

LEM

Decision No. 91554.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE YUBA RIVER POWER COMPANY,)
a corporation, and PACIFIC GAS AND)
ELECTRIC COMPANY, a corporation,)
for an order of the Railroad Com-)
mission of the State of California)
authorizing the latter to purchase)
certain properties of the former)
pursuant to a certain agreement)
entered into by applicants under date)
of May 6, 1929; and authorizing the)
latter company to assume and agree)
to pay and discharge all of the out-)
standing bonds secured by a certain)
trust indenture executed by the)
former company in favor of the Pac-)
ific Southwest Trust and Savings)
Bank, Trustee, dated October 1, 1923.)

ORIGINAL

Application No. 15702.

Edward I. Fitzpatrick, for The Yuba River Power
Company;
C. P. Cutten, for Pacific Gas and Electric Company;
Christopher Bradley, for Constant Angle Arch
Dam Company, protestant.

BY THE COMMISSION:

OPINION

In the above entitled matter, the Railroad Commission has been asked to make its order authorizing Pacific Gas and Electric Company to purchase certain properties which The Yuba River Power Company has agreed to sell, pursuant to the provisions of an agreement (Exhibit "B") dated May 6, 1929, by and between the two companies, and authorizing Pacific Gas and Electric Company to assume and agree to pay and discharge all of the outstanding bonds of The Yuba River Power Company, the payment of which is secured by a trust indenture,

dated October 1, 1923, to Pacific Southwest Trust and Savings Bank, Trustee.

It appears that The Yuba River Power Company is the owner of certain lands in Yuba County riparian to the north fork of the Yuba River, a dam 175 feet high, called the Bullard's Bar Dam, constructed across the north fork, a reinforced concrete building, known as the Bullard's Bar Power Plant, located 300 feet below the dam, equipped with hydroelectric machinery and equipment, a single three-phase 60,000 volt transmission line, approximately 33,000 feet long, known as the Bullard's Bar-Colgate Transmission Line, connecting the Bullard's Bar Power Plant with the Colgate Power Plant of the Pacific Gas and Electric Company, and certain water rights, licenses, contracts and other personal property, and also certain small holdings of land in Sierra County. Part of the Bullard's Bar properties are constructed upon lands of the United States Government under a license from the Federal Power Commission, dated April 23, 1923.

The Bullard's Bar properties, since their completion, have been operated by Pacific Gas and Electric Company under and pursuant to the terms of an agreement, dated July 19, 1922, by and between The Yuba Development Company (later changed to The Yuba River Power Company) and Pacific Gas and Electric Company. This agreement provided for the construction by The Yuba Development Company of the dam, power house and transmission line, and the leasing thereof to Pacific Gas and Electric Company for a term of twenty-five years from the date of completion for a yearly rental of a sum equal to eight percent of the actual cost of raising the dam, constructing and equipping the power plant and constructing the transmission line, provided, however, that in no event should Pacific Gas and Electric Company be obligated to pay a rental on a sum in excess of \$1,500,000.00.

The agreement of July 19, 1922, further provides that upon the expiration of the twenty-five year term the dam and dam site and the right to impound and use water, the generating plant and the land wherein the same is constructed, the electric transmission line and all permits and rights of way shall become the sole property of Pacific Gas and Electric Company, free and clear of all liens and encumbrances, without the payment of any further sum.

It now develops, however, that in lieu of continuing the leasing of the properties, arrangements have been made for their sale, together with certain other properties, to Pacific Gas and Electric Company. Under date of May 6, 1929, the two companies entered into an agreement, a copy of which is filed herein as Exhibit "B", under the terms of which The Yuba River Power Company agreed to grant, assign and transfer to Pacific Gas and Electric Company the Bullard's Bar and other properties, as set forth in the agreement, and Pacific Gas and Electric Company agreed to pay as the purchase price the sum of \$150,000.00 and to assume and agree to pay and discharge the outstanding bonds of The Yuba River Power Company, the payment of which is secured by a trust indenture, dated October 1, 1923, in favor of Pacific Southwest Trust and Savings Bank, Trustee. The application shows that there are now outstanding bonds in the amount of \$1,029,000. making the total purchase price, exclusive of accrued interest upon the bonds, the sum of \$1,179,000.00. The bonds are first mortgage bonds, are dated October 1, 1923, bear interest at the rate of six percent per annum and mature serially, final payment being on October 1, 1948. They are callable on any interest payment date at a premium of one half of one percent for each year, or fraction, of the unexpired life thereof, not exceeding, however, a premium of five percent.

It appears that the Bullard's Bar project was completed on or about March 1, 1924, and placed in operation on March 15, 1924. The actual cost is said to have approximated \$1,365,000.00. In making

this application, Pacific Gas and Electric Company has filed as Exhibit "1", a statement showing the assets and liabilities of The Yuba River Power Company, as of December 31, 1928, to be purchased or assumed by it, together with the estimated value of the assets as follows;-

ASSETS:	Book Value	Estimated Value
Rentals receivable	\$ 23,000.00	\$ 23,000.00
Materials and supplies	275.00	275.00
Marysville Hotel Company stock	9,000.00	1,800.00
Fund with Los Angeles First National Trust & Savings Bank, Trustee	19,860.11	28,381.36
Bond coupon account	900.00	900.00
Property and water development account	19,253.83	19,253.83
Bullard's Bar Dam \$1,150,000.00	:	:
LESS Reserve for depreciation	121,000.00	1,029,000.00
Debris storage area	215,681.21	:
LESS Reserve for depreciation	5,843.92	209,837.34
Contingent asset-Orange County Investment Company contract	:	1.00
Total	:	<u>\$1,195,335.00</u>
LIABILITIES:		
Bond interest accrued	\$16,335.00	:
First mortgage bonds	1,029,000.00	\$1,045,335.00
Balance-Cash consideration for project	:	\$ 150,000.00

At the hearing, the granting of this application was protested by Christopher M. Bradley, representing Lars Jorgensen and Karl Brehme, members of a co-partnership under the trade name of Constant Angle Arch Dam Company. It appears that under an agreement (Exhibit "2") dated October 27, 1921, as amended by an agreement of September 1, 1923, The Yuba River Power Company employs the Constant Angle Arch Dam Company, a co-partnership, to act as engineers in sole charge of all engineering work, field or office, including all design and construction requisite or necessary to be carried out under, and contemplated by, an application for a preliminary permit for Project No. 187 to the Federal Power Commission and in the prosecution of the proposed construction program of The Yuba River Power Company. The Yuba River

Power Company was also given the right to use certain designs or plans known as the "Constant Angle Arch Design" and "Multiple Arch Design" for the construction of dams for the impounding of water, which designs or plans are said to be covered and protected by certain patents owned by Constant Angle Arch Dam Company. For the services to be rendered by and for the right to use said "Constant Angle Arch Design" and "Multiple Arch Design" The Yuba River Power Company agrees to pay the Constant Angle Arch Dam Company an amount equivalent to three (3) percent of the net costs for work performed, materials furnished or services rendered in behalf of the project or works hereinabove mentioned.

The agreement does not obligate The Yuba River Power Company to enter upon any construction of any dams and is binding and obligatory only if the power company enters upon the construction of the dams or other works covered by the agreement. The agreement is binding upon and enforceable against and inures to the benefit of each of the parties and to the successors or assigns of The Yuba River Power Company, and the heirs, executors, administrators and assigns of each of the co-partners of Constant Angle Arch Dam Company.

The Yuba River Power Company, which maintains that it is not a public utility, has not included the agreement referred to in the properties which it intends to sell to Pacific Gas and Electric Company. The Pacific Gas and Electric Company, on the other hand, is on record that it will not assume the obligations which the agreements impose on The Yuba River Power Company.

We have considered the agreement, and, inasmuch as we are not convinced that it is in the public interest, we will not deny the right to the Pacific Gas and Electric Company to acquire the properties described in Exhibit "B" filed in this proceeding.

O R D E R

Application having been made to the Railroad Commission for an order authorizing Pacific Gas and Electric Company to acquire properties and to assume indebtedness, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the assumption of such indebtedness is reasonably required for the purpose specified herein, which purpose is not in whole or in part reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED that Pacific Gas and Electric Company be, and it hereby is, authorized to purchase all of the properties which The Yuba River Power Company has agreed to grant, assign and transfer to it, pursuant to the provisions of the agreement of May 6, 1929, filed in this proceeding as Exhibit "B".

IT IS HEREBY FURTHER ORDERED that Pacific Gas and Electric Company be, and it hereby is, authorized in acquiring said properties, to assume and agree to pay and discharge the outstanding bonds of The Yuba River Power Company, not exceeding \$1,029,000.00 face value, the payment of which is secured by the trust indenture, dated October 1, 1923, to Pacific Southwest Trust and Savings Bank, Trustee.

The authority herein granted is subject to the following conditions;-

1. Nothing in the order herein contained, nor in the opinion preceding the order shall be construed as a finding of value of the properties referred to herein, or as binding upon the Commission for the purpose of fixing rates, issuing securities, or any purpose other than this transfer.

2. Within sixty days after the purchase of the said properties, Pacific Gas and Electric Company shall file with the Commission a certified copy of deed, or deeds, of conveyance by which it received title to such properties.

3. The authority herein granted will become effective twenty days after the date hereof.

DATED at San Francisco, California, this 13th day of September, 1929.

Thomas D. Leland
Albany
Edward C. Bell
Leon Whitney
W. J. Line

Commissioners.