

~~ORIGINAL~~

Decision No. 3266

In the matter of the application of  
SIERRA AND SAN FRANCISCO POWER COMPANY, )  
a corporation, and PACIFIC GAS AND ELEC- ) Application No. 2082.  
TRIC COMPANY, a corporation, for an order )  
authorizing a certain lease. )

George H. Whipple, of Chickering  
& Gregory, for Sierra & San  
Francisco Power Company.  
Charles P. Cullen for Pacific  
Gas and Electric Company.

BY THE COMMISSION.

O P I N I O N.

This is an application on behalf of Sierra and San Francisco Power Company, hereinafter designated and referred to as the "Sierra Company", and Pacific Gas and Electric Company, hereinafter designated and referred to as the "Pacific Company", both of which are California corporations having the power to engage in the business of generating, manufacturing, transmitting, buying, selling and dealing in electricity for light, heat and power in the State of California, and both of which are now and for some time past have been engaged in said business, for an order approving a certain lease signed by the applicants under the date of January 13, 1916, a copy of which, designated as Exhibit A, is annexed to the application in the above entitled matter.

A public hearing was held in San Francisco on March 24, 1916. From the evidence it appears that the Sierra Company is the owner of a certain steam plant for the generation of electric energy, generally known as its "North Beach Steam Plant", situated on Western Addition Block Number 250 in the City and County

of San Francisco; that the Pacific Company, under a certain contract, entered into between it and the Sierra Company, bearing the date of April 3, 1914, has installed in said steam generating plant certain electrical machinery, appliances and equipment used and useful for receiving electric energy.

This agreement between the Sierra Company and the Pacific Company will, in so far as it relates to the maintenance of said machinery, appliances and equipment in the said plant by the Pacific Company, terminate on April 4, 1916, and the Pacific Company will be required to remove said equipment from the steam plant unless said agreement shall be modified along the lines set forth in the proposed lease.

It further appears that the demands upon the Pacific Company for electric energy by the Municipal Railways of the City and County of San Francisco, the Panama-Pacific International Exposition during the post-exposition period, and its load requirements in the vicinity of the said plant, make it advantageous to the Pacific Company to maintain said machinery, appliances and equipment in said steam generating plant of the Sierra Company. The Pacific Company accordingly desires to lease from the Sierra Company for a term of five years, commencing April 4, 1916, all that portion of the generator room in the said steam power plant which is situated to the west of the Sierra Company's present equipment in said power plant and is now occupied, under said above mentioned agreement, by the Pacific Company, at an annual rental of \$3,000.00, one-half of which shall be payable in cash, in advance, upon the 4th day of April of each year during said term, the remaining one-half of which shall be applied by the Pacific Company in payment of \$1,500.00 worth of electric energy, which shall be sold by it to the Sierra Company during the then current year at rates

from time to time in effect for the sale by the Pacific Company to the Sierra Company of such energy; it being further provided that the Sierra Company shall not have the right to cumulate any of such payments thereunder or to carry any amount unapplied during any year to any succeeding year.

The purported lease was signed by the applicants on January 13, 1916, without having obtained the authorization of this Commission to execute the same. It is true that it contains the following clause:

"It is mutually agreed by and between the parties hereto that they will forthwith make joint application to the Railroad Commission of the State of California for an order of said Commission authorizing the execution of this lease, which shall not become effective until such order shall be made by said Railroad Commission."

Under the provisions of Section 51 of the Public Utilities Act, however, the purported lease is void; and we can not revive a void instrument. Under all the circumstances of the case, it appears to us that the proposed lease will be advantageous to both the applicants and we shall authorize the execution of a new lease embodying the material terms and conditions of the void lease.

#### O R D E R.

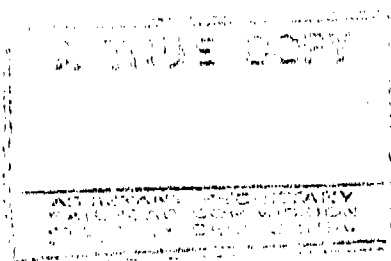
SIERRA AND SAN FRANCISCO POWER COMPANY and PACIFIC GAS AND ELECTRIC COMPANY, California corporations engaged in the business of generating, manufacturing, transmitting, buying, selling and dealing in electricity for light, heat and power in the State of California, having applied to this Commission for an order approving a certain lease as set forth in the foregoing Opinion, and a public hearing having been held and it appearing for the reasons set forth in the foregoing Opinion that applicants should be authorized to execute a new lease similar to the lease heretofore illegally signed by them,

IT IS HEREBY ORDERED that Sierra and San Francisco Power Company and Pacific Gas and Electric Company be and the same are hereby authorized to execute a certain lease substantially in the words and figures of the purported lease signed by applicants on January 13, 1916, a copy of which marked "Exhibit A" is annexed to the application in the above entitled matter.

The authority herein granted is granted subject to the following conditions and not otherwise:

1. The lease herein authorized shall not be executed later than May 31, 1916.
2. Within thirty days after the execution of said lease, applicant shall file a copy of the same with this Commission.

Dated at San Francisco, California, this 29th day of March, 1916.



Max Thelen  
A. H. Ryland  
Alfred A. Smith  
Commissioners.