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Decision No. 270

ORIGINAL

In the matter of the application of the Burbank Electric Light & Power Company, a Corporation, and G. H. Deacon for an Order authorizing said Deacon to sell and assign and said Burbank Electric Light & Power Company to purchase, and receive assignment of a certain franchise to construct an Electric Light and Power System in the City of Burbank, California, said franchise having been granted by the trustees of said City of Burbank to said G. H. Deacon, and for permission authorizing said Burbank Electric Light & Power Company to immediately commence construction of said system.

Also for a Certificate that Public Convenience and Necessity require or will require such construction, and for authority to issue 2000 shares of stock to be sold at par value of ten dollars per share to finance said construction.

Application No. 187.

Charles Seulsbury, Esq., representing Applicant.
 G. H. Deacon, Esq., representing Applicant.
 C. J. Forbes, Esq., representing City of Burbank.

O P I N I O N.

LOWLAND, Commissioner.

At the hearing of this application, it was shown by testimony that on the 4th day of May, 1912, G. H. Deacon made application to the Board of Trustees of the City of Burbank, California, a duly incorporated city of the sixth class, asking that notice be published as provided by law (Act 1229, Gen. Laws of California), advertising for sale a franchise to construct and operate an Electric Pole and Wire System in said City of Burbank, California, for the purpose of supplying the inhabitants of said City of Burbank with electric energy for heat, light, power and all other purposes for which electricity may be used: that said notice was published by said Board of Trustees in manner and form prescribed by law, and that on June 29th, 1912, after due compliance with all legal requirements, said franchise was awarded to said G. H. Deacon by said Board of Trustees of said City

of Burbank, California, and that in pursuance of such award, said Board of Trustees of said City of Burbank did at a later date, to wit:- on August 5rd, 1912, pass City Ordinance No. 38 of the said City of Burbank, California, granting said franchise to said G. H. Deacon. A certified copy of said notice of intent to sell said franchise and of said Ordinance No. 38, confirming the award and sale of said franchise are filed with the papers in this application and made a part of the pleadings herein.

The testimony further shows that said G. H. Deacon is the President of the Burbank Electric Light & Power Company, and that he secured said franchise for said company, wherefore he now asks to be authorized to sell and assign said franchise to said Burbank Electric Light & Power Company, and said company asks for authority to accept such assignment and purchase said franchise; that said City of Burbank, California, has a population of about one thousand people and is growing rapidly; that street improvements are being made to cost about one hundred thousand dollars, and that the city is wholly without public lighting, upon which condition applicants base their allegation, that public convenience and necessity require the exercise of the franchise rights above set forth, and the construction and operation thereunder of an Electric Pole and Wire System in said City of Burbank, California, and the providing the inhabitants of said city with electricity for the purposes hereinbefore specified.

Statement showing the financial condition of the Burbank Electric Light & Power Company was filed with the application as required by the Commission, and testimony verifying said statement was given at the hearing.

The authorized capital stock of said Burbank Light & Power Company consists of 2000 shares of common stock of the par value of ten dollars per share. The company was incorporated July 25th, 1912, but no stock has been issued other than the

amount required to complete the incorporation.

No indebtedness has been incurred other than the cost of incorporating.

The incorporators and directors are:

G. E. Deacon	President.
Wm. Corryell	Treasurer.
F. A. Faust	Gen. Mgr. & Asst. Sec'y.
Helem W. Deacon	Secretary.
Lore B. Corryell	Vice-President.

and the persons named as incorporators and directors are ready to subscribe to the full amount of the capital stock and to pay cash at par therefor.

The length of transmission line, to be built at once, is estimated at 8000 feet, the cost of which, together with transformers, station, etc., will be approximately seven thousand dollars. The line will carry a single phase 2200 volt circuit and a two wire distributing circuit of 110 volts. Single cross arm construction will be used. Four transformers will be required at a cost of \$2500.00. The completed line will be about four miles in length and will cost approximately \$20,000.00. The company expects to purchase electric energy from the Kern River Power Line of the Pacific Light & Power Company which passes through the City of Burbank.

Should such supply not be available, the company proposes to install and equip a plant at practically the cost of the transformer station. As the franchise granted to said G. E. Deacon by said City of Burbank, California, did not include the right to generate electricity, but only to construct and equip an Electric Pole and Wire Line for the transmission of electric energy, and the right to sell such energy, and as the application to the Commission was similarly restricted, containing no request for permission to generate electricity, applicants asked for and were granted permission to amend the application by incorporating

therein such request to be permitted to generate electricity and to construct and equip the plant necessary if such action was considered advisable, it being understood that upon satisfactory assurance that said City of Burbank has granted a further franchise to said G. E. Deacon or to said Burbank Electric Light & Power Company to construct the necessary plant to generate electric energy, the Commission will issue a supplemental order authorizing said G. E. Deacon or said Burbank Electric Light & Power Company to exercise said additional franchise rights.

A careful consideration and analysis of the application and the testimony offered in support thereof, convinces me:

First-- That the franchise to construct and equip an Electric Pole and Wire System for the purpose of furnishing electric energy to the residents and users of such energy in the City of Burbank, California was granted to G. E. Deacon by Ordinance No. 36, passed by the Board of Trustees of said City of Burbank, California, on August 22, 1912, and that said G. E. Deacon secured said franchise for, and should now be authorized to assign and transfer said franchise to the Burbank Electric Light & Power Company, and said Burbank Electric Light & Power Company should be authorized to receive such assignment and transfer.

Second-- That public convenience and necessity require, and will require, and the interest of the public will best be served by the exercise of the rights acquired by the terms of said franchise, to-wit: the construction and operation of an Electric Pole and Wire System for the purpose of supplying the inhabitants of the City of Burbank with electricity for heat, light, power and all purposes for which electricity is used, such construction and equipment (to include, if necessary, the installation and equipment) of a plant to generate electric energy, for which latter purpose, supplemental order of this Commission will be necessary.

Third--That the plan proposed by the Burbank Electric Light

& Power Company for financing the building and equipment of said Electric Plant is a reasonable and feasible one, and that the purposes to which said company proposes to devote the proceeds from the sale of stock for which permission is asked in the application under consideration, are such as are contemplated by the terms of the Public Utilities Act, not in whole or in part reasonably chargeable to operating expenses or to income, and that permission to sell 2000 shares of stock at ten dollars per share should be given said Burbank Electric Light & Power Company subject to the conditions expressed in the order herein.

I therefore recommend the following order:

O R D E R.

The Burbank Electric Light & Power Company, a corporation, and G. E. Deacon, having asked that the Railroad Commission of the State of California approve of the sale by said G. E. Deacon to said Company and the purchase by said Company from said G. E. Deacon of a certain franchise heretofore, to-wit: on August 5d, 1912, sold to said G. E. Deacon by the City of Burbank, California, as shown by Ordinance No. 58 of said City, passed by the Board of Trustees thereof, and for a certificate that public convenience and necessity require the exercise of the rights acquired under the terms of said franchise, to-wit: the right to construct and operate an Electric Pole and Wire System, to be used for the purpose of supplying the inhabitants of Burbank, California, with electric energy for heat, light, power and for such other purposes as electricity is used, and for permission to issue 2000 shares of common stock and sell same at par of ten dollars per share, the proceeds to be used for the construction and equipment of said plant, and the testimony showing:

First--That said franchise was granted to said G. E. Deacon.

Second--That said G. E. Deacon obtained said franchise for said Burbank Electric Light & Power Company.

Third-- That public convenience and necessity require the

exercise of the rights arising under said franchise.

Fourth--That the purposes for which said Burbank Electric Light & Power Company proposes to devote the money received from the sale of stock as prayed for in the application are legitimate, and the amount asked for reasonable, and not in whole or in part reasonably chargeable to operating expenses or to income.

NOW THEREFORE, IT IS HEREBY HELD AND ORDERED, that G. H. Deacon is authorized to sell and assign to the Burbank Electric Light & Power Company, and the Burbank Electric Light & Power Company is authorized to purchase and accept assignment from said G. H. Deacon of all his right, title and interest in and to a certain franchise to construct and operate an Electric Pole and Wire System in the City of Burbank, California, heretofore, to-wit: on August 3d, 1912, granted to said G. H. Deacon by the Board of Trustees of said City of Burbank, California.

That public convenience and necessity require and will require, and the public will best be served by the exercise of the rights arising under said franchise to construct and operate an Electric Pole and Wire System in said City of Burbank, California, and if necessary to construct and operate a plant in said City of Burbank, California, to generate electric energy.

That applicants be permitted to issue 2000 shares of common stock and to sell said stock at not less than par or ten dollars per share for the purpose of financing the construction and equipment of said plant, it being specifically ordered that permission to sell stock under this order applies only to stock sold before the 9th day of October, 1913.

It is further ordered that the Burbank Electric Light & Power Company shall devote the proceeds from the sale of said stock only to the uses herein set forth, viz: the construction and equipment of said electric plant which includes the acquisition

of real estate upon which to erect buildings necessary to such
plant, all as specified in the application in this proceeding,
and once each month, ^{thereafter} *m.*
to wit: on the 25th day of each month, the said Burbank Electric
Light & Power Company shall report in writing to the Railroad
Commission of the State of California, the amount of stock sold
and the disposition of monies received from such sale in accord-
ance with General Order No. ~~24~~ ²⁴, which in so far as applicable *H.G.M.*
is made a part of this Order.

The above 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 14th day of
October, 1912.

John M. Cashman
H. D. Loveland
Max Thelen
Edwin O. Edgeston
Commissioners.