

ORIGINAL

Decision No. 59059

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 cer-)
tificate that public convenience and)
necessity require the exercise of)
the rights and privileges granted by)
Ordinance No. 58 of the City of)
Cypress, California.)

Application No. 41350

Milford Springer and Robert M. Olson, Jr.,
for applicant.

O P I N I O N

Southern Counties Gas Company of California, a corporation, is applying under Section 1002 of the Public Utilities Code for a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by the City of Cypress, County of Orange, permitting the construction and operation of a gas distribution system within said city, as more specifically set forth in Ordinance No. 58 of the said city, a copy of which is attached to the application and marked Exhibit A.

A public hearing was held at Los Angeles, California. A notice of hearing was published as required. Evidence having been adduced, the matter was submitted for decision.

The City of Cypress was incorporated July 24, 1956, as Dairy City and the name was changed to Cypress on August 16, 1957.

Prior to incorporation the territory was served by applicant under Orange County Franchise Ordinance No. 136, dated May 14, 1916 (Decision No. 3567, dated August 10, 1916). Present source of gas is from the Texas Pipe Line through an offtake on the Del Amo Line at La Palma Avenue and Knott Avenue. Pressure is approximately 250 pounds in the delivery pipeline with a maximum of 60 pounds and a minimum of 15 pounds in the distribution mains within the city.

The present ordinance was obtained pursuant to the Franchise Act of 1937 and is for an indeterminate period. It became effective June 10, 1959. The franchise provides for a fee payable annually to the city equivalent to two per cent of the gross annual receipts of the company, arising from the use, operation or possession of the franchise, provided that the payment in no event shall be less than one per cent of the gross annual receipts derived by the company from the sale of gas within the limits of the city under the franchise. Applicant has estimated an annual franchise fee of two per cent or \$981.65 for the year 1958, using the so-called "Dinuba Formula" (Exhibit No. 2, page 5). There are 7.60 miles of main, all except .11 mile on public right of way. Revenue from the sales to 399 customers for the year ending June 30, 1959, was \$30,630. Costs incurred in acquiring the franchise were \$387.88, which amount includes costs incident to this application. ✓

The application is not opposed, and the Commission having considered the matter finds the facts to be as hereinabove

set forth and that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted by Ordinance No. 58 of the City of Cypress.

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

1. 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.
2. 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 facts as hereinabove set forth,

IT IS ORDERED that a certificate of public convenience and necessity be, and it hereby is, granted to Southern Counties

Gas Company of California to exercise the rights and privileges granted by the City of Cypress by Ordinance No. 58, adopted May 11, 1959.

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

Dated at San Francisco, California, this 29th day of September, 1959.

Crest W. Payne
 President

[Signature]

[Signature]

[Signature]

 Commissioners

Commissioner Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.