

FG

Decision No. 89998 † FEB 27 1979

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. 770 of the City of
San Luis Obispo, California.

Application No. 58523
(Filed December 8, 1978)

O P I N I O N

This is an application by Southern California Gas Company (Applicant) for a certificate of public convenience and necessity authorizing Applicant to exercise the rights and privileges of a franchise granted by the City of San Luis Obispo, California (City). This franchise was granted by Ordinance No. 770, which ordinance was adopted by the City on August 15, 1978, pursuant to the provisions of the Franchise Act of 1937, became effective on September 14, 1978, and runs for an indeterminate period in the future. A copy of the ordinance is attached to the application as Exhibit "A".

The franchise gives Applicant 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 the City, and supersedes a franchise Ordinance No. 247 N.S. adopted by the City Council of San Luis Obispo on July 19, 1943.

Examination of the ordinance indicates that the franchise granted therein is of the standard type between gas utilities and cities. It provides that Applicant shall pay to the City a sum annually of two percent (2%) of the gross annual receipts arising from the use, operation, or possession of the franchise, provided, however, that such payments shall in no event be less than 1% of the gross annual receipts of the Applicant derived from the sale of gas within the limits of the City.

The ordinance calls for a payment of \$10,000 as a consideration for granting the franchise.

Applicant has stipulated in its application that in consideration of the granting of the certificate of public convenience and necessity it will never claim before this Commission, or other court or body, a value for that franchise and the certificate in excess of the original cost thereof; namely, the \$75 filing fee paid to this Commission and \$196.00 for advertising costs of Ordinance No. 770, consideration for franchise of \$10,000.00, for a sum total of \$10,271.00.

Findings

1. Applicant has been distributing gas in the City of San Luis Obispo under a franchise Ordinance No. 247 N.S. granted by City of San Luis Obispo and independently authorized by Commission Decision No. 36984 (April 11, 1944).

2. Applicant is now applying for a certificate of public convenience and necessity to exercise the rights and privileges of a new franchise granted by Ordinance No. 770 of the City of San Luis Obispo, which became effective on September 14, 1978.

3. Public convenience and necessity require the exercise by Applicant of the rights and privileges of the franchise granted to it by Ordinance No. 770 of the City of San Luis Obispo.

4. The City of San Luis Obispo is demanding a \$10,000 payment as a consideration for the granting of Franchise Ordinance No. 770. This Commission has authority to direct Applicant to dispose of this payment in its financial records in such a manner that it will not impose an inequitable burden upon ratepayers who reside outside of the City of San Luis Obispo. When the rates of Applicant are reviewed by this Commission at some future date, appropriate consideration will be given to the said \$10,000 franchise payment.

Conclusions

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

2. A public hearing is unnecessary.

3. The certificate of public convenience and necessity granted 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 grant 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.

O R D E R

IT IS ORDERED that a certificate of public convenience and necessity is granted to Southern California Gas Company to exercise the rights and privileges conferred by the franchise granted by the City of San Luis Obispo by Ordinance No. 770, adopted August 15, 1978.

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

Dated at San Francisco, California, this 27th day of FEBRUARY, 1979.

John E. Bryan
President
George L. Stinson
Richard D. Gwathmey
Robert J. Wright
Lawrence W. Quinn
Commissioners