

Decision No. 40880

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA GAS COMPANY, a corporation, under Section 50(a) of the Public Utilities Act of the State of California, for a certificate that public convenience and necessity require the construction of certain pipeline extensions; and, under Section 50(b) of the Public Utilities Act of the State of California, for a certificate that public convenience and necessity require the exercise of the rights granted by Ordinance No. 21 of the City of Coachella.

ORIGINAL

Application No. 28711

T. J. Reynolds, L. T. Rice and Milford Springer
by Milford Springer for applicant. Earl Redwine
and H. L. Thompson for Indio Gas Company.

O P I N I O N

Southern California Gas Company requests: (1) a certificate of public convenience and necessity under Section 50(a) of the Public Utilities Act authorizing the construction of a pipe line commencing at a point on the Texas Pipeline near Indio and extending southward and westward to the City of Palm Springs for the purpose of augmenting the now inadequate supply of gas to that city and of introducing gas service into presently unserved communities located along the course of the proposed pipe line; (2) a certificate of public convenience and necessity under Section 50(b) of the Public Utilities Act authorizing the exercise of the rights and privileges granted to it by Ordinance No. 21 of the City of Coachella.

A public hearing on this application was held by Examiner Daly at which Indio Gas Company, a utility serving liquefied petroleum gas in the City of Indio, filed a written answer thereto and introduced oral testimony for the purpose of

protecting its rights in unincorporated areas contiguous to the city under a franchise which it contemplates securing from the County of Riverside.⁽¹⁾ No other opposition to the granting of this application was manifested.

Applicant is presently serving unincorporated areas in the western portion of Riverside County under a franchise (Ordinance No. 272 of the County of Riverside) obtained in August 1941, which franchise superseded a number of prior franchises under which applicant or its predecessors had previously operated.

A certificate of public convenience and necessity to exercise this franchise within such parts of the county as were then being served by applicant or might thereafter be served by it through extensions of its existing system made in the ordinary course of business as contemplated by Section 50(a) of the Public Utilities Act, was granted by Decision No. 34844, which certificate was subject, among others, to the following conditions:

1. That extensions of applicant's distribution lines in said County of Riverside may be made only in accordance with such applicable rule or rules as may be prescribed or approved by the Commission and in effect at the time covering such extensions, or in accordance with any general or special authority granted by the Commission.
2. That, except on further certificate of this Commission first obtained, applicant shall not exercise such franchise for the purpose of supplying gas within those parts or portions of said County now being served with gas by any other public utility.

The City of Indio is presently served by the Indio Gas Company, which supplies liquefied petroleum gas by means of a vaporizing plant and pipe line system under a certificate granted by Decision No. 25207 and Supplemental Decision No. 25753. The franchise underlying this certificate is one granted to Charles E. McCartney by the City of Indio by Ordinance No. 22, adopted October 3, 1932, and by him immediately transferred to Southeastern Service Corporation (later to become known as Indio Gas Company).

By the provisions of Decision No. 25207, the authority granted applied only within the corporate limits of the city as they existed at that time, no

(1) On October 24, 1947 Indio Gas Company filed Application No. 28816, seeking a preliminary order to exercise a franchise applied for but not granted by the County of Riverside.

provision being made for future annexations. The record shows that Indio Gas Company has extended its distribution system throughout the city and that it also has extended certain mains beyond the corporate limits of the city and is presently serving approximately 100 domestic consumers in subdivisions adjoining the city on the west and on the south. Indio Gas Company possesses no franchise from the County of Riverside permitting the use of the roads or streets in these suburban areas for this purpose and consequently no certificate from this Commission. Mr. Charles W. Soderstrom, Jr., president of the company, testified that in making these extensions he believed that his company's actions were in accord with the provisions of Section 50(a) of the Public Utilities Act relating to extensions into territory outside a city contiguous to a utility's system therein and not being served by a public utility of the same character. He also testified that it was his belief that under its franchise Indio Gas Company has the right to serve within the corporate limits of the city as they may be extended and that he understood that a movement was under way to extend the city limits well beyond the unincorporated fringe area into which service has been extended.

The record shows clearly that the gas requirements of the City of Palm Springs have increased rapidly during the last few years and that a sufficient supply for the coming winter season cannot be maintained with the single four-inch transmission main from Banning through which this supply is now obtained. Applicant, with sound operating judgment, wishes to utilize a different source of supply for this purpose, namely, the recently completed Texas Pipeline, and is confronted with the choice of installing approximately 15 miles of four-inch main paralleling the existing main, with no prospect of additional business, or of installing a six-inch tie line approximately 24 miles long from a point on the Texas Pipeline directly north of Indio with the prospect of a substantial amount of new business.

The latter method, which applicant proposes to follow, will not only insure the future needs of Palm Springs, but also will enable applicant to provide service to Cathedral City and other growing communities along the way, as well as

to the City of Coachella, which can be served by means of a four-inch branch main. The general course proposed for the six-inch main and that proposed for the branch main to Coachella is shown on the map contained in Exhibit No. 8. The record indicates that the cost of the six-inch main and the necessary branch mains and distribution lines will be justified by estimates of new business to be obtained. It further indicates that plans are under way, although no agreement has been entered into, whereby applicant will wholesale natural gas to Indio Gas Company for distribution to its consumers in lieu of liquid petroleum gas now being supplied. No consideration, however, was given to this additional revenue in these estimates.

A portion of the proposed course of the six-inch pipe line passes to the west of the City of Indio, following an irregular north and south line generally paralleling the city's western boundary at a distance of a few hundred feet, as shown more clearly in Exhibit No. 12. In so doing, it passes through an unincorporated area presently being served by Indio Gas Company, and accordingly, when the line is installed, will put applicant in a position to distribute natural gas in competition with Indio Gas Company in an area in which that utility has pioneered.

In order to lawfully introduce natural gas service into the City of Coachella, applicant has obtained from that city a franchise granted under the provisions of the Franchise Act of 1937. This franchise is of indeterminate duration and provides that the grantee thereof shall pay annually to the city a sum equivalent to two per cent of the gross annual receipts arising from the use, operation or possession thereof but in no event less than one per cent of the gross annual receipts derived from the sale of gas within the city.

The costs incurred by applicant in obtaining this franchise are stated to have been \$75.42.

The record also shows that the community of Desert Hot Springs is experiencing a rapid growth, and applicant asks authority to deviate from its filed extension rule and build an extension from the Texas Pipeline northward approximately four miles to this community and establish gas service therein, although the new business to be obtained immediately is not sufficient to fully justify the cost.

Applicant further asks that it be permitted to deviate from its filed extension rule by commencing construction of these projects before having obtained signed applications or contracts for service from prospective consumers.

The record in this matter leads to the conclusion that the requested authority, subject to certain limitations, should be granted. Indio Gas Company has extended liquefied petroleum gas service into a limited area outside the city limits of Indio at a time when applicant was unable to supply natural gas therein. The order herein will not authorize applicant to render service in the unincorporated area surrounding the City of Indio. Determination of the respective areas of service will be made after further hearing in this application and in Application No. 28816 of Indio Gas Company in which it asks for a preliminary order to exercise a county franchise.

The certificate of public convenience and necessity herein granted, in so far as it relates to the City of Coachella, shall be subject to the following provisions of law:

- (A) That the Commission shall have no power to authorize the capitalization of the franchise involved herein or this certificate of public convenience and necessity or the right to own, operate or enjoy such franchise or certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise, certificate of public convenience and necessity or right.
- (B) That the franchise involved herein shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the municipality therefor at the time of the acquisition thereof.

O R D E R

Applications as above entitled having been filed, a public hearing having been held thereon, the matter having been submitted, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS HEREBY ORDERED:

I. That a certificate of public convenience and necessity is hereby granted to Southern California Gas Company to install: (1) a six-inch pipe line extending from a point on the Texas Pipeline directly north of the City of Indio to the City of Palm Springs, (2) a branch pipe line therefrom to the City of Coachella, (3) a pipe line to the unincorporated community of Desert Hot Springs, and by means thereof supply natural gas to the City of Coachella, the unincorporated communities of Desert Hot Springs and Cathedral City and to other unincorporated areas along the route traversed;

II. That a certificate of public convenience and necessity is hereby granted to Southern California Gas Company to exercise the rights and privileges granted by the City of Coachella by Ordinance No. 21 adopted August 6, 1947;

III. That authority is hereby granted to Southern California Gas Company to deviate from its Rule and Regulation No. 20, Gas Main Extensions, and establish gas service in the unincorporated community of Desert Hot Springs although the revenue to be expected therefrom will not at first fully justify the cost of so doing;

IV. That authority is hereby granted to Southern California Gas Company to deviate from its Rule and Regulation No. 20, Gas Main Extensions, and commence construction of this line and related distribution facilities without first having obtained signed applications or contracts for service from prospective consumers; and

V. That Southern California Gas Company shall not make any connections ~~to its line nor undertake to distribute gas within the unincorporated area~~ surrounding the City of Indio unless so authorized by supplemental order herein.

This proceeding is hereby reopened for further hearing, said further hearing to be had in conjunction with the hearing on Application No. 28816 filed by Indio Gas Company.

Insofar as paragraphs I and V are concerned the effective date of this order shall be the date hereof. For all other purposes it shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this 4th day of
November, 1947.

Harold Kula
Justus P. Green
East Powell
R. E. Anderson

Commissioners