

DECISION NO. 31975

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company for a Certificate that Public Convenience and Necessity Require the Exercise of Rights and Privileges Granted to it by Ordinance 581 of the City of Hermosa Beach.

Application No. 22633

L. T. Rice, for Applicant.

BY THE COMMISSION:

O P I N I O N

Southern California Gas Company 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. 581 of the City Council of the City of Hermosa Beach, adopted November 15, 1938, a copy of which is attached as Exhibit "B" to the application. Said franchise is for an indeterminate period, adopted pursuant to the Franchise Act of 1937.

A public hearing was held April 6, 1939, before Examiner Crenshaw, at Hermosa Beach, California, at which time the matter was submitted. No one appeared to protest the granting of the application.

According to the testimony and evidence introduced on behalf of the applicant, applicant is now, and has been for many years last past, distributing gas for light, heat and power purposes in the City of Hermosa Beach, pursuant to a claim of right under a constitutional franchise which was obtained through the acceptance of the offer thereof contained in Section 19 of Article XI of the California Constitution, as the same existed prior to its amendment on October 10, 1911. In view of recent court decisions concerning the extent of rights under such constitutional franchises, the applicant deemed it advisable to obtain a new franchise.

Under date of November 15, 1938, the City Council of the City of Hermosa Beach adopted Ordinance No. 581 granting applicant, pursuant to the provisions of the Franchise Act of 1937, the right, privilege and franchise to lay and use pipes and appurtenances for transmitting and distributing gas for any and all purposes under, along, across or upon the streets of said city for an indeterminate term or period from and after the effective date thereof. The total cost of obtaining this franchise is \$1601.75 which consists of \$1500.00 for the cost of the franchise, \$48.75 for advertising, \$3.00 for filing fee and \$50.00 fee for filing the present application.

Applicant now renders gas service in substantially all parts of the City of Hermosa Beach and according to the testimony, no other utility renders like service therein.

It is clear from the evidence that present and future convenience and necessity require that applicant exercise the

franchise granted to it by Ordinance No. 581 in order that it may continue to furnish gas to the inhabitants of the City of Hermosa Beach.

At the hearing, applicant stipulated, and has subsequently filed a resolution passed by its Board of Directors, dated April 11, 1939, that it, its successors or assigns will never claim before the Railroad Commission of the State of California, or any court or public body, any value for the aforesaid franchise and certificate of public convenience and necessity prayed for greater than the actual cost which is \$1551.75, 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 California Gas Company is hereby granted a certificate to exercise the rights and privileges granted to it by Ordinance No. 581 of the City of Hermosa Beach.

This Order shall be effective immediately.

Dated, Los Angeles, California, May 2, 1939.

Frank Wilson
Paul Riley
James J. Cooney
Commissioners.