

Decision No. 33904

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SAN DIEGO GAS & ELECTRIC COMPANY, a
corporation, for certificates of
public convenience and necessity au-
thorizing it to exercise franchise
rights granted by the City of
Oceanside.

Application No. 23729

Chickering & Gregory, by Walter C. Fox, Jr.,
for applicant.

Charles H. Hogerman, Mayor, City of Oceanside,
interested party.

CRAEMER, Commissioner:

O P I N I O N

San Diego Gas & Electric Company presents its application for a certificate to exercise two franchises recently granted by the City of Oceanside, County of San Diego, one such franchise covering the maintenance of facilities for the distribution of gas and the other for the distribution of electricity.

Both the gas and electric franchises are indeterminate in their duration. Each was granted under the Franchise Act of 1937, and is complementary to the right secured to applicant by virtue of Section 19 of Article XI of the Constitution as it read prior to its amendment in 1911. Annual fees are payable equivalent to 2 per cent of the total revenue derived from sales of gas and 3/4th per cent of the total revenue from the sales of electricity. It is represented that \$31.40 was paid to the City for the gas franchise, and \$1,537.30 for the electric franchise. Although

the larger sum paid may have been in part a compromise of the City's claim for use of its streets without compensation in past years, it is contemplated by the Franchise Act itself that a utility shall not be denied the right to claim a franchise value equal to any payment made to the city at the time of acquisition.

Applicant has been rendering both gas and electric services in Oceanside for many years. No other company renders like utility services within the City. It appears evident, therefore, that the requested certificate should be granted.

O R D E R

A public hearing having been had upon the above entitled application, the matter having been fully considered, and

It appearing, and being found as a fact that public convenience and necessity so require, IT IS HEREBY ORDERED that San Diego Gas & Electric Company be and hereby is granted a certificate to exercise the rights and privileges granted it by the City of Oceanside under Ordinances Nos. 434 and 435, provided that no claim of value for either of such franchises or the authority herein granted in excess of the actual cost thereof shall ever be made by grantee, its successors or assigns, before this Commission or before any court or other public body.

This Order shall become effective on the twentieth day after the date hereof.

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, San Francisco, California, this 14th day of
February, 1941.

[Handwritten Signature]

Ray L. Riley

Justus F. Coe

Commissioners

I dissent from the foregoing order for the general reasons stated in my dissent to Decision No. 33902 in Application 22432 (Pacific Gas and Electric Company for an order granting the right to exercise franchise granted by Ordinance No. 665 N.S. of the Council of the City of Alameda).

The observations therein regarding the cost of the franchise do not apply to ^{the} gas franchise involved in this matter since it was granted without cost other than what appears to be a reasonable annual payment. The \$1500.00 paid for the electric franchise considered herein appears to be excessive and no adequate explanation thereof was made at the hearing conducted on this application.

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I remain in the foregoing
dissent.

Francis R. Henderson

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