

Decision No. 84443**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 Section 1002 of the Public Utilities Code, for a Certificate that Public Convenience and Necessity require the exercise of the rights and privileges as allowed by a general operating franchise granted by the City of Fillmore to SOUTHERN CALIFORNIA GAS COMPANY in Ordinance No. 249, September 29, 1954 to provide, among other things, gas service to the City of Fillmore, California.

Application No. 55608
(Filed April 7, 1975)

O P I N I O N

This is an application by Southern California Gas Company (SoCal) to exercise the rights and privileges granted by Ordinance No. 249 of the city of Fillmore. This ordinance was enacted by the City Council on September 29, 1954 and became effective on October 29, 1954. A copy of the ordinance is attached to the application as Exhibit A.

Ordinance No. 249 gives SoCal the right to lay and use pipes and appurtenances for transmitting and distributing gas for any and all purposes under, along, across or upon the streets of Fillmore for an indeterminate future time; however, the ordinance was obtained primarily to facilitate the operation of certain pipelines and other facilities owned jointly by SoCal and Southern Counties Gas Company of California (Southern Counties). In Decision No. 50982 the Commission granted a certificate of convenience and necessity to exercise franchise rights as to installation, operation, and maintenance of transmission lines. That decision also stated "that, except upon further certificate of this Commission first obtained,

Southern California Gas Company shall not exercise such franchise for said purpose of rendering gas service within the City of Fillmore."

A franchise to supply gas service to Fillmore was acquired by Southern Counties in 1925 pursuant to Ordinance No. 82 and is due to expire in April, 1975. That franchise was obtained by SoCal on July 31, 1970 when it merged with its affiliate, Southern Counties. Since that time, SoCal has been providing gas service to Fillmore under authorization of that franchise.

SoCal 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 \$168.80, inclusive of the \$75 filing fee paid to this Commission.

Findings

1. A franchise to supply gas service to Fillmore, California, was acquired by Southern Counties in 1925 pursuant to Fillmore Ordinance No. 82.

2. SoCal acquired its own franchise to supply gas to the city of Fillmore for any and all purposes pursuant to Fillmore Ordinance 249 of September 29, 1954. This franchise is for an indeterminate term in the future and was obtained primarily to facilitate operation of facilities owned jointly by SoCal and Southern Counties.

3. On January 18, 1955 the Public Utilities Commission granted SoCal a certificate of convenience and necessity (Dec. 50982) to install, operate, and maintain transmission lines in Fillmore. SoCal was not authorized to render gas service within Fillmore. Gas service was then being supplied by Southern Counties.

4. SoCal has been supplying gas service to Fillmore since July 31, 1970 when SoCal and its affiliate Southern Counties merged. This gas has been supplied under the franchise granted to Southern Counties by Ordinance No. 82.

5. The franchise granted by Ordinance No. 82 is due to expire in April, 1975 so SoCal is now applying for a certificate of convenience to exercise its franchise rights granted by Ordinance No. 249. This will enable SoCal to continue gas service to Fillmore.

6. Public convenience and necessity require the exercise by SoCal of the rights, privileges, and duties granted by the franchise conferred by Ordinance No. 249.

7. 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.

SoCal 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. 249, adopted September 29, 1954 by the Council of the city of Fillmore.

2. The certificate of public convenience and necessity granted by Decision No. 50982, as it pertains to the area within the city of Fillmore only, is revoked.

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

Dated at San Francisco, California, this 20th day of MAY, 1975.

Vernon L. Steiner
President
William Symons, Jr.
Edward R. ...
Leonard R. ...
Robert ...
Commissioners