

ORIGINALDecision No. 19400

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of East Side Canal & Irrigation Company, a corporation, James J. Stevinson, a corporation, and Southern California Edison Company, a corporation, for an order authorizing the transfer and sale of property.

Application No. 14322,

Geo. J. Hatfield and F.B. Wood,
for East Side Canal & Irrigation
Company and James J. Stevinson,
a corporation.

Roy V. Reppy, George E. Trowbridge,
by Edward F. Treadwell, for
Southern California Edison Company.

H.P. Dechant, for Federal Power Commission.

CARR, COMMISSIONER:

O P I N I O N

In this proceeding, East Side Canal and Irrigation Company, a public utility, James J. Stevinson, a non-public utility corporation, and Southern California Edison Company, a public utility corporation, make joint application for authority to enter into a contract providing for the storage of certain waters of the San Joaquin River.

A public hearing has been had, after due notice thereof had been given, and the matter is now under submission and ready for decision.

According to the contract, Southern California Edison Company agrees to pay \$200,000. to the other two corporations

for the right to store certain waters of the river. According to the testimony, the division of the above price is such that ten thousand dollars only goes to the East Side Canal and Irrigation Company.

It was agreed at the hearing that the only question before the Commission was whether the East Side Canal and Irrigation Company should be authorized to enter into the contract. No question is presented here as to the reasonableness of the price being paid by the Southern California Edison Company, or as to whether, in the event that the contract is consummated, the payment should be written into fixed capital or included in the rate base, or be the basis of the issuance of securities, or become a part of the net investment of Southern California Edison Company under the provisions of the Federal Water Power Act.

The general trend of the testimony presented was to the effect that the control of the flow of the river as a result of the carrying out of this contract would leave East Side Canal and Irrigation Company and its consumers in a better position from a service standpoint than if the company succeeded in enforcing its claimed legal rights to appropriate and divert waters from the river. Under these circumstances and with the issue limited as above stated, I can see no reason why East Side Canal and Irrigation Company should not be authorized to enter into the contract and receive the ten thousand dollars.

The Federal Power Commission requested that action on the application be delayed until the Attorney-General of the United States decides whether or not he should intervene, in behalf of the Federal Government, in certain pending litigation, with a view to attacking some of the conclusions of Herminghaus v. Southern California Edison Company, 73 Cal. Dec. 1.

With the issue limited as set out above, together with the further limitations contained in the form of Order following this Opinion, the position of the United States is fully protected without the necessity of delaying action.

I recommend the following form of Order:

O R D E R

East Side Canal and Irrigation Company, a corporation, James J. Stevinson, a corporation, and Southern California Edison Company, a corporation, having made joint application for authority to sell and transfer certain rights to store waters of the San Joaquin River, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises,

IT IS HEREBY ORDERED that East Side Canal and Irrigation Company, a corporation, be and it is hereby authorized to transfer to Southern California Edison Company, a corporation, the right, license and/or privilege to store water upon and in accordance with the terms and conditions and for the uses and purposes as stated and set forth more particularly in the application herein and the exhibits attached thereto which are hereby referred to and made a part of this order, subject, however, to the following further terms and conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before June 30, 1928, and a certified copy of the final instrument of conveyance shall be filed with this Commission by said East Side Canal and Irrigation Company, a corporation, within thirty (30) days from the date upon which it is executed.
2. The consideration given for the transfer of these rights, licenses and/or privileges shall not be urged before this Commission, or any other public body, as a finding of value of the property for rate-fixing, or

for any purpose other than the transfer herein authorized.

For all other purposes, the effective date of this Order shall be twenty (20) days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 25th day of February, 1928.

Leon Whitell

Chase

Thomas

M. A. Case
Commissioners.