

Decision No. 24594

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of
TRUCKEE ELECTRIC LIGHT & POWER COMPANY,
a corporation, and SIERRA PACIFIC POWER
COMPANY, a corporation, for an order
authorizing the Truckee Electric Light
& Power Company to sell to said Sierra
Pacific Power Company an electric light
system in the Town of Truckee, State of
California, and other property.

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) Application No. 17623
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BY THE COMMISSION:

OPINION AND ORDER DENYING
PETITION FOR REHEARING

The Truckee Public Utility District has petitioned for a rehearing of the Commission's order No. 24536 of February 29, 1932, authorizing the Truckee Electric Light and Power Company to transfer its properties to the Sierra Pacific Power Company. Petitioner urges that the Commission's decision is erroneous in that it purports to find that Truckee Electric Light and Power Company has a legal right to continue operations within the Town of Truckee. Its position seems to be that the utility's occupation of the streets is without legal right for the reason that the Town of Truckee is unincorporated, and, therefore, that there could have been no constitutional franchise obtained.

Whatever may be the facts relative to the franchise rights of the existing utility to occupy the public streets, the Commission does not presume to determine the validity or

invalidity of such rights. The decision should not be so construed. The only issue presented was whether a transfer of properties might be authorized without a certificate of public convenience and necessity first being obtained. Under Section 50 of the Public Utilities Act, the Truckee Electric Light and Power Company, having engaged in the public utility business since 1890, must be deemed to have an operative right, and no new certificate from this Commission to operate may be required. The order of the Commission merely authorized the transfer of the properties of Truckee Electric Light and Power Company and their continued operation by the purchaser. The validity of existing franchise rights to occupy the streets is not involved.

THEREFORE, good cause appearing, IT IS HEREBY ORDERED that the petition of Truckee Public Utility District for rehearing of said Order No. 24536 of February 29, 1932, be and the same is hereby denied.

Dated at San Francisco, California, this 21st day of March, 1932.

C. Seaver
Leon ...
M. A. ...
W. B. ...
Fred G. ...
Commissioners