity granted by the Commission to said Los Angeles Gas and Electric Corporation in the decisions referred to in Exhibit A attached hereto.

IT IS HEREBY FURTHER ORDERED that within thirty(30) days after the said merger agreement becomes effective, Southern California Gas Company shall file with the Commission two certified copies of said merger agreement.

DATED at San Francisco, California, this 12th day of April, 1937.

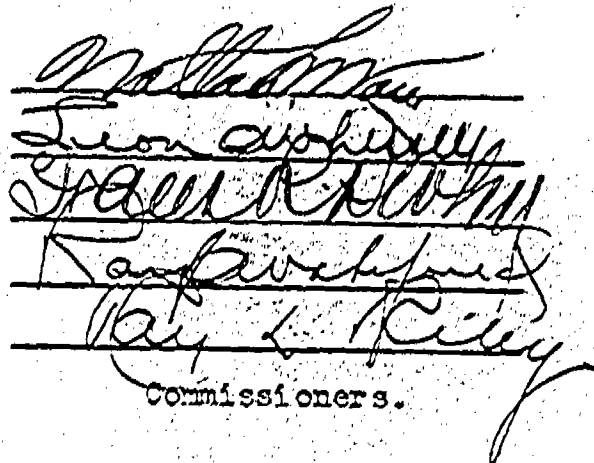

Commissioners.

EXHIBIT AMemorandum of Gas Franchises owned by Los Angeles
Gas and Electric Corporation.

<u>Grantor.</u>	<u>Ordinance No.</u>	<u>City or County Affected</u>	<u>Certificate of Public Convenience and Necessity. (Decision No.)</u>
Los Angeles County	319 (N.S.)	Los Angeles County	427
Los Angeles County	329 (N.S.)	Los Angeles County	1347
Los Angeles County	467 (N.S.)	Los Angeles County	4356 4450
City of Alhambra	1808	City of Alhambra	29235
Los Angeles County	319 (N.S.)	City of Bell	427
Los Angeles County	329 (N.S.)	City of Bell	1347
Los Angeles County	467 (N.S.)	City of Bell	4356 4450
Los Angeles County	467 (N.S.)	City of Beverly Hills	4356 4450
City of Compton	236	City of Compton	28218
Los Angeles County	467 (N.S.)	Culver City	4356 4450
Los Angeles County	329 (N.S.)	City of Hawthorne	1347
Los Angeles County	467 (N.S.)	City of Hawthorne	4356 4450
City of Huntington Park	326	City of Huntington Park	1362
Los Angeles County	319 (N.S.)	City of Huntington Park	427
Los Angeles County	467 (N.S.)	City of Huntington Park	4356 4450
City of Inglewood	607	City of Inglewood	28986
Los Angeles County	467 (N.S.)	City of Inglewood	4356 4450
City of Los Angeles	Article XXXIII (City Charter)	City of Los Angeles	(Application pending)
Los Angeles County	467 (N.S.)	City of Maywood	4356 4450
City of Montebello	160	City of Montebello	20310

Grantor	Ordinance No.	City or County Affected	Certificate of Public Convenience and Necessity (Decision No.)
City of Monterey Park	25	City of Monterey Park	4504 4592
City of Monterey Park	307	City of Monterey Park	28551
Los Angeles County	329 (N.S.)	City of Monterey Park	1347
Los Angeles County	467 (N.S.)	City of Monterey Park	4356 4450
City of San Gabriel	96	City of San Gabriel	3471 3549
Los Angeles County	319 (N.S.)	City of San Gabriel	427
Los Angeles County	467 (N.S.)	City of San Gabriel	4356 4450
City of San Marino	279	City of San Marino	28987
Los Angeles County	467 (N.S.)	City of San Marino	4356 4450
City of South Pasadena	792	City of South Pasadena	28797
Los Angeles County	467 (N.S.)	City of South Gate	4356 4450