

Decision No. 31890

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application
of SOUTHERN COUNTIES GAS COMPANY
OF CALIFORNIA, a corporation, for
a Certificate of Public Convenience
and Necessity under Section 50 of
the Public Utilities Act, for
Authority to Exercise the Franchise
acquired from the City of Anaheim
by Ordinance No. 624.

Application No. 22526.

Neal G. Lock, for Applicant.

Leo J. Friis, City Attorney, City of Anaheim.

BY THE COMMISSION:

O P I N I O N

Southern Counties Gas Company of California requests a certificate of public convenience and necessity under Section 50 (b) of the Public Utilities Act, authorizing the exercise of rights and privileges under the gas franchise granted to it by Ordinance No. 624 of the City Council of the City of Anaheim, adopted December 27, 1936, a copy of which is attached as Exhibit "A" to the application. Said franchise is for an indeterminate period, adopted pursuant to the Franchise Act of 1937.

A public hearing was held at Anaheim, California, on February 24, 1939, before Examiner Crenshaw, at which time the matter was submitted. No one appeared to protest the granting of the application.

According to the testimony introduced on behalf of the applicant, applicant is now and has been for many years prior

hereto, supplying gas to the City of Anaheim and inhabitants thereof pursuant to franchises granted to its predecessors, Home Gas Company and Orange County Gas Company, by Ordinance No. 167, dated January 10, 1905, and Ordinance No. 176, dated January 23, 1906, which Ordinances were for a term of fifty years. In addition to the above franchises, the Company claims that it has a Constitutional Franchise and in accepting the present franchise it reserves the rights granted to it under the Constitutional Franchise.

Applicant alleges that it is now and, with its predecessors, has been at all times since 1905 the only person, firm or corporation serving gas to the City of Anaheim, and its inhabitants.

The two franchises under which the Company has been operating were acquired through the purchase of the Home Gas Company and the Anaheim-Orange County Gas Company by the Southern Counties Gas Company in 1911 and 1913, respectively. These franchises contained clauses providing that the work of laying pipes thereunder should be completed within three years from the effective dates of the franchise ordinances. Such provisions raised a legal question as to whether the applicant is entitled to continue to lay pipe lines under said franchises after the expiration of said initial three-year period. In view of this condition applicant deemed it advisable to obtain a new franchise.

Applicant now renders gas service in substantially all parts of the City of Anaheim and no other utility renders like service therein.

It is clear from the evidence that present and future public convenience and necessity require and will require that applicant exercise the franchise granted to it by said Ordinance

No. 624 in order that it may continue to furnish gas to said city and to its inhabitants.

Applicant has stipulated that it, its successors or assigns will never claim before the Railroad Commission of the State of California, or any court or other public body, any value for the aforesaid franchise and the certificate of public convenience and necessity prayed for greater than the actual cost of the franchise which is \$63.12, exclusive of the \$50.00 fee for filing the present application.

O R D E R

IT IS FOUND AS A FACT that public convenience and necessity require, and Southern Counties Gas Company of California is hereby granted a certificate to exercise the rights and privileges granted to it by Ordinance No. 624 of the City of Anaheim.

This order shall be effective immediately.

Dated, San Francisco, California, April 4, 1939.

Robert W. ...
James P. ...
...
Justice J. Coeuer