

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Decision No. 77879

In the Matter of the Application of
SAN DIEGO GAS & ELECTRIC COMPANY, a
corporation, for an order authorizing
Certificates of Public Convenience
and Necessity Authorizing It to
Exercise Electric and Gas Franchise
Rights in the City of San Diego,
authority to increase rates by
surcharging for additional franchise
fees and authority to deviate from
Applicant's Rule 31

ORIGINAL

Application No. 52250 ✓

ORDER PRELIMINARY TO ISSUE OF CERTIFICATE

San Diego Gas & Electric Company (SDG&E) filed its application for an order under Section 1003 of the Public Utilities Code, which provides that if a utility desires to exercise a right or privilege under a franchise which it contemplates securing, but which has not as yet been granted to it, it may apply to the Commission for an order preliminary to the issue of a certificate. The franchises which SDG&E contemplates securing are those of the City of San Diego (City), for use of the City's streets for facilities for transmission and distribution of gas and electricity. The Code section further provides that the Commission may thereupon make an order declaring that it will, upon application, and under such rules as it prescribes, issue the desired certificate upon such terms and conditions as it designates, after the public utility has obtained the contemplated franchise.

The application also recites that pursuant to the terms of the contemplated franchises, which are to be for a term of thirty years, SDG&E will be obliged to pay to the City 3% of SDG&E's gross receipts derived from the sale of gas and electricity within the City's corporate limits, without adjustment, but excluding uncollectibles, refunds and rebates.

SDG&E further alleges that this percentage exceeds the average franchise fees being paid by it to other cities and counties in its service territory, and, if it should be the successful bidder, asks that the Commission approve, under Public

Utilities Code Sections 728, 701 and 454, the insertion of separately stated surcharges in all rate schedules applicable to gas and electric service within the City. The surcharges of 1.9% for electric service and 1% for gas service would reflect the difference between the new 3% franchise tax and the present City franchise tax of approximately 1.1% for electricity and 2% for gas. Based on 1969 figures, applicant alleges that the requested surcharges would result in an increase for electric customers of \$937,500 and \$241,000 for gas customers in the City. Exhibit "D", attached to the application, indicates rates of return of 7.39% for the electric and 7.31% for the gas departments, and 7.35% overall. Its last authorized rate of return was 7.4% to 7.6%.

In addition, SDG&E requests that the preliminary order approve of a deviation from its Rule No. 31A, filed in accordance with Decision No. 73078 in Case No. 8209. Under the specifications for the new electric franchise, applicant, if the successful bidder, will be required to seek annual approval of the Commission for authority to budget increased amounts of money for undergrounding of existing overhead facilities in the City. Applicant, if it is the successful bidder, alleges that it will annually file a conversion budget with the Commission commencing in 1971 reflecting an increased amount for electric undergrounding throughout its entire service area. The increase will be equivalent to 1/2% of the preceding year's gross receipts (1969 for the budget year 1971) with an annual increase until the level of 4-1/2% of gross receipts for its entire electric service territory is reached, barring economic conditions or other factors which would make such an amount unwise. Under this proposal, if the budgeted amounts are not spent in the subject year or the next preceding two years, SDG&E may use the money for other lawful purposes rather than carrying over unexpended sums from year to year.

Applicant asked for an ex parte order herein.

City filed a petition for a hearing, in which it has no objection to the issuance of an ex parte order declaring that the Commission will issue a certificate of public convenience and necessity after SDG&E has obtained gas and electric franchises from the City; further, it has no objection to an order authorizing an increased underground conversion program and an appropriate deviation from applicant's Rule 31. It alleges on information and belief that the rates for gas and electric customers within the City "in comparison with rates for Company's customers throughout its entire service territory may well lack that equitable spread which is required by the provisions of the Constitution of the State of California and State statutes." It contends that "it is entitled by law to a hearing on these questions and the issue of the surcharge by virtue of the provisions of Sections 454 and 1005 of the California Public Utilities Code."

Applicant filed a response to City's petition, praying for a denial thereof, but also requesting that if the Commission grants the petition for hearing on the increase in rates by way of surcharge, a hearing be granted on all aspects of the application.

Based on the foregoing, we find and conclude:

1. No purpose would be served in having a hearing on the issues of deviation from applicant's Rule 31 or issuance of a preliminary order under Public Utilities Code Section 1003.

2. No hearing is required under Section 1005 for the issuance of such preliminary order. However, a hearing on the issuance of a certificate is required by that section on the timely application therefor "by a person entitled to be heard thereat."

3. The Commission will reserve for future hearing the assertion of the City that the rates for customers within it "in comparison with rates for Company's customers throughout its

entire service territory may well lack that equitable spread" required by law, and also the ultimate determination of the reasonableness of the imposition and amount of a surcharge thereon.

4. If SDG&E is the successful bidder for such franchises, the increased charges it will be required to pay to the City will exceed the average of franchise fees being paid by it to other cities and counties in its service area, and will exceed those presently being paid City by 1.9% for electric and 1% for gas service.

5. The authorization of a separately stated franchise tax equal to the difference between 2% of gross receipts in the case of the gas franchise and 1.1% of gross receipts in the case of the electric franchise and the new fee of 3% of gross receipts for each of the franchises, on billings to applicant's customers within the City, with provision for refund thereof with interest at 7% per annum should the Commission after hearing determine that such increases are unreasonable, would be fair and reasonable not only to the customers but also to applicant.

IT IS ORDERED that:

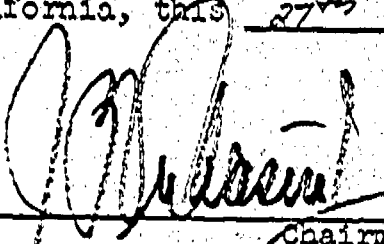
1. The Commission, pursuant to Public Utilities Code Section 1003, will, upon application, pursuant to such rules as it may prescribe, issue the certificate of public convenience and necessity to applicant to exercise the rights and privileges under the gas and electric franchises which it contemplates securing from the City of San Diego, upon such terms and conditions as the Commission may designate, after applicant has obtained the contemplated franchises.

2. The requested deviation from applicant's Rule 31 is authorized.

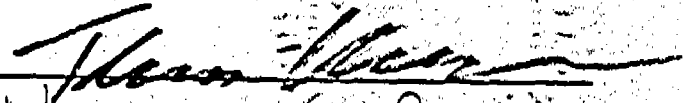
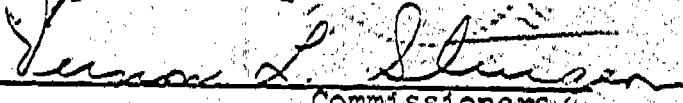
3. Applicant is authorized, pending further hearing herein, to insert a surcharge clause in all rate schedules applicable to gas and electric service within the City

of San Diego specifying a franchise tax surcharge reflecting 1.9% for electric service and 1% for gas service, to be refunded . . . to such customers with interest thereon at 7% per annum if the Commission, after such hearing, determines that the rates, the rate spread or the surcharges are unreasonable or discriminatory.

Dated at San Francisco, California, this 27th day of October, 1970.



Chairman

Commissioners

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

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