

Decision No. 83904

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of SOUTHERN CALIFORNIA GAS 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. 28 of the City of Palm Desert,
California.

Application No. 55266

(Filed October 23, 1974)

O P I N I O N

This is an application by Southern California Gas Company for authority to exercise the rights and privileges granted by Ordinance No. 28 of the city of Palm Desert, California. This ordinance was enacted by the city council of Palm Desert on May 9, 1974, and became effective on May 21, 1974. A copy of this ordinance is attached to the application as Exhibit A.

The applicant is engaged in the purchase, distribution, and sale of gas as a public utility in the central and southern portions of California. The applicant had previously obtained a similar but county-wide franchise from the county of Riverside, under its Ordinance No. 272, adopted on August 11, 1941 and effective for 50 years. The exercise of that franchise was authorized by this Commission's Decision No. 34844 dated December 9, 1941 in Application No. 24484. The subject franchise will supersede the franchise of Riverside County only as it applies to the area within the city of Palm Desert.

The Palm Desert franchise shall run for an indeterminate future term, and grants applicant the right to use and lay pipes and appurtenances for transmitting and distributing gas for any and all purposes under, along, across, or upon the streets of Palm Desert.

The applicant represents that the granting of its application is necessary to enable it lay, operate, and maintain natural gas pipelines within the city, and that as of June 30, 1974, it served 4,397 customers within the city and had 29.58 miles of gas main within the public streets of the city. The applicant sought and obtained the city's franchise to run for an indeterminate future term to facilitate the sale of its bonds to prospective purchasers.

The applicant has stipulated in its application that it will never claim before this Commission, or any other court or body, a value for the franchise and certificate in excess of the original actual cost thereof, represented to be \$229.00, inclusive of the \$75.00 filing fee paid to this Commission.

Findings

1. Public convenience and necessity require the exercise by Southern California Gas Company of the rights, privileges, and duties granted by the franchise conferred by Ordinance No. 28 of the Council of the city of Palm Desert, California.

2. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

Conclusions

1. The application should be granted in accordance with the findings.

2. A public hearing is unnecessary.

Southern California Gas Company is placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights.

Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Southern California Gas Company to exercise the rights, privileges, and duties conferred by the franchise issued pursuant to Ordinance No. 28, adopted May 9, 1974 by the Council of the city of Palm Desert.

2. The certificate of public convenience and necessity granted by Decision No. 34844 dated December 9, 1941 in Application No. 24484, as it pertains to the area within the city of Palm Desert only, is revoked.

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

Dated at San Francisco, California, this 30th day of DECEMBER, 197 .

Vernon L. Stevenson
President
William J. ...
Thomas Moran
...
Robert E. McPhail
Commissioners