

Decision No. 77514

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 PACIFIC LIGHTING SERVICE 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. 1096 of the
 City of Garden Grove, California.

Application No. 51956
 (Filed June 11, 1970)

O P I N I O N

This is an application by Pacific Lighting Service Company seeking authority to exercise a franchise from the City of Garden Grove.

Applicant is engaged in the sale and purchase of gas in the central and southern portions of the State of California. The verified application avers that it has been delivering gas in the area here under consideration to its affiliate Southern Counties Gas Company under a 50-year franchise issued by the County of Orange. The county franchise expired in 1969 and was replaced by one which does not apply to incorporated areas. On January 20, 1970 the City Council of the City of Garden Grove enacted Ordinance No. 1096 which grants applicant a franchise to indefinitely conduct its gas business in the city. Applicant has included in the application a stipulation that it will not claim before this Commission or any court or other public body any value for the franchise in excess of its original cost which is stated to be the sum of \$247.59.

Ordinance No. 1096 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 2 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 1 percent of the gross annual receipts of the applicant derived from the sale of gas 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 Pacific Lighting Service Company of the rights and privileges granted in the franchise conferred by Ordinance No. 1096 of the City Council of the City of Garden Grove.

Conclusions of Law

The Commission concludes that:

1. The application should be granted.
2. The certificate of public convenience and necessity issued herein is 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.

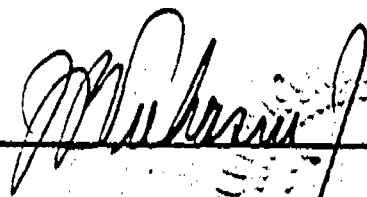
- b. The franchise involved herein shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the municipality therefor at the time of the acquisition thereof.

ORDER

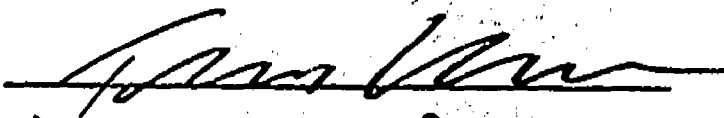
IT IS ORDERED that a certificate of public convenience and necessity is granted to Pacific Lighting Service Company to exercise the rights and privileges conferred by the franchise issued pursuant to Ordinance No. 1096 of the City Council of the City of Garden Grove.

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

Dated at San Francisco, California, this 21st day of JULY, 1970.



 Chairman



 Commissioners

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

Commissioner William Symens, Jr., being necessarily absent, did not participate in the disposition of this proceeding.