

ORIGINAL

Decision No. 54544

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 Imperial Beach,)
California.)

Application No. 38559

Chickering & Gregory, by C. Hayden Ames, for applicant.

O P I N I O N

Applicant is a public utility engaged in the business of manufacturing, purchasing and selling electricity in the Counties of San Diego and Orange, purchasing and selling gas in the County of San Diego, and, to a limited extent, distribution of steam service within the City of San Diego.

For many years last past, applicant has served the territory now included within the boundaries of the City of Imperial Beach, San Diego County, California, under a franchise granted by the County of San Diego, State of California, and heretofore certificated by this Commission. On or about July 18, 1956, the City of Imperial Beach was incorporated as a city of the sixth class, and applicant applied to said city for indeterminate franchises covering the distribution and sale of gas and electricity in said city. On October 5, 1956, and pursuant to such applications, the Council of said city adopted its Ordinance No. 27, granting to the applicant an indeterminate franchise covering the distribution and sale of gas in said city, and on the same date adopted Ordinance No. 28 granting to applicant an indeterminate franchise covering the distribution and sale of electrical energy in said city, copies of which ordinances are

attached to the application and marked respectively Exhibits "B" and "C".

Applicant is applying for certificates of public convenience and necessity to exercise the rights and privileges of the franchises granted by the said ordinances.

A public hearing was held in Los Angeles before Examiner Mark V. Chiesa. Oral and documentary evidence having been adduced the matter was submitted for decision.

The evidence of record shows and we find,

That applicant has duly published the required notice of hearing; that the City of Imperial Beach, on or about July 18, 1956, was incorporated as a city of the sixth class; that on October 5, 1956, the City Council of Imperial Beach adopted Ordinance No. 27, granting applicant an indeterminate franchise for the distribution and sale of gas in said city; that on October 5, 1956, the said Council also adopted Ordinance No. 28, granting applicant an indeterminate franchise for the distribution and sale of electric energy in said city; that said franchises were granted pursuant to the Franchise Act of 1937, now Division 3, Chapter 2 of the Public Utilities Code of the State of California (Section 6201-6302 of said code); that on October 8, 1956, applicant filed a written acceptance of said franchises with the clerk of the City of Imperial Beach; and that applicant is ready, able and willing to exercise the rights and privileges as in the said franchises provided.

That applicant, grantee under said franchises, must pay the said city two per cent of the gross annual receipts of said grantee arising from the use, operation, and possession of said franchises; provided, however, that such payment shall in no event be less than one per cent of the gross annual receipts of the grantee derived from the sale of gas and the sale of electricity within the limits of said city.

That applicant has incurred costs in obtaining the gas and electric franchises of \$61.32 for each franchise, exclusive of the fees paid to this Commission under and pursuant to the provisions of Section 1904 (a) of the said Public Utilities Code.

That the amounts which would have been payable on an annual basis under the respective franchises, based on 1956 operations and rates presently in effect, are estimated by applicant to be (1) for the gas franchise \$2,313 on the two per cent basis or \$1,810 on the one per cent basis, and (2) for the electric franchise \$2,014 on the two per cent basis or \$3,437 on the one per cent basis, the higher amounts would have been payable in either case.

No other public utility serves either gas or electricity within or adjacent to the City of Imperial Beach. The application was not opposed and will 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

A public hearing having been held in the above-entitled matter, the Commission being fully advised in the premises and finding that public convenience and necessity require the exercise

by applicant of the rights, privileges and franchises granted to applicant by Ordinances Nos. 27 and 28 of the City of Imperial Beach.

IT IS ORDERED that certificates of public convenience and necessity be, and they hereby are, granted to San Diego Gas & Electric Company, to exercise the rights and privileges granted by the City of Imperial Beach in Ordinances No. 27 for gas and No. 28 for electricity, which ordinances were adopted by said city October 5, 1956, and accepted by applicant October 8, 1956.

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

Dated at San Francisco, California, this 19th day of April, 1957.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.