

Decision No. 42391

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 COAST COUNTIES GAS AND ELECTRIC COMPANY,
 a corporation, for a certificate under
 section 50(b) of the Public Utilities
 Act that public convenience and neces-
 sity require the exercise of a right,
 privilege and franchise to transmit and
 distribute gas for any and all purposes
 in the City of Brentwood.

Application No. 29554

W. E. Johns, for applicant; J. K. Horton
 of Pillsbury, Madison and Sutro, by
Noel Dyer.

O P I N I O N

Coast Counties Gas and Electric Company, by the above-entitled application requests a certificate of public convenience and necessity authorizing it to exercise the rights and privileges conferred by Ordinance No. 11, adopted March 29, 1948, by the City Council of the City of Brentwood, Contra Costa County. Said ordinance, a copy of which is marked Exhibit B and attached to this application, grants a franchise to construct, install, maintain and use gas transmission and distribution facilities in the public streets of the city. The franchise granted by said Ordinance was granted under and in accordance with the provisions of the Franchise Act of 1937.

The term of the franchise is indeterminate, running until its surrender or abandonment or forfeiture for noncompliance or purchase by the state, municipal or other public corporation either voluntarily or by condemnation. Under the ordinance, a fee is payable annually by the grantee to the city equivalent to 2% of the gross

annual receipts arising from the use, operation or possession of the franchise, but in no event less than 1% of the gross annual receipts derived by the grantee from the sale of gas within the limits of the City of Brentwood. The cost incurred by applicant in obtaining the franchise was stated to have been \$36.13. Applicant's witness, a director of the company, stated that it is agreeable to the company that this franchise shall never be given a value in any proceeding before the Public Utilities Commission in excess of that cost.

A hearing on this application was held before Examiner Knerr at which no opposition to the granting of the certificate was manifested. From the testimony received, it appears that no person, firm, public or private corporation other than Coast Counties Gas and Electric Company is now engaged in the business of furnishing, distributing, and selling gas in the recently incorporated City of Brentwood and that said company for many years has served the territory now comprising said city.

From the evidence of record, the Commission finds that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to Coast Counties Gas and Electric Company by Ordinance No. 11 of the City Council of the City of Brentwood.

The certificate of public convenience and necessity granted herein is 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 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 on the above-entitled application, the matter having been submitted, and the Commission being fully advised,

IT IS ORDERED that Coast Counties Gas and Electric Company be and it is hereby granted a certificate that public convenience and necessity require the exercise by it of the right, privilege and franchise granted to it by Ordinance No. 11, adopted March 29, 1948; by the City Council of the City of Brentwood, County of Contra Costa.

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

Dated at San Francisco, California, this 29th day of December, 1948.

R. E. [Signature]
Justice F. [Signature]
[Signature]

Commissioners: