

Decision No. 50743**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SOUTHERN COUNTIES GAS COMPANY OF)
 CALIFORNIA under Section 1002 of)
 the Public Utilities Code for a)
 certificate that public convenience) Application No. 35659
 and necessity require the exercise)
 of the rights and privileges granted)
 by Ordinance No. 49 of the City of)
 Costa Mesa, California .)

Frederick G. Dutton, for applicant.

O P I N I O N

Southern Counties Gas Company of California, by the above-entitled application filed July 30, 1954, asks for a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by the City of Costa Mesa, 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 Examiner C. E. Crenshaw on October 7, 1954, in 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 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 receipts arising from the use, operation, or possession of the franchise, but not less than 1 per cent of the gross annual receipts from sales of gas within the limits of the city under said franchise.

The costs incurred by applicant in obtaining the franchise are stated to have been \$190.26, which amount does not include costs incident to this application.

No objection to the granting of the requested certificate has been entered. Furthermore, this utility or its predecessors have for many years served gas in this locality without competition under a county franchise.

The City of Costa Mesa was incorporated on June 29, 1953, after which time applicant started negotiations for an indeterminate city franchise. Franchise Ordinance No. 49 was adopted by the City of Costa Mesa on June 21, 1954.

As of June 30, 1954, applicant served 3,972 customers within the city from approximately 48.98 miles of gas mains therein.

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. 49 of the City of Costa Mesa.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is granted to Southern Counties Gas Company of California to exercise the rights and privileges granted by the City of Costa Mesa by Ordinance No: 49 adopted June 21, 1954.

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

Dated at San Francisco California; this 30 day of November 1954.

John E. Mitchell
 President

James J. Caswell

Samuel H. Potter

James Scoggins

Rafael Gutierrez
 Commissioners