

ORIGINAL

Decision No. 53910

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)
and necessity require the exercise)
of the rights and privileges granted)
by Ordinance No. 14 of the City of)
Dairyland, California.)

Application No. 38363

Milford Springer and Frederick G. Dutton,
by Frederick G. Dutton, for applicant.

O P I N I O N

Southern Counties Gas Company of California, a corpora-
tion, by the above-entitled application filed on August 24, 1956,
requests a certificate of public convenience and necessity to
exercise the rights and privileges of Franchise Ordinance No. 14,
granted by the City of Dairyland, Orange County, California, to
lay and use pipes and appurtenances for transmitting and dis-
tributing gas for any and all purposes under, along, across
and upon the public streets, ways, alleys and places in the said
city.

A public hearing on the application was held before
Examiner Kent C. Rogers on September 21, 1956, in Los Angeles.
There was no objection to the granting of the requested authority.

The applicant's rate analyst testified concerning the
following facts:

The franchise referred to, a copy of which is attached to the application as Exhibit "A", was granted by the City of Dairyland in accordance with the Franchise Act of 1937 (Division 3, Chapter 2, California Public Utilities Code), and supersedes a franchise granted by Orange County Franchise Ordinance No. 136 to the extent that that franchise covers area within the City of Dairyland. The franchise became effective July 4, 1956, and is of indeterminate duration. A fee will be payable annually to the city equivalent to two percent of the gross annual receipts of the applicant arising from the use, operation, or possession of said franchise, provided that such fee shall not be less than one percent of the total gross annual receipts for the sale of gas within the limits of the city under the franchise.

Applicant has filed written acceptance of the franchise as required by Section Five thereof, and has posted its bond as required by Section Seven thereof.

The costs incurred by the applicant in obtaining the franchise totaled \$112, exclusive of the costs incident to this application.

The reason the franchise was secured is to enable applicant to meet the demands upon it for gas service by its present and future consumers. Applicant has rendered gas service in the area now comprising the City of Dairyland, and the surrounding territory, for many years. There are no other gas companies in the City of Dairyland's service area with which applicant is likely to compete. For many years the gas customers of said city have depended on applicant's natural gas service. Such customers

have made large investments in gas-burning equipment, so the continuation of gas service is in the public interest.

The annual cost of the new franchise will be comparable to the cost of the superseded franchise. During the year 1955 applicant paid a total of \$227.12 under the superseded franchise. Based on the revenues applicant received in the City of Dairyland during the 12-month period ending December 31, 1955, it would have paid to the City of Dairyland \$227.12 under the terms of the new franchise.

Upon the record herein the Commission finds that public convenience and necessity require the exercise by the applicant of the right, privilege and franchise granted to the applicant by Franchise Ordinance No. 14 of the City of Dairyland, Orange County, California. The certificate of public convenience and necessity herein granted is subject to the following provisions of law:

- (a) 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) 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 thereon, the matter having been submitted, and the Commission having made the foregoing findings and based upon such findings,

IT IS HEREBY ORDERED that Southern Counties Gas Company of California, a corporation, be and it is hereby granted a certificate that public convenience and necessity require the exercise by it of the rights, privileges and franchise granted to it by Franchise Ordinance No. 14 of the City of Dairyland, State of California, which ordinance was adopted on the 4th day of June, 1956, by the City Council of said city.

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

Dated at San Francisco, California, this 16th day of October, 1956.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]

Commissioners