

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of
CALIFORNIA POWER AND MANUFACTURING
COMPANY for a certificate that public
convenience and necessity require the
exercise of the rights and privileges
of a franchise granted to it by the
Board of Supervisors of Shasta County.

Application No. 290.

Decision No. 1180

Charles W. Stacke for applicant.
Perry & Dailey for Pitt River Power Company, protestant.

ESHLEMAN, Commissioner.

O P I N I O N .

The applicant is organized for the purpose, among others, of developing and distributing electrical energy for power and lighting purposes in the State of California. It has acquired certain power sites in the County of Shasta located on Hat Creek, and likewise contracted to purchase from Florin Brothers a certain small power plant and mill. situate at the junction of Fall River with Pitt River in the Town of Fall River Mills in Shasta County. It now applies to exercise the franchise granted by the Supervisors of Shasta County and to distribute electricity in that portion of the County of Shasta bounded on the north, south and east by the county line and on the west by a line running in a northwesterly direction from the county line on the south through Lassen Peak and Montgomery Creek, thence running due north to the northerly county line. Within this territory are situate the Towns of Fall River Mills, Burney, Hat Creek, McArthur, Glenburn, Pittsville and Dana, none of which are now served with electricity with the exception of Fall River Mills which is served by Florin Brothers whose property the applicant has contracted to purchase.

At the hearing the Pitt River Power Company protested against the granting of the application on the ground that heretofore the protestant had applied to this Commission to exercise a

franchise thereafter to be granted by the Board of Supervisors of Shasta County and to distribute power within the same territory now sought to be served by the applicant. This application was filed by the protestant on March 28, 1913, and thereafter a hearing was held at which it developed that the then applicant in this case (Application No. 470) had not secured its franchises from the Supervisors of Shasta, Modoc and Lassen counties. Subsequent to the first hearing in Application No. 470 the Board of Supervisors of Shasta County offered a franchise for sale and the representative of the applicant herein put in a higher bid for the franchise and the same was sold, and the Pitt River Company was under the necessity of again applying for a franchise to the Board of Supervisors of Shasta County. This franchise has now been granted and both the applicant and the protestant have franchises within the County of Shasta and a right, so far as the county authorities are concerned, to serve this territory, and the protestant has been given an order in Application No. 470 to the effect that if it should secure franchises from the Supervisors of Shasta County and thereafter apply to this Commission, that this Commission would, providing it approved of said franchises, issue to this protestant a certificate of public convenience and necessity and permission to exercise said franchise rights. The applicant, on the other hand, has a franchise and now asks approval of this Commission thereto and for an order declaring that public convenience and necessity requires the exercise of said franchise. It is in evidence that the protestant has expended a considerable sum of money, in all about \$25,000.00, but that a comparatively small amount of these expenditures was made in contemplation of serving the territory here involved. A power site at what is known as Burney Falls is in the control of protestant and for an expenditure variously estimated from about \$50,000.00 to over \$100,000.00 it is expected that sufficient power can be developed

to serve the territory here involved. The applicant, as has been said, has power possibilities of importance on Hat Creek and likewise is in a position to secure the rights of Florin Brothers in Fall River Mills, and it is testified by the applicant that by the development of the power possibilities to be secured from Florin Brothers to their maximum capacity, it can develop enough power to supply the territory here involved. The protestant on the other hand contends that not nearly the amount of development can be made at the Fall River Mills site as is urged by the applicant.

I do not think it is necessary to go into the plans in detail of these two companies but some of them are so nebulous that I very much doubt if they will be carried out in the near future. What I would like to do is to recommend that disposition of this entire matter which will most likely furnish electricity to the people living in this vicinity. If the applicant is kept out entirely and the plan of the Pitt River Company be not consummated for financial or any other reasons, then the residents of this section will be denied a convenience which we would like to see them secure. On the other hand, if we grant the application entirely, we have no assurance that the applicant will do any more than increase its facilities at Fall River Mills, which facilities, it is urged, are not sufficient to supply the entire territory involved. The plant now existing at Fall River Mills, of course, has a right to serve the territory it is actually serving and contiguous territory not served by any other utility without applying for a certificate, and unless the Pitt River Company should promptly carry out its project, by denying the Fall River plant the right to expand we would in effect be denying those who are not now receiving electricity from this plant at Fall River under its present capacity any chance to

secure power.

I believe under all the circumstances of this case that the following disposition should be made of it: I believe when the Pitt River Company shall present its application finally to have its franchise approved, that a certificate should be issued to it for the entire territory which is not at that time served by any other utility, and that the applicant herein should be permitted at the present time to enlarge its facilities at Fall River Mills to the limit of its capacity and to furnish all who can be furnished from such supply. The net result of such a determination will be that as to all the territory which the applicant cannot serve from its Fall River plant the Pitt River Company will have the exclusive right to serve; while on the other hand in all the remaining territory, except that which is now served by the Fall River plant, the two companies will have a right to compete in all that territory.

I recommend this disposition of the case because of the fact that I am afraid that ⁱⁿ any other determination reached there will be small likelihood of power being developed for these people within this vicinity within the near future. I think, however, that a reasonable limit of time should be placed within which each of these companies should begin actual construction work, and if either one of them is dilatory in this regard the certificate as to such should be revoked in favor of the agency that is in good faith and expeditiously attempting to serve these communities.

I recommend the following order:

O R D E R .

CALIFORNIA POWER AND MANUFACTURING COMPANY having applied for a certificate that public convenience and necessity require the exercise by it of franchise rights heretofore granted by the authorities of the County of Shasta within the territory in said county bounded on the north, south and east by the county line and on the west by a line running in a northwesterly direction from the county

line on the south through Lassen Peak and Montgomery Creek, thence running due north to the northerly line of the county; and a hearing having been held and being fully apprised in the premises,

THE COMMISSION HEREBY FINDS AS A FACT that public convenience and necessity require the exercise of said franchise rights within the territory involved on the conditions set out in this order, and not otherwise.

And basing its order on the foregoing finding of fact,

IT IS HEREBY ORDERED:

1. That a certificate of public convenience and necessity be issued to the applicant to serve the territory described herein to the extent that said territory can be served from the existing plant of Florin Brothers at Fall River Mills developed to the maximum capacity possible under the rights acquired from said Florin Brothers.

2. Each and every portion of this order is made on the following conditions:

(1) The applicant shall begin in good faith, as soon as weather conditions permit, the development of the power at the Fall River site, and shall by October 1, 1914, develop and have ready for delivery ^{consumers} to all of the power which may be developed at the Fall River plant.

(2) The certificate granted herein to be limited to that territory which may be served from the supply developed by this company at the site named by the 1st day of October, 1914.

(3) Unless the protestant, the Pitt River Power Company, begins in good faith as soon as reasonably possible to develop its power possibilities for the purpose of serving the territory here involved, and is proceeding with such development by October 1, 1914, then in that event this Commission will deny said Pitt River Power Company the right to deliver electricity within the territory which the applicant herein shall be serving on that date.

(4) Should the Pitt River Power Company not take steps to furnish electricity to the territory involved in this application before the 1st day of January, 1915, then in that event this Commission will deny its application to proceed in this territory and will grant the applicant herein a certificate to serve the entire territory independent of the source from which the power may be acquired.

(5) This Commission reserves the right to limit or modify this order in the event that either the applicant or the protestant shall take any action which will warrant the Commission in so doing.

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 31st day of December, 1913.

John M. E. Sullivan
H. J. Loveland
Edwin V. Edgerton

Commissioners.