

Decision No. 43041

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 of Public Convenience and Necessity to Exercise the Rights, Privileges, and Franchise Granted to Applicant by Ordinance No. 543 of the County of Orange, State of California, to Construct, Operate, Alter, Maintain and Use an Electric Distribution and Transmission System within said County.

ORIGINAL

Application No. 30208

Bruce Renwick, Rollin E. Woodbury and Harry W. Sturges, Jr., by Harry W. Sturges for applicant; H. G. Dillin for San Diego Gas & Electric Company.

O P I N I O N

Southern California Edison Company in this proceeding asks for a certificate of public convenience and necessity to exercise the rights and privileges conferred by Ordinance No. 543, adopted November 16, 1948, by the Board of Supervisors of the County of Orange, granting a franchise permitting the installation, maintenance and use of an electric distribution and transmission system upon the public streets of the county.

The franchise referred to, a copy of which is attached to the application and designated as Exhibit "A", was granted by the county in accordance with the Broughton Act and is for a term of fifty years. A fee is payable annually to the county equivalent to two per cent of the gross annual receipts arising from the use, operation or possession of the franchise within the County of Orange.

The costs incurred by applicant in obtaining the franchise are stated to have been \$699.10, which does not include the \$50 filing

fee and \$5.25 expense of publication of Notice of Hearing. The total cost of the franchise and certificate was stated to have been \$754.35.

Public hearings on this Application were held by Examiner Crenshaw on May 19 and June 14, 1949, respectively, at which no objection to the granting of the certificate was manifested.

Although the Southern California Edison Company has for many years served electricity in the major portion of Orange County, and the San Diego Gas & Electric Company serves electricity in a limited portion of the southeast part of Orange County, applicant does not intend to compete with the San Diego Gas & Electric Company in furnishing electricity in the territory now covered by limited franchises obtained from the County of Orange by the San Diego Gas & Electric Company.

The territory now being supplied by the San Diego Gas & Electric Company is in accordance with limited franchises granted by the County of Orange by Ordinances Nos. 144 and 279, adopted in 1917 and 1929, respectively. Certificates were granted by this Commission for the exercise of franchise rights granted by Ordinance No. 144 in Application No. 2827, Decision No. 4635, and by Ordinance No. 279 in Application No. 17516, Decision No. 24178. Since the above ordinances were limited to certain sections and townships, the certificate was also limited to the same territory.

Applicant, in Exhibit 1, presented in this proceeding a map showing a division of territory between the Southern California Edison Company and the San Diego Gas & Electric Company which was agreed to by both parties. At the present time the Southern California Edison Company has certain transmission lines in the territory of Orange County served by the San Diego Gas & Electric Company and wholesales electricity to the San Diego Gas & Electric Company.

In this proceeding applicant requests that the certificate of public convenience and necessity permitting it to exercise the

franchise right here sought to be certificated be broad enough to permit the installation, maintenance and use of an electric distribution and transmission system upon the streets in that portion of the County of Orange not served by the San Diego Gas & Electric Company and, in addition, that the certificate be broad enough to permit the installation, maintenance and operation of transmission lines through the portion of Orange County now served by the San Diego Gas & Electric Company.

The San Diego Gas & Electric Company, through its representative at the hearing, did not object to the Southern California Edison Company installing, maintaining and operating transmission lines within its territory, provided that no customers, other than the San Diego Gas & Electric Company, would be served from these lines by the Southern California Edison Company.

From the testimony received it appears that the only person, firm, or public or private corporation, other than Southern California Edison Company, now engaged in the business of furnishing, distributing, and selling electricity in Orange County, is the San Diego Gas & Electric Company.

The San Diego Gas & Electric Company purchases electricity from applicant and has for a number of years in the past distributed and sold electricity to customers in the southern portion of Orange County under certificates granted by this Commission.

It is the practice of the Commission, in granting a certificate of public convenience and necessity to exercise a franchise right, to condition such certificate against the exercise of the franchise for the purpose of rendering service in any area being supplied by other public or private agencies, except upon further certificate being first obtained from the Commission. It is believed appropriate to include such a condition for the exercise of the franchise granted by the County of Orange.

From the evidence of record, the Commission finds that public convenience and necessity require the exercise by Southern California Edison Company of the right, privilege and franchise granted to it by Ordinance No. 543 of the Board of Supervisors of Orange County, subject to appropriate restrictions concerning the territory now served by San Diego Gas & Electric Company, and to the following provisions of law:

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.

O R D E R

Public hearing having been held in the above-entitled and numbered application, the matter having been submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that Southern California Edison Company be and it is 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. 543, adopted November 16, 1948, by the Board of Supervisors of the County of Orange, within such parts or portions of said county as are now served by it or as hereafter may 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; provided, further, that this certificate shall be subject to the following conditions:

1. That, except upon further certificate of this Commission first obtained, applicant shall not exercise such franchise for the purpose of supplying electricity in these parts or portions of

said county now being served by the San Diego Gas & Electric Company, other than the installation, maintenance, and operation of facilities for the transmission of electric energy through the territory served by San Diego Gas & Electric Company, and the supplying of electricity to the San Diego Gas & Electric Company; and

2. That the Commission may hereafter, by appropriate proceeding and order, limit the authority herein granted to applicant as to any territory within said county not then being served by it.

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

Dated at San Francisco, California, this 28th day of June 1949.

R. Z. Duntzman
Justus F. Calceen
Joseph H. Lowell
Harold T. Kirk
Benjamin P. Potter
Commissioners.