

ORIGINAL

Decision No. 42350

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 necessity
 require the exercise of a right, privilege
 and franchise to transmit and distribute
 gas for any and all purposes in the City
 of Capitola, and the right, privilege and
 franchise to transmit and distribute
 electricity for any and all purposes in
 said City.

Application No. 30430

Bert B. Snyder, for applicant; Harlan P. Kessler,
Mayor, Eugene J. Adams, City Attorney, and
Guy R. Bigbee, City Clerk, for the City of Capitola.

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. 20, adopted April 25, 1949, by the City Council of the City of Capitola, granting a franchise to construct, install, maintain, and use gas conveying and distribution facilities in the public streets, ways and places within the City of Capitola; and to exercise the rights and privileges conferred by Ordinance No. 21, adopted April 25, 1949, by the City Council of the City of Capitola, granting a franchise to construct, install, maintain and use electric transmission and distribution facilities in the public streets, ways and places within the City of Capitola. These franchises were granted under the provisions of the Franchise Act of 1937.

The term of each of the franchises is indeterminate, running until its voluntary surrender or abandonment by the grantee, or

forfeiture for noncompliance or purchase by the state, municipal, or other public corporation either voluntarily or by condemnation. Under each of the ordinances, a fee is payable by the grantee to the city equivalent to two per cent of the gross annual receipts of said grantee arising from the use, operation or possession of the franchise, but in no event will payment be less than one per cent of the gross annual receipts from the sale of gas or from the sale of electricity within the city. A witness for the applicant testified that the annual payment was estimated at \$660 per year, based on the present level of business, in the case of the gas franchise, and \$400 per year, in the case of the electric franchise. Grantee is also required to pay the city a sum of money sufficient to reimburse it for all publication expenses in connection with the granting of the franchises. The costs incurred by applicant in obtaining the franchises are stated to have been \$28 for Ordinance No. 20 and \$28.50 for Ordinance No. 21, exclusive of the \$50 filing fee required by Section 57½ of the Public Utilities Act, and the applicant has stipulated that it, its successors or assigns will never claim before the Commission or before any court or public body any value for the aforesaid franchises in excess of the actual cost thereof.

Mr. Charles Grunsky, witness for the applicant, testified that gas service has been supplied to the community by applicant since 1928 and that electric service has been furnished to part of the area within the city boundaries for many years past and to all the presently incorporated area, since May, 1942.

As of May, 1949, there were 11.3 miles of gas main in Capitola serving 832 gas customers, and 11.5 miles of electric pole line within the city serving 929 electric customers.

Witness for applicant testified that heretofore the company has been rendering gas service within the present city boundary under

Santa Cruz County Ordinance No. 351 and electric service under Santa Cruz County Ordinance No. 352.

A hearing on the instant application was held before Examiner Kimball on August 29, 1949, at Capitola. At this hearing, no one entered any objection to the granting of this certificate. 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 and electricity in the City of Capitola, but that it or its predecessor, for many years, has so 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. 20 (Gas) of the City Council of the City of Capitola and 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. 21 (Electric) of the City Council of the City of Capitola..

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 franchises involved herein or this certificate of public convenience and necessity or the right to own, operate or enjoy such franchises 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 franchises, certificate of public convenience and necessity or right.
- (b) That the franchises 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 HEREBY ORDERED that Coast Counties Gas and Electric 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. 20 (Gas), and by Ordinance No. 21 (Electric), said ordinances having been adopted April 25, 1949, by the City Council of the City of Capitola, County of Santa Cruz, State of California.

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

Dated at San Francisco, California, this 4th day of October, 1949.

R. Z. [Signature]
Justus F. Calver
Harold P. Kula
Marion H. Potter
Commissioners.