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ORIGINAL

Decision No. 90876 OCT 10 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF)
SAN DIEGO GAS & ELECTRIC COMPANY, A)
CORPORATION, FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY)
AUTHORIZING IT TO EXERCISE ELECTRIC)
FRANCHISE RIGHTS IN THE CITY OF)
LEMON GROVE.)

Application No. 58894
(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 an electric franchise granted by the City of Lemon Grove, California (City).

Applicant is engaged principally in the business of furnishing electricity and gas in California. Prior to July 1, 1977, Applicant served electricity to customers in the territory that is now within the boundaries of City, under an electric franchise granted by the County of San Diego, Ordinance No. 3207, dated June 3, 1968. That relationship ended, with the incorporation of the City of Lemon Grove on July 1, 1977.

Applicant now is and has for many years past been the owner of and operates and maintains the electric distribution and other properties situated in the territory now comprising City, which properties are part and parcel of Applicant's general transmission and distribution systems. City is wholly within the electric service areas of Applicant. No other public utility serves electricity within City or in any territory adjacent to City.

On December 5, 1977, the Council of the City of Lemon Grove adopted Ordinance No. 20, which granted Applicant an indeterminate electric franchise within City, effective January 5, 1978. Due to an administrative oversight on the part of Applicant, this application was late filed 17 months after the franchise agreement had been executed. A copy of the ordinance is attached to the application as Exhibit "A". Applicant has included in the application a stipulation that it will not claim before this Commission, or any court or other public body, a value for the cost of obtaining the franchise in excess of its original cost, which is stated to be the sum of \$137.50, exclusive of the fee paid to the Commission.

Examination of the ordinance indicates that the franchise granted therein is of a standard type between electric utilities and cities. It provides that Applicant shall pay to 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 one percent (1%) of the gross annual receipts of Applicant derived from the sale of electricity within the limits of City.

Findings of Fact

1. Applicant has been distributing electricity within the territory of San Diego County that subsequently became the City of Lemon Grove under an electric franchise Ordinance No. 3207 of the County of San Diego and independently authorized by Commission Decision No. 74714, dated September 24, 1968.

2. This electric franchise relationship ended, between the County of San Diego and Applicant, with the incorporation of City on July 1, 1977.

3. Applicant is now applying for a certificate of public convenience and necessity to exercise the rights and privileges of a new electric franchise granted by Ordinance No. 20 of the City of Lemon Grove, which became effective on January 5, 1978.

4. Public convenience and necessity require the exercise by Applicant of the rights and privileges of the electric franchise granted to it by Ordinance No. 20 of the City of Lemon Grove.

Conclusions of Law

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.

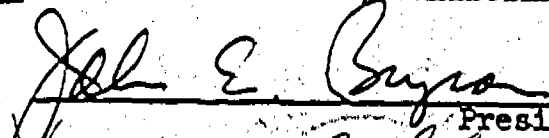
O R D E R

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 issued pursuant to Ordinance No. 20 of the City of Lemon Grove, adopted December 5, 1977.

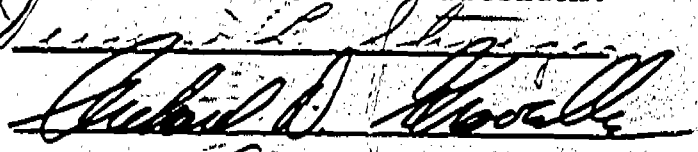
The effective date of this order shall be thirty days after the date hereof.

Dated OCT 10 1979, at San Francisco, California.

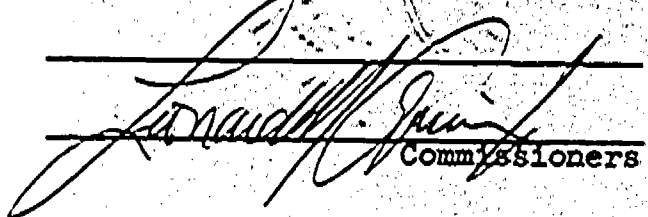
Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.



President



Commissioners



Commissioners