

Decision No. 57271

**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 and necessity  
 require the exercise of the rights and  
 privileges granted by Ordinance No. 1041  
 of the City of Westminster, California.

Application No. 40068

Milford Springer and Robert Olson, attorneys, by  
Robert Olson, for applicant.

O P I N I O N

Southern Counties Gas Company of California, a corporation, by the above-entitled application filed on May 8, 1958, requests a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by the City of Westminster, County of Orange, California, to lay and use pipes and appurtenances for transmitting and distributing gas for any and all purposes under, along, across or upon the public streets, ways, alleys and places, as the same may now or hereafter exist, within said city.

A public hearing on the application was held before Examiner Kent C. Rogers on August 4, 1958, in Los Angeles. Prior to the hearing notice thereof was published as required by this Commission. There were no protests.

The franchise referred to, a copy of which is attached to the application and designated Exhibit A, was granted by the City

of Westminster in accordance with the Franchise Act of 1937 (Division 3, Chapter 2, California Public Utilities Code), was adopted on December 16, 1957, became effective on January 15, 1958, and is of indeterminate duration. A fee will be payable annually equivalent to 2 percent of the gross annual receipts of the applicant arising from the use, operation or possession of the franchise, but not less than 1 percent of the gross annual receipts arising from the sale of gas within the limits of the city pursuant to the franchise.

Applicant has filed the written acceptance of the franchise as required by Section 12 of the ordinance. No bond is required.

The costs incurred in obtaining the franchise are \$323.42, exclusive of the costs incident to this application which amount to \$55.08 and include \$50.00 for filing the application with the Commission and \$5.08 for publication of notice of hearing thereon.

Prior to the incorporation of the City of Westminster on March 27, 1957, applicant's witness said the applicant had been serving the area, which was Orange County territory, pursuant to an Orange County franchise and public convenience and necessity require the continuation of the presently rendered service. In addition, he said, the company serves approximately 4,533 customers in the city, the majority of whom are residential customers, and if the services were discontinued these customers would have to replace their household gas appliances with appliances using other types of fuel. Denial of the right to serve Westminster would seriously impair the value of the company's facilities located therein.

On April 30, 1958, applicant served approximately 4,533 customers in the City of Westminster and had a gross revenue, from all services in the territory now comprising the city, of approximately \$322,000 for the 12 months ended April 30, 1958. It will pay annually to the city approximately \$5,082.25 under the terms of the franchise based on revenues for the 12 months ended April 30, 1958.

Upon the record herein the Commission finds that public convenience and necessity require the exercise by the applicant of the rights, privileges and franchise granted to the applicant by the City of Westminster Ordinance No. 1041. 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 for any amount of money 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

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 finding and based upon said finding,

IT IS HEREBY ORDERED that Southern Counties Gas Company of California, a corporation, be and it hereby is granted a certificate; that public convenience and necessity require the exercise by it of the rights, privileges and franchise granted to it by Ordinance No. 1041 of the City of Westminster, State of California, which ordinance was adopted on the 16th day of December, 1957, 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 2nd day of September, 1958.

[Signature]  
President

[Signature]

[Signature]

Commissioners

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