

Decision No. 57090

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
SOUTHERN CALIFORNIA GAS 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. 38 of the City of )  
Downey, California. )

Application No. 39698

T. J. Reynolds, Harry P. Letton, Jr. and  
Henry F. Lippitt, II, for applicant.

O P I N I O N

Southern California Gas Company, a corporation, pursuant to Section 1002 of the Public Utilities Code has applied for a certificate that public convenience and necessity require the exercise of a franchise from the City of Downey, California, granted to applicant by Ordinance No. 38 and adopted July 8, 1957.

A public hearing was held in Los Angeles before Examiner Mark V. Chiesa. Proof of publication of the notice of hearing was filed at the hearing. No protests were entered.

Applicant is a public utility distributing and selling gas in certain areas within the central and southern portions of the State of California. Its principal place of business is in Los Angeles.

Applicant's new franchise, obtained pursuant to the provisions of the Franchise Act of 1937, is for an indeterminate period

and authorizes the laying and use of pipes and appurtenances for transmitting and distributing gas for any and all purposes under, along, or upon the streets of the city. It provides for an annual payment equivalent to two percent (2%) of the gross annual receipts of grantee arising from the use, operation or possession of said franchise but not less than one percent (1%) of annual receipts from the sale of gas within the city.

Written acceptance of the franchise was filed with the City Clerk on July 26, 1957, and the franchise became effective the following day. The city did not require a bond. The franchise supersedes a County of Los Angeles franchise, granted by Ordinance No. 6765, within the said city's limits. Applicant has stipulated that it will not claim a value for the franchise in excess of the actual cost thereof which is \$129.03 (Exhibit No. 3).

Applicant is now operating approximately 156 miles of pipe lines and has approximately 20,000 meters serving in the City of Downey, which has a population of 75,000 persons, more or less.

Since the City of Downey was not incorporated until December 17, 1956, it was necessary to estimate the revenues from within the incorporated area for the calendar year 1957. Based on the estimated average Domestic and Commercial meters for the year 1957 and actual revenues for that year from Industrial customers within the present incorporated area, it is estimated that the revenue for 1957 from the incorporated area was approximately \$1,600,000. Of this total, approximately \$116,000 represents

revenue from Interruptible Industrial customers, and the balance is Firm Service revenue. An approximate franchise payment for a full year is estimated to be \$20,670.04.

The Commission having considered the evidence of record is of the opinion and finds that public convenience and necessity require the exercise of said franchise. The application will be granted.

The certificate of public convenience and necessity herein granted is subject to the following provisions of law:

- (a) 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.
- (b) 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

A public hearing having been held, the Commission being fully advised in the premises and having found as hereinabove set forth,

IT IS ORDERED that a certificate of public convenience and necessity be, and it hereby is, granted to Southern California Gas Company, a corporation, authorizing it to exercise the

rights and privileges granted by the City of Downey, California, in Ordinance No. 38 adopted July 8, 1957.

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

Dated at Los Angeles, California, this 5<sup>th</sup> day of August, 1958.

*E. Lynn Fox* President  
*Paul W. Bremer*  
*William D. Dooler*  
*Herbert J. Jones*  
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 Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.