

ORIGINAL

Decision No. 54254

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PACIFIC LIGHTING GAS SUPPLY COMPANY,)
a corporation, under Sections 1002 and)
1005 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. 1491 of the City of)
Burbank.)

Application No. 38492

In the Matter of the Application of)
PACIFIC LIGHTING GAS SUPPLY COMPANY,)
a corporation, under Sections 1002 and)
1005 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. 1020 of the City of)
Compton.)

Application No. 38493

O. C. Sattinger and J. R. Elliott, by J. R. Elliott,
for applicant.

O P I N I O N

By Application No. 38492, filed with this Commission on October 10, 1956, Pacific Lighting Gas Supply Company, a corporation, asks for a certificate of public convenience and necessity authorizing it to exercise the rights and privileges of a franchise granted by Ordinance No. 1491 of the City of Burbank, California, to lay and use pipes and appurtenances transmitting gas under, along, across and upon certain streets in said city. By Application No. 38493, filed with the Commission

on October 10, 1956, Pacific Lighting Gas Supply Company, a corporation, asks for a certificate of public convenience and necessity authorizing it to exercise the rights and privileges of a franchise granted by Ordinance No. 1020 of the City of Compton, California, to lay and use pipes and appurtenances for transmitting gas under, along, across and upon the streets in the said city.

A public hearing was held in Los Angeles on November 16, 1956, before Examiner Kent C. Rogers. At the hearing the two matters were consolidated. Prior to the hearing, notices thereof were published as required by this Commission. No objection to the granting of the requested certificates, or either of them, has been entered.

Application No. 38492 concerning Ordinance No. 1491
of the City of Burbank.

The franchise referred to, a copy of which is attached to the application as Exhibit "A", was granted to the city in accordance with Section 56 of the Charter of the City of Burbank which reads, in part, as follows:

"Every franchise or privilege to ... lay pipes or conduits, ... in or across any street or highway for the transmission of gas ..., or for the use of public property or places now or hereafter belonging to the city, shall be granted under and in pursuance of the provisions of the general laws of the state relating to the granting of franchises; provided no new franchise or the renewal of an existing franchise shall be granted except upon condition that at least two percent (2%) of the gross annual receipts derived from the use of such franchise shall be paid to the city,"

The franchise is for a period of 25 years from the effective date of the franchise ordinance which was September 9, 1956.

A fee is payable annually to the city equivalent to 2 percent of the gross annual receipts of the grantee arising from the use, operation or possession of the franchise, provided that the "grantee and the city determine and agree the equivalent of said 2 percent (2%) gross annual receipts, in the public interest and to save bookkeeping and accounting procedures and expense, the amount to be paid by grantee to the city for the franchise shall be computed at the rate of one-half cent ($\frac{1}{2}\%$) for each inch of diameter per each lineal foot of pipe, or fraction thereof, installed and maintained under the franchise."

The costs incurred by the applicant in obtaining the franchise are stated to have been \$931.84, which amount does not include costs incident to this application (see Exhibit No. 2 in Application No. 38492).

Applicant's Land and Right of Way representative testified that applicant is engaged in the transmission of natural gas through the City of Burbank incidental to its regular business of purchasing natural gas at wholesale and selling such natural gas at wholesale to Southern California Gas Company and Southern Counties Gas Company of California; that it is essential for applicant to construct and maintain such transmission lines in order to continue to serve its customers; that public convenience and necessity require the use of the franchise by applicant; and that heretofore such pipe lines were installed and maintained pursuant to a franchise granted by the City of Burbank by Ordinance No. 481 which expired in 1956. All of the requirements of the franchise have been complied with, he said.

The annual payment to the City of Burbank is estimated to be approximately \$344.76 based upon the formula set forth in the franchise.

Application No. 38493 concerning Ordinance No. 1020
of the City of Compton.

The franchise referred to, a copy of which is attached to the application as Exhibit "A", was granted by the city pursuant to its charter and is similar to a franchise granted under the Broughton Act (Division 3, Chapter I, California Public Utilities Code), is for a term of 25 years, and became effective April 27, 1956. A fee is payable annually to the City of Compton equivalent to 2 percent of the gross annual receipts arising from the use, operation or possession of the franchise.

The costs incurred by the applicant in obtaining the franchise are stated to be \$114.67, which amount does not include costs incident to the application (see Exhibit No. 2 in Application No. 38493).

Applicant's Land and Right of Way representative testified that applicant's certificate of public convenience and necessity from this Commission authorizes applicant to operate in all territory in and contiguous to that served by Southern Counties Gas Company of California and Southern California Gas Company; that heretofore its pipe line has been covered by an old Los Angeles County franchise in areas later annexed to the City of Compton; that this latter franchise was limited to that particular area and would have expired in 1956; that public convenience and necessity require the use of the franchise by the applicant; that the franchise is necessary in order to permit applicant to continue

its operations properly in selling gas at wholesale to its two affiliates, Southern California Gas Company and Southern Counties Gas Company of California; that the pipe lines in the City of Compton will be for transmission purposes only and not for distribution; and that it is not the intention of the applicant to compete in any way in distributing gas with any other utility in the city. All of the requirements of the franchise have been complied with, he said.

The annual payment to the City of Compton is estimated to be \$490 based upon mileage, revenue and capital figures used for the year 1955.

Conclusion

Upon the evidence of record herein it appears, and we find, that public convenience and necessity require the exercise by the applicant of the right, privilege and franchise granted to the applicant by Ordinance No. 1491 of the City of Burbank, California, and we further find that public convenience and necessity require the exercise by the applicant of the right, privilege and franchise granted to the applicant by Ordinance No. 1020 of the City of Compton, California. The certificates of public convenience and necessity herein granted are each subject to appropriate restrictions and to the following provision of law:

The Commission shall have no power to authorize the capitalization of the franchises involved herein or of 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 amounts (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.

O R D E R

The above-entitled applications having been filed and consolidated for hearing, a public hearing having been held thereon, the matter having been submitted, and the Commission having made the foregoing findings, and based upon said findings,

IT IS HEREBY ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Pacific Lighting Gas Supply Company, a Corporation, authorizing it to exercise the rights, privileges and franchise granted by the City of Burbank, California, by Ordinance No. 1491, adopted August 7, 1956, and effective September 9, 1956.

(2) That a certificate of public convenience and necessity be, and it hereby is, granted to Pacific Lighting Gas Supply Company, a Corporation, authorizing it to exercise the rights, privileges and franchise granted by the City of Compton, California, by Ordinance No. 102D, adopted March 27, 1956, and effective April 27, 1956:

(3) That Pacific Lighting Gas Supply Company shall not exercise said franchises, or either of them, for the purpose of distribution or retail sale of gas or other commodities.

(4) That the Commission may hereafter by appropriate proceedings and order limit the authority herein granted to applicant as to any territory within said cities, or either of them, not then being utilized by it.

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

Dated at San Francisco, California,
this 19th day of DECEMBER, 1956.

Edna E. Mitchell
President
Rayles Webster
Wanda J. ...
P. Hardy
C. Lynn Fox
Commissioners