

ORIGINAL

Decision No. 86611

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 allowed by
a general operating franchise within
the Harbor District of the City of
Los Angeles granted by the City of
Los Angeles by and through its Board
of Harbor Commissioners in Order
No. 4506, effective January 20, 1972.

Application No. 56727
(Filed August 31, 1976)

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 Order No. 4506 of the City of Los Angeles through its Board of Harbor Commissioners. This ordinance was approved by the Board of Harbor Commissioners on July 9, 1975 and by the City Council on September 4, 1975 for the 50-year period beginning January 20, 1972. A copy of the franchise order is attached to the application as Exhibit A.

Order No. 4506 gives SoCal the right to construct, operate, and maintain a system of pipelines and appurtenant structures for the transmission and distribution of gas within the Harbor District of Los Angeles for a term of 50 years commencing January 20, 1972. The franchise also contains several terms and conditions which the Commission deems it not necessary to mention specifically. For such terms and conditions reference is here made to said Exhibit A.

A Charter franchise (Article XXXVIII of the Charter of the City of Los Angeles), which became effective on January 20, 1937 for a term of 35 years, was granted to SoCal's predecessors in interest, Los Angeles Gas & Electric Company, Southern Counties Gas Company of California and SoCal, to operate within the City, including the Harbor District and approved by the Commission when Certificates of Convenience and Necessity were granted on April 12, 1937 in Decisions Nos. 29664 and 29665.

SoCal has two existing franchises with the City of Los Angeles but these do not include the Harbor District. A map of the Harbor District is attached to the application as Exhibit B. The exercise of these franchises, Nos. 137244 and 137243, was approved by the Commission when Certificates of Convenience and Necessity were granted on March 18, 1969 in Decision No. 75437, and Decision No. 75441 as amended on May 20, 1969 in Decision No. 75675.

SoCal has stipulated in its application that it will never claim before this Commission, or other court or body, a value for the franchise and certificate in excess of the original actual cost thereof, represented to be \$0, exclusive of the \$75 filing fee paid to this Commission.

Findings

1. A franchise to transport and distribute gas in the City of Los Angeles was acquired by SoCal's predecessors in interest, Los Angeles Gas & Electric Company, Southern Counties Gas Company of California, and SoCal pursuant to a City Charter franchise from January 20, 1937 to January 19, 1972.

2. SoCal acquired two franchises to transport and distribute gas in the City of Los Angeles, except within the Harbor District, and the Commission granted Certificates of Convenience and Necessity to exercise these franchises on March 18, 1969 in Decision No. 75437, and Decision No. 75441 as amended on May 20, 1969 in Decision No. 75675.

3. SoCal serves customers in the Harbor District through the Charter franchise granted on January 20, 1937 to its predecessors in interest.

4. The Charter franchise expired on January 19, 1972 so SoCal is now applying for a Certificate of Convenience and Necessity to exercise its franchise rights granted by Order No. 4506 for the term of 50 years beginning January 20, 1972. This will enable SoCal to continue gas service to the Harbor District.

5. Public convenience and necessity require the exercise by SoCal of the rights, privileges, and duties granted by the franchise conferred by Order No. 4506.

6. It can be seen with certainty that there is no possibility that the activity in question may have 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

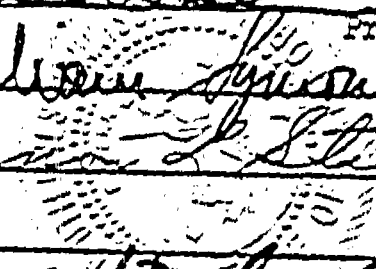
IT IS ORDERED that:

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 Order No. 4506, approved July 9, 1975 by the Board of Harbor Commissioners and September 4, 1975 by the Council of the City of Los Angeles.

2. The Certificate of Public Convenience and Necessity granted by Decisions Nos. 29664 and 29665 as they pertain to the Harbor District within the City of Los Angeles is revoked.

The effective date of this order shall be 20 days after the date thereof.

Dated at San Francisco, California, this 9th day of NOVEMBER, 1976.


William J. Harrison President
Leonard Ross
Robert B. ... Commissioners

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.