

ORIGINAL

Decision No. 48981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
SAN DIEGO GAS & ELECTRIC COMPANY, a )  
corporation, for Certificates of )  
Public Convenience and Necessity. )  
Authorizing It to exercise Franchise )  
Rights in the City of Carlsbad, )  
California. )

Application No. 34414

Chickering & Gregory, by W. Burleigh Pattee,  
for applicant.

O P I N I O N

San Diego Gas & Electric Company in this proceeding asks for certificates of public convenience and necessity to exercise the rights and privileges of the following franchises granted by the City of Carlsbad, San Diego County:

1. Ordinance No. 1018 adopted May 5, 1953, permitting the installation, maintenance, and use of a gas distribution and transmission system in the streets of said City;
2. Ordinance No. 1019 adopted May 5, 1953, permitting the installation, maintenance, and use of an electric distribution and transmission system upon the streets of said City.

A public hearing was held before Commissioner Harold P. Huls and Examiner C. E. Crenshaw on August 6, 1953 in Los Angeles.

The franchises referred to, copies of which are attached to the application and designated as Exhibits "B" and "C", were granted by the City of Carlsbad in accordance with the Franchise Act of 1937 and are 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 franchises but not less than 1 per cent of the gross receipts from

sales of gas or electricity within the limits of such City under said franchises.

The costs incurred by applicant in obtaining the franchises are stated to have been \$21.38 for the gas franchise and \$21.60 for the electric franchise, which amounts do not include the \$50.00 filing fee for each franchise and the expense of publication of notices of hearing.

The new franchises granted by Ordinances Nos. 1018 for gas and 1019 for electricity supersede a portion of previous Broughton Act county franchises granted by San Diego County. The City of Carlsbad was incorporated in July 1952 and it is this portion of the territory that will be superseded by the new franchises.

The record shows that one of the primary reasons for applicant's obtaining indeterminate franchises was that it would be difficult to apportion the payments to the City of Carlsbad under the previous county franchises which are superseded by the new ordinances.

Annual payments to the City of Carlsbad, if calculated at 1 per cent of the gross receipts within the city limits of Carlsbad as prescribed in the Franchise Act of 1937, would be slightly higher than the utility would have paid had the old county franchises remained applicable.

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

The certificates of public convenience and necessity herein granted are subject to the following provisions of law:

1. That the Commission shall have no power to authorize the capitalization of the franchises involved herein

or these certificates of public convenience and necessity or the right to own, operate or enjoy such franchises or certificates 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, certificates of public convenience and necessity or rights.

2. That the franchises 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 rights, privileges and franchises granted to applicant by Ordinances Nos. 1018 and 1019 of the City of Carlsbad.

IT IS HEREBY ORDERED that certificates of public convenience and necessity are granted to San Diego Gas & Electric Company to exercise the rights and privileges granted by the City of Carlsbad, San Diego County, by Ordinances Nos. 1018 for gas and 1019 for electricity adopted May 5, 1953.

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

Dated at San Francisco California, this 19th day of August, 1953.

President

James F. Calver

Harold A. Auld

Robert E. Mitchell

Commissioners

R. E. Mittelstaedt  
 Commissioner Kenneth Potter, being necessarily absent, did not participate in the disposition of this proceeding.