

Decision No. 57820**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. 235 of the County of Kings, State of California.

Application No. 39976

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. 476 of the County of Fresno, State of California.

Application No. 39999

In the Matter of the Application of PACIFIC GAS AND ELECTRIC COMPANY for an order issuing to applicant a certificate of public convenience and necessity to exercise the right, privilege and franchise granted to applicant by Ordinance No. 229 of the Board of Supervisors of the County of Kings, State of California.  
(Gas)

Application No. 40049

Suspension and Investigation on the Commission's own motion of gas tariffs filed by Pacific Gas and Electric Company under Advice No. 360-G.

Case No. 6170

(Appearances listed in Appendix A.)

O P I N I O N

Southern California Gas Company requests certificates of public convenience and necessity to exercise gas franchises granted by the Counties of Kings and Fresno. Pacific Gas and Electric

Company requests a certificate of public convenience and necessity to exercise a gas franchise granted by the County of Kings.

On August 26, 1958, the Commission issued an order of suspension and investigation of gas tariffs filed by Pacific Gas and Electric Company under Advice No. 360-G.

Public hearing was held before Examiner Thomas E. Daly on July 11, 1958 and October 7, 1958, the matters being submitted on the latter date upon the receipt of Exhibit 14 since filed and considered.

By Ordinance No. 229 adopted January 22, 1957, Kings County granted to Pacific Gas and Electric Company an indeterminate gas franchise in accordance with the Broughton Act. A fee is payable annually to the county equivalent to two per cent of the gross receipts arising from the use, operation or possession of the franchise. The costs incurred by applicant in obtaining the franchise are stated to have been \$802.25, which amount does not include costs incident to the application.

By Ordinance No. 235 adopted February 11, 1958, and Ordinance No. 476 adopted February 18, 1958, the Counties of Kings and Fresno, respectively, granted to Southern California Gas Company in accordance with the Broughton Act gas franchises of 50 years duration. Under the terms of said franchises a fee is payable annually to said counties equivalent to two per cent of the gross receipts arising from the use, operation or possession of said franchises. The costs incurred by applicant Southern California Gas Company in obtaining the Kings County franchise are stated to have been \$1013.75 and those incident to the Fresno County franchise to have been \$995.57.

The only issue in this proceeding was the north-south boundary delineating the service areas of the applicants herein. The

question first arose in Application No. 38602 which was filed by Pacific Gas and Electric Company for the purpose of obtaining a certificate of public convenience and necessity to exercise a gas franchise granted by the City of Huron in Fresno County. During the proceeding Southern California Gas Company represented that it was serving customers in Kings County seven miles east of Huron and requested the Commission to provide a boundary between the service areas of the utilities. By Decision No. 54442 dated January 29, 1957, Pacific Gas and Electric Company was granted the certificate prayed for subject to the following provision:

"6. That applicant shall file on or before August 1, 1958, in accordance with the requirements of General Order No. 96, a map acceptable to the Commission delineating the common boundary between the territory of applicant and the territory of Southern California Gas Company in Fresno County."

On August 1, 1958, Pacific Gas and Electric Company filed Advice 360-G and by letter dated August 8, 1958, Southern California Gas Company took exception to the boundary specified. The Commission, therefore, on August 26, 1958, suspended the tariffs filed under Advice No. 360-G and an investigation was instituted.

The record indicates that both applicants were desirous of serving the Naval Auxiliary Air Station at Lemoore which is located upon the county line. Pacific Gas and Electric Company specified as a boundary the county line, which runs through the middle of the airfield. Southern California Gas Company specified a boundary which would permit it to serve the airfield.

The air station is presently deactivated, but is in the process of being reactivated. During the course of hearing Southern California Gas Company introduced in evidence a copy of a gas service contract which it had entered into with Navy on September 30, 1958. As a result applicants stipulated to a boundary that would

permit Southern California Gas Company to serve the air base. The legal description of the boundary was specifically set forth in Exhibit 14, which was received as a late filed exhibit.

After consideration, the Commission is of the opinion and so finds that public convenience and necessity require the exercise by applicants of the rights, privileges and franchises granted to applicants by Ordinance Nos. 229 and 235 of the County of Kings and Ordinance No. 476 of the County of Fresno.

The certificates of public convenience and necessity herein granted are subject to the following provision of law:

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 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 the above investigation having been instituted, public hearing having been held and the Commission being informed in the premises,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Pacific Gas and Electric Company to exercise the rights and privileges granted by the County of Kings by Ordinance No. 229 adopted January 22, 1957.

(2) That certificates of public convenience and necessity are hereby granted to Southern California Gas Company to exercise the rights and privileges granted by the County of Kings and the County

of Fresno by the following respective Ordinances; Ordinance No. 235 adopted February 11, 1958, and Ordinance No. 476 adopted February 18, 1958.

(3) That applicants shall not exercise said franchises for the purpose of supplying gas in those parts or portions of Kings and Fresno counties not now served by them except through extensions of their existing systems made in the ordinary course of business as contemplated by Section 1001 of the Public Utilities Code.

(4) The Commission may hereafter by appropriate proceeding and order limit the authority herein granted to applicants as to any territory within said counties not then being served by them.

(5) That the suspended filings of Pacific Gas and Electric Company under Advice No. 360, its Original Cal. P.U.C. Sheet No. 4990-G, Fresno County Service Area, together with Table of Contents, being revised Cal. P.U.C. Sheets Nos. 4991-G and 4992-G are hereby permanently suspended.

(6) That applicants shall file on or before April 1, 1959, in accordance with the requirements of General Order No. 96, a map acceptable to the Commission delineating the common boundary as set forth in Exhibit 14 in this proceeding.

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

Dated at San Francisco, California, this 6<sup>th</sup> day of January, 1959.

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

APPENDIX A

LIST OF APPEARANCES

F. T. Searls, John C. Morrissey, Malcolm A. MacKillop and John S. Cooper for Pacific Gas and Electric Company applicant in Application No. 40049, interested party in Application Nos. 39976, 39999 and respondent in Case No. 6170.

L. T. Rice for Southern California Gas Company applicant in Application No. 39976, 39999 interested party in Application No. 40049 and Case No. 6170.

George Young, appearing for the Commission's staff in Case No. 6170.