

ORIGINAL

Decision No. 72353

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of SOUTH TAHOE GAS CO., a)
corporation, for a Certificate)
of Public Convenience and)
Necessity authorizing Applicant)
to exercise rights and privileges)
under a franchise which Applicant)
has secured from the City of)
South Lake Tahoe, State of)
California.)

Application No. 49215
(Filed March 16, 1967)

O P I N I O N

This is an application by South Tahoe Gas Co. seeking authority to exercise the rights and privileges under a franchise granted to it by the City of South Lake Tahoe.

The verified application avers that in June 1964 applicant obtained from the County of El Dorado a franchise authorizing it to use the county roads for all purposes in connection with the operation of a liquefied petroleum gas or natural gas distribution system in those portions of El Dorado County lying east of the mountain range which forms the western border of the Lake Tahoe area and that the Commission by Decision No. 69017, dated May 11, 1965, in Application No. 47460, authorized it by interim order to exercise such rights and privileges within the area certificated to applicant in such interim order.

The application also avers that thereafter, late in 1965, the City of South Lake Tahoe was incorporated and a substantial portion of applicant's certificated service area was included within the boundaries of the City; that since applicant already had a franchise to use the public roads in the area before

the City was incorporated, it was applicant's view, based upon the advice of its counsel and the opinion of the City Attorney, that no franchise was required from the City of South Lake Tahoe; that, after discussions with the City Council, it was decided to obtain such a franchise in any event in order to assist in the elimination of any possible problem as to the allocation of franchise payments between the City and County; that applicant therefore applied to the City of South Lake Tahoe for a franchise pursuant to the provisions of the Franchise Act of 1937, Chapter 2, Division 3 of the Public Utilities Code; that the requested franchise was granted by Ordinance No. 40 of the City of South Lake Tahoe, adopted March 22, 1966; and that applicant's costs for obtaining such franchise consisted only of publication costs and legal fees aggregating \$407.64. Applicant proposes to exercise the franchise in all portions of the City other than the southeasterly portion outlined in red on Exhibit B attached to the application. Applicant states it will hereafter exercise the franchise in such southeasterly portion by contiguous extensions to its gas distribution system under the authority of Section 1001 of the Public Utilities Code.

The franchise here under consideration is contained in Ordinance No. 40 of the City of South Lake Tahoe which is attached to the application as Exhibit A. Examination of the ordinance indicates that the franchise granted therein is of the standard type between gas utilities and cities. It provides for a payment of two percent of the gross annual receipts of applicant arising from the use, operation or possession of the franchise within the city. The Commission is of the opinion that the application should be granted. No other points require discussion. The Commission makes the following findings and conclusions in this matter.

Findings of Fact

The Commission finds that:

1. A public hearing is not necessary in this matter.
2. Public convenience and necessity require the exercise by South Tahoe Gas Co. of the rights and privileges granted in the franchise conferred by Ordinance No. 40 of the City of South Lake Tahoe.

Conclusions of Law

The Commission concludes that:

1. The application should be granted.
2. The certificate of public convenience and necessity issued herein should be subject to the following provisions of law:
 - a. 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 issuance of such franchise, certificate of public convenience and necessity or right.
 - b. 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

IT IS ORDERED that a certificate of public convenience and necessity is granted to South Tahoe Gas Co. to exercise the

rights and privileges conferred by the franchise issued pursuant to Ordinance No. 40 of the City of South Lake Tahoe.

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

Dated at San Francisco, California, this 2nd day of MAY, 1967.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.