

ORIGINAL

Decision No. 57863

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. 43 of the City of)
Duarte, California.)

Application No. 40483

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

O P I N I O N

Southern Counties Gas Company of California, a corporation, by the above-entitled application filed on October 1, 1958, requests a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by the City of Duarte, County of Los Angeles, 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 December 11, 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 Duarte in accordance with the Franchise Act of 1937 (Division 3, Chapter 2, California Public Utilities Code), was adopted March 10, 1958, became effective April 9, 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 under 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 \$82.50, exclusive of the costs incident to this application which amount to \$54 and include \$50 for filing the application with the Commission and \$4 for publication of notice of hearing thereon.

Prior to the incorporation of the City of Duarte on August 22, 1957, the applicant's witness said, the applicant had been serving the area, which was Los Angeles County territory, pursuant to Los Angeles County franchises, and public convenience and necessity require the continuation of the presently rendered service. In addition, he said, the company serves approximately 2,990 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 Duarte would seriously impair the value of the company's facilities located therein.

In September, 1958, applicant served approximately 2,990 customers in the City of Duarte and had a gross revenue, from all services in the territory now comprising the city, of approximately \$271,568 for the 12 months ended September 30, 1958. It will pay annually to the city approximately \$4,132 under the terms of the franchise based on revenues for the 12 months ended September 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 Duarte Ordinance No. 43. 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. 43 of the City of Duarte, State of California, which ordinance was adopted on the 10th day of March, 1958, 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 13th day of January, 1959.

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