

ORIGINAL

JUL 3 1979

Decision No. 90507

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of SAN DIEGO GAS & ELECTRIC 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. 19 of the City of Lemon Grove,
California.

Application No. 58895
(Filed May 25, 1979)

O P I N I O N

This is an application by San Diego Gas & Electric 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 Lemon Grove, California (City). This franchise was granted by Ordinance No. 19, which ordinance was adopted by the City on December 5, 1977, pursuant to the provisions of the Franchise Act of 1937, became effective on January 5, 1978, and runs for an indeterminate period. 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 granted by the County of San Diego Ordinance No. 347, adopted on December 9, 1929.

Examination of Ordinance No. 19 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.

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 \$130 for advertising costs of Ordinance No. 19, for a sum total of \$205.

Findings

1. Applicant has been distributing gas in the territory that is now within the boundaries of the City of Lemon Grove under a franchise granted by Ordinance No. 347 of the County of San Diego.

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. 19 of the City of Lemon Grove, which was adopted on December 5, 1977.

3. Public convenience and necessity require the exercise by Applicant of the rights and privileges of the franchise granted to it by Ordinance No. 19 of the City of Lemon Grove.

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 San Diego Gas & Electric Company to exercise the rights and privileges conferred by the franchise granted by the City of Lemon Grove by Ordinance No. 19 adopted December 5, 1977.

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

Dated at San Francisco, California, this 3rd day of JULY, 1979.

John E. Bayne
President
James L. Stanger
Robert D. Swartz
Charles L. Pedrick
Samuel C. Smith
Commissioners