

ORIGINAL

Decision No. 45025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 SOUTHERN CALIFORNIA EDISON COMPANY,
 a corporation, for a Certificate that
 Public Convenience and Necessity
 requires that it exercise the rights
 and privileges granted it under
 franchise to construct and use an
 electric distribution and transmission
 system in the City of Seal Beach,
 County of Orange, State of California,
 in accordance with Franchise Ordinance
 No. 391 of said City.

Application No. 31709

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, a California corporation, in this proceeding asks for a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by the City of Seal Beach, Orange County, California, permitting the construction, maintenance, operation, and use of an electric distribution and transmission system upon the streets of said city.

Franchise Ordinance No. 391 of the City of Seal Beach, a copy of which is attached to the application and designated as Exhibit "A," was granted by the city on June 19, 1950, and became effective 30 days thereafter. The franchise is in accordance with the Franchise Act of 1937 and is of indeterminate duration.

A fee is payable annually to the city, equivalent to 2% of the gross receipts arising from the use, operation, or possession of the franchise, but not less than 1% of all the sales of electricity

within the limits of said city under said franchise, applicant not possessing a constitutional franchise in the territory covered by the franchise.

Since March 6, 1924, applicant has been operating under City of Seal Beach Franchise Ordinance No. 97, of that date, which was granted by the city in accordance with the Broughton Act and was of a 50-year term. Computations of payment were determined according to the Dinuba Formula. Franchise Ordinance No. 97 is superseded by Ordinance No. 391 herein being considered.

The costs incurred by applicant in obtaining the franchise granted by Ordinance No. 391 are stated to have been \$113.28, including \$57.40, cost of publishing notice of intention and of publishing the ordinance itself, the \$50 filing fee, and the \$5.88 cost of publishing of notice of hearing in this matter. A \$1,000 bond, as required by the franchise, was filed by applicant with the city on June 19, 1950, and acceptance of the franchise was filed by applicant with the city on July 18, 1950.

A public hearing on this application was held before Examiner Warner at Seal Beach, California, on November 6, 1950. No objection to the granting of the certificate was entered by any party at the hearing.

Under the terms of Ordinance No. 97, payments to the city for the year ending December 31, 1949, under the Dinuba Formula, amounted to \$356.41. Under Ordinance No. 391, it is estimated that the computed payment under the Franchise Act of 1937 would have been \$1,074, applicant's gross annual receipts in the City of Seal Beach for the year ending December 31, 1949 being \$107,362, total kilowatt hours sold being 4,118,000, and there being 12.8 miles of distribution lines within the City of Seal Beach, of which 11.1 miles were on public streets and 1.7 miles on private rights of way. There were approximately 1,400 customers as of December 31, 1949.

Applicant's witness stated that the reasons for securing a new franchise were as follows:

- (1) That Ordinance No. 97 would expire in 1974, and that Ordinance No. 391 was of an indeterminate term;
- (2) That the possession of indeterminate franchises was advantageous in the issuance of bonds; and
- (3) That applicant was attempting to establish a uniform franchise policy applicable to its entire system.

As applicant has served electricity in the City of Seal Beach since October 27, 1915, without competition, it is evident that the certificate applied for should be granted.

The certificate of public convenience and necessity herein granted 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 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

Application 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 that a certificate of public convenience and necessity is granted to Southern California Edison

Company to exercise the rights and privileges granted by the City of Seal Beach by Ordinance No. 391, adopted June 19, 1950.

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

Dated at San Francisco, California, this 21st day of November, 1950.

R. E. Anderson
Justice J. Carver
August F. Farnell
Harold P. Hill
Thomas W. Patton
Commissioners.