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ORIGINAL

Decision No. 77082

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
SAN DIEGO GAS & ELECTRIC COMPANY, )  
a Corporation, for Certificates of )  
Public Convenience and Necessity )  
Authorizing It to Exercise Electric )  
and Gas Franchise Rights in the City )  
of La Mesa. )

Application No. 51758  
(Filed March 9, 1970)

O P I N I O N

This is an application by San Diego Gas & Electric Company seeking authority to exercise the rights and privileges granted under two franchises granted it by the City of La Mesa.

Applicant presently furnishes gas and electric service in the City of La Mesa, San Diego County. It presently conducts operations under a franchise granted it by the City Council of the City of La Mesa. The franchise became effective on December 13, 1932. The Commission granted San Diego Gas & Electric Company a certificate of public convenience and necessity to exercise the franchise in Decision No. 25942.

The verified application avers that the City Council of the City of La Mesa enacted Ordinance No. 1797, which grants applicant a franchise to indefinitely conduct its electric business in the City. The application also avers that the City Council of the City of La Mesa enacted Ordinance No. 1796, which grants San Diego Gas & Electric Company a franchise to indefinitely conduct its gas business in the City. These franchises would supersede the previously mentioned city ordinance. San Diego Gas & Electric Company has included in the application a stipulation that it will not claim

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before this Commission or any court or other public body any value for the franchises in excess of their original cost, which is stated to be the sum of \$150.

As indicated the franchises here under consideration are contained in Ordinances Nos. 1797 and 1796 of the City Council of the City of La Mesa. These ordinances are attached to the application as Exhibits A and B. Examination of the ordinances indicates that the franchises granted therein are of the standard type between gas and electric utilities and cities. They provide for a payment of two percent of applicant's annual gross receipts arising out of the use, operation or possession of the particular franchise, provided however, that such payment shall in no event be less than one percent of the gross annual receipts of the applicant derived from the sale of gas or electricity within the city limits.

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 San Diego Gas & Electric Company of the rights and privileges granted in the franchise conferred by Ordinance No. 1797 of the City Council of the City of La Mesa.
3. Public convenience and necessity require the exercise by San Diego Gas & Electric Company of the rights and privileges granted in the franchise conferred by Ordinance No. 1796 of the City Council of the City of La Mesa.

Conclusions of Law

The Commission concludes that:

1. The application should be granted.
2. The certificates of public convenience and necessity issued herein are subject to the following provisions of law:
  - a. The Commission shall have no power to authorize the capitalization of the franchise involved herein or these certificates 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, certificates 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.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to San Diego Gas & Electric Company to exercise the rights and privileges conferred by the franchise issued pursuant to Ordinance No. 1797 of the City Council of the City of La Mesa.

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2. A certificate of public convenience and necessity is granted to San Diego Gas & Electric Company to exercise the rights and privileges conferred by the franchise issued pursuant to Ordinance No. 1796 of the City Council of the City of La Mesa.

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

Dated at San Francisco, California, this 14<sup>th</sup> day of APRIL, 1970.

William S. Moore, Jr.  
President

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[Signature]

James L. Stinson  
Commissioners

Commissioner J. P. Vokasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.