

ORIGINAL

Decision No. ~~48758~~

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
SOUTHERN CALIFORNIA GAS COMPANY, a )  
corporation, under Sections 1002 and )  
1005 of the Public Utilities Code, )  
for a certificate that public conven- )  
ience and necessity require the )  
exercise of the rights and privileges )  
granted by Ordinance No. 36 of the )  
City of Fontana, California. )

Application No. 34319

L. T. Rice, for applicant.  
R. O. Randall, for Commission staff.

O P I N I O N

Southern California Gas Company 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 Fontana, San Bernardino County, by its Ordinance No. 36 adopted February 3, 1953, permitting the installation, maintenance, and use of a gas distribution and transmission system in the streets of said city. A public hearing was held before Commissioner Harold P. Huls and Examiner C. E. Crenshaw on June 9, 1953 at Los Angeles.

The franchise referred to, a copy of which is attached to the application and designated as Exhibit "A", was granted by the City of Fontana in accordance with the Franchise Act of 1937 and is of indeterminate duration. A fee is payable annually to the city equivalent to 2 per cent of the gross annual receipts arising from the use, operation or possession of the franchise but not less than 1 per cent of the gross receipts from sales of gas within the limits of such city under said franchise.

The costs incurred by applicant in obtaining the franchise are stated to have been \$252.74, which amount does not include the \$50.00 filing fee and \$3.64 expense of publication of Notice of Hearing. The total cost of the franchise and certificate was stated to have been \$306.38.

The new franchise granted by Ordinance No. 36 supersedes a portion of a previous 50-year Broughton Act franchise granted by Ordinance No. 497 of the County of San Bernardino, which was adopted May 12, 1941 and will expire in 1991. The City of Fontana was incorporated on June 25, 1952, and it is this portion of the territory that will be superseded by the new franchise.

The record shows that one of the primary reasons for applicant's obtaining an indeterminate franchise was that sales of applicant's bonds to prospective purchasers would be facilitated by the fact that applicant owned an indeterminate franchise rather than one which would expire before the maturity date of its bonds.

Annual payments to the City of Fontana, based upon 1952 operations, were estimated to be \$3,390.00 if calculated at 2 per cent of the gross receipts arising from the use and operation of the franchise, or \$2,086.00 if calculated at the minimum payment of 1 per cent of the gross receipts within the City of Fontana as prescribed in the Franchise Act of 1937. Therefore, the payments to the City of Fontana are the same under the new franchise as they would have been under the old County franchise.

No objection to the granting of the requested certificate was entered at the hearing. This utility or its predecessors for many years have served gas in and about the City of Fontana without competition. It is the Commission's opinion that the requested authority should be granted.

The certificate of public convenience and necessity herein granted is subject to the following provisions of law:

1. 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.
2. 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

The above-entitled application having been filed, a public hearing having been held, the matter having been submitted and now being ready for decision,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to applicant by Ordinance No. 36 of the City of Fontana.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity is granted to Southern California Gas

Company to exercise the rights and privileges granted by the City of Fontana, San Bernardino County, by Ordinance No. 36 adopted February 3, 1953.

The effective date of this order shall be twenty days after the date hereof

Dated at San Francisco, California, this 30<sup>th</sup> day of June, 1953.

R. Z. Anderson  
President

Harold P. Hill

Wm. H. Pott

John L. McArthur

Commissioners

Commissioner Justus F. Graemer, being necessarily absent, did not participate in the disposition of this proceeding.