

Decision No. 42310

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
SOUTHERN CALIFORNIA EDISON COMPANY,  
a corporation, for Certificate that  
Public Convenience and Necessity  
requires that it exercise the rights  
and privileges granted it under fran-  
chise to construct and use an electric  
distribution and transmission system  
in the City of Tulare, County of Tulare,  
State of California in accordance with  
Franchise Ordinance No. 565 of said  
city.

ORIGINAL

Application No. 29694.

Bruce Renwick, Rollin E. Woodbury and  
Harry W. Sturges, Jr., by Harry W.  
Sturges, Jr., for applicant.

O P I N I O N

Southern California Edison Company has requested a certificate that public convenience and necessity requires that it exercise the rights and privileges conferred by Ordinance No. 565, adopted July 20, 1948, by the City of Tulare, granting a franchise to construct and use electric transmission and distribution facilities in the public streets of the city.

The application was unopposed and was submitted at a public hearing held at Tulare on November 30, 1948, before Examiner Gregory.

The franchise, granted in accordance with the terms of the Franchise Act of 1937, is of indeterminate duration. It provides for a fee, payable by the grantee to the City of Tulare, equivalent to two per cent of the gross annual receipts arising from its use, operation or possession, but not less than one-half per cent of the gross annual receipts derived by grantee from sales of electricity within

the limits of the city under the city franchise and the franchise held by applicant pursuant to Section 19 of Article XI of the California Constitution, as that section existed prior to its amendment on October 10, 1911. Applicant has incurred costs of \$298.50 in obtaining the franchise and has stipulated that it will not claim before the Commission, or any court or public body, any value for the franchise in excess of the original cost thereof.

Applicant and its predecessors have for many years rendered electric service in the City of Tulare without competition. The present ordinance repeals two previous fixed-term grants to applicant's predecessors and leaves Southern California Edison Company with its constitutional franchise and the franchise conferred by Ordinance No. 565. Possession of an indeterminate grant is deemed by applicant to be advantageous in qualifying its bonds as legal investments for savings banks and trust funds under various state laws which require, among other things, the possession either of indeterminate permits or of franchises extending beyond the due date of such issues.

We conclude that the requested certificate should be granted, subject, however, 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

Public hearing having been held in the above-entitled application, the matter having been submitted, the Commission being fully advised and hereby finding that public convenience and necessity so require,

IT IS ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Southern California Edison Company to exercise the rights and privileges conferred by Ordinance No. 565 of the City of Tulare, adopted July 20, 1948.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of December, 1948.

R. E. Indrany  
Justice F. Calves  
Donald R. Rance  
Harold P. Kula  
Raymond L. Pott  
Commissioners.