

Decision No. 3713

# ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of  
 THE SIERRA ELECTRIC POWER COMPANY,  
 a corporation, for a certificate  
 that the present and future public  
 convenience and necessity require  
 and will require the construction  
 by said corporation of its hydro-  
 electric plant and system, and the  
 exercise by it of the rights and  
 privileges under franchises granted  
 to Albert C. Agnew by the Counties  
 of Butte, Colusa, Glenn, Shasta and  
 Tehama, State of California, and by  
 him assigned to, said corporation.

Application No. 2266.

Milton S. Hamilton for The Sierra Electric Power Company.  
 Charles P. Cutten for Pacific Gas and Electric Company,  
 protestant.  
 Allan P. Matthew and John F. Davis for Northern Cali-  
 fornia Power Company, Consolidated,  
 protestant.

REHEEN and LOVELAND, Commissioners:

## O P I N I O N

The Sierra Electric Power Company, petitioner herein,  
 asks for a certificate that the present and future public convenience  
 and necessity require and will require the construction by petitioner  
 of a hydro-electric plant and system, and the exercise by it of  
 certain rights and privileges under franchises granted to Albert C.  
 Agnew by the Counties of Butte, Colusa, Glenn, Shasta and Tehama,  
 which franchises are claimed to have been assigned to petitioner.

The petition herein alleges, in effect, as follows:  
 that petitioner is a California corporation, with power to produce,  
 transmit, distribute and sell electric energy; that the present and  
 future public convenience and necessity require and will require the  
 construction by petitioner of its hydro-electric plant and system and  
 the exercise by it of rights and privileges under franchises granted  
 to Albert C. Agnew by the Counties of Butte, Colusa, Glenn, Shasta

and Tehama and alleged to have been assigned by Agnew to petitioner; that petitioner owns certain water rights in North and South Digger Creeks, Rock Creek and Digger Creek, in the counties of Shasta and Tehama, and owns lands adjacent thereto, over which lands petitioner has constructed certain ditches; that petitioner intends to construct two hydro-electric plants on Digger Creek, in Tehama County, and to transmit electric energy therefrom to the places of intended use; that there is no utility now supplying electric energy in the territory proposed to be served by petitioner and that numerous persons have asked petitioner to supply them with electric energy; that petitioner is the owner of franchises heretofore granted by the Counties of Butte, Colusa, Glenn, Shasta and Tehama to Albert C. Agnew, to which franchises more specific reference will hereinafter be made; that petitioner has duly performed all the acts and things to be performed under said franchises, that the same are in full force and effect and that no affirmative action to cancel or forfeit the franchises has been taken by any of the boards of supervisors which granted the same; that the territory to be served (being portions of Glenn, Colusa and Tehama Counties, as will hereinafter appear in greater detail) is delineated upon Exhibit F attached to the petition herein; that the only public utility with which petitioner's system would be likely to compete is Northern California Power Company, Consolidated, and that petitioner proposes to construct its property from the sale of bonds or other obligations of petitioner.

Public hearings herein were held in San Francisco on June 13 and 16 and July 5, 6 and 7, 1916. At these hearings evidence was presented by petitioner and also by Northern California Power Company, Consolidated, and Pacific Gas and Electric Company, which two companies protested against the granting of the petition herein. Briefs have been filed and this proceeding is now ready for decision.

The subject matter of this opinion will be considered under the following heads:

1. Financial history of petitioner.
2. Territory which petitioner desires to serve.
3. Petitioner's proposed construction and operation.
4. Franchises claimed by petitioner.
5. Present service in territory.
6. Conclusion.

1. Financial history of petitioner.

The Sierra Electric Power Company, petitioner, herein, is the successor of Sierra Electric Power Company, a California corporation, which was incorporated on December 15, 1908. The latter company had an authorized issue of 500,000 shares of capital stock of the par value of \$1.00 each, all of which stock was issued. Sierra Electric Power Company, petitioner's predecessor, claims to have expended the sum of \$78,149.21 from 1908 to 1911, as appears from Table No. I.

TABLE NO. I.

Sierra Electric Power Company -  
Expenditures during life of  
company, 1908-1911.

Water Rights, Real Estate, Rights of Way, etc.	\$ 29,600.00
Rock Creek Water Rights	10,500.00
South Digger Creek Ditch and Dam	9,500.00
North Digger Creek Ditch and Dam	5,000.00
Mill Creek Rights	7,046.32
Pole Line	2,836.32
Pipe Line	92.25
Franchise	355.30
Rights of Way	250.00
Carried Forward	<u>\$65,180.19</u>

Brought Forward	\$ 65,180.19
Attorney's Fees, commissions, etc.	<u>12,969.02</u>
Total ... ..	\$78,149.21

The Sierra Electric Power Company, petitioner herein, was incorporated on October 26, 1911 and acquired the properties of Sierra Electric Power Company. The new corporation was authorized to issue 300,000 shares of capital stock of the par value of \$10.00 each. Petitioner herein paid for the property of its predecessor 299,900 shares of its capital stock, being the entire authorized issue with the exception of 10 shares, and \$25,000.00 in cash. Later 149,939 shares of petitioner's stock were returned to the treasury. Their par value, namely, \$1,499,390.00, now erroneously appears on petitioner's books as working capital. Petitioner does not have a dollar of real money as working capital and its reports should be corrected accordingly.

Of petitioner's capital stock now outstanding, 140,000 shares of the total par value of \$1,400,000.00 are now pledged as part security for petitioner's note of \$25,000.00 to William Bayly, to which note further reference will hereinafter be made.

Shortly prior to March 23, 1912, the effective date of the Public Utilities Act, petitioner authorized an issue of 6 per cent thirty year bonds of the total face value of \$3,000,000.00, secured by deed of trust or mortgage of petitioner's property. A few days prior to March 23, 1912, petitioner issued six "temporary" bonds of the face value of \$500,000.00 each, being petitioner's entire authorized issue, to William Bayly as further security for said note for \$25,000.00.

In other words, petitioner's capital stock of the par value of \$1,400,000.00 and its entire authorized bond issue of the face value of \$3,000,000.00 were and are now pledged as security for the payment of petitioner's said note of \$25,000.00. The note

for \$25,000.00 matured on November 15, 1913 and has not been paid.

Petitioner herein, during the five years subsequent to the acquisition of the property of its predecessor in 1911, has apparently expended the total sum of \$25,208.78, as appears from Table No. II.

TABLE NO. II

The Sierra Electric Power Company -  
Expenditures during life of company,  
1911-1916.

<u>Real Estate, Water Rights, etc.</u>	<u>Prior to January 1, 1913</u>	<u>Since December 31, 1912</u>	<u>Total</u>
To cover stock issue	\$1,500,610.00		
Cash at time of purchase	25,000.00		
Various items	1,884.80		\$1,527,494.80
U.S. Dam Permit		531.00	
Various Items		1,678.48	2,209.48
Organization	300.00		300.00
Dams and Conduits		301.72	301.72
Pole Line Survey		303.85	303.85
Insurance during Construction		150.00	150.00
Engineering and Superintendence	180.50	800.60	981.10
Law Expense	4,086.30	3,016.84	7,103.14
Taxes	223.70	310.00	533.70
Interest	1,737.50	5,159.26	6,896.76
Miscellaneous Construction expense	1,498.38	2,545.85	4,044.23
	<u>\$1,535,521.18</u>	<u>\$14,797.60</u>	<u>\$1,550,318.78</u>
Deduct amount of stock and cash issued for property at time of purchase	\$1,525,610.00		1,525,610.00
Leaving actual expenditures account construction and expense present company	\$1,991.18	14,797.60	24,708.78
Bond Issue Expense			<u>500.00</u>
Total Expenditure, 1911-1916 .....			\$25,208.78

Petitioner's obligations on December 31, 1915, apart from its bonds, are reported to have been as shown in Table No. III.

TABLE NO. III.

The Sierra Electric Power Company

Obligations, apart from bonds, on December 31, 1915.

Promissory notes -

Wm. Bayly	\$25,000.00	
Wm. Bayly	600.00	
M.S. Hamilton	7,000.00	
Diamond Match Co.	410.60	
J.H. Hutchinson	750.00	
		\$33,760.60
Audited vouchers and wages unpaid		2,863.00
Miscellaneous accounts payable		6,688.42
Interest accrued		<u>6,896.76</u>
	Total	50,208.78

Petitioner has no income.

2. Territory which petitioner desires to serve.

At the hearing herein, petitioner designated the territory which it desires to serve as follows:

Glenn County.

Three separate areas described as follows:

- (1) An area lying to the northeast of the Town of Willows, between the main line right of way of Southern Pacific Railroad Company and the Sacramento River, and described as follows:

Beginning at a point on the northwest corner of Section 13, Township 21 North, Range 3 West, M.D.B. and M; thence south to the southwest corner of Section 36, same Township and Range; thence east to the northwest corner of Section 6, Township 20 North, Range 2 West; thence south to the southwest corner of Section 18, Township 20 North,

Range 2 West; thence east to the southeast corner of Section 17, same Township and Range; thence north to the northeast corner of Section 5, same Township and Range; thence west to the southeast corner of Section 32, Township 21 North, Range 2 West; thence north to the northeast corner of Section 17, same Township and Range; thence west to the point of beginning.

2. An area lying to the west of the main line right of way of the Southern Pacific Railroad Company in the southern part of Glenn County, and described as follows:

Beginning at the intersection of the west line of Section 25, Township 18 North, Range 4 West, M.D.B. and M with the boundary line between Glenn and Colusa Counties; thence north to the northwest corner of Section 12, Township 18 North, Range 4 West; thence west to the southwest corner of Section 2, same Township and Range; thence north to the northwest corner of Section 26, Township 19 North, Range 4 West; thence east to the northeast corner of Section 29, Township 19 North, Range 3 West; thence south to the boundary line between Glenn and Colusa Counties; thence west along said boundary line to the place of beginning.

3. An area to the southeast of the Town of Willows between the main line right of way of Southern Pacific Railroad Company and the Sacramento River, and described as follows:

Beginning at the intersection of the west line of Section 25, Township 18 North, Range 3 West, with the boundary line between Glenn and Colusa Counties; thence north to the northwest corner of Section 13, Township 19 North, Range 3 West, M.D.B. and M; thence east along the northerly line of said Section 13 extended a distance of approximately 4-1/3 miles; thence south to the boundary line between Glenn and Colusa Counties; thence west along said boundary line to the place of beginning.

#### Colusa County.

Two separate areas described as follows:

- (1) An area lying to the west of the main line right of way of Southern Pacific Railroad Company, and described as follows:

Beginning at a point on the boundary line between Glenn and Colusa Counties at the intersection of said boundary line with the east line of Section 26, Township 18 North, Range 4 West, M.D.B. and M; thence south to the southeast corner of Section 36 of said Township and Range; thence east to the southeast corner of Section 32, Township 18 North, Range 3 West; thence north to said boundary line between Glenn and Colusa Counties; thence west along said boundary line to point of beginning.

This area is an extension south of Area No. 2 in Glenn County hereinbefore described.

(2) An area lying between the main line right-of-way of Southern Pacific Railroad Company and the Sacramento River, and described as follows:

Beginning at a point on the boundary line between Glenn and Colusa Counties at a point on the east line of Section 26, Township 18 North, Range 3 West, M. D. B. and M., thence south to the southwest corner of Section 13, Township 17 North, Range 3 West; thence east to the northwest corner of Section 19, Township 17 North, Range 2 West; thence south to the southwest corner of Section 6, Township 16 North, Range 2 West; thence east to the northwest corner of Section 9, same Township and Range; thence south to the southwest corner of Section 21, Township 15 North, Range 2 West; thence east to the northwest corner of Section 26, same Township and Range; thence south to the southwest corner of Section 14, Township 14 North, Range 2 West; thence east to the northwest corner of Section 20, Township 14 North, Range 1 West; thence south to the southwest corner of said Section; thence east to the northwest corner of Section 25, same Township and Range; thence south to the northeast corner of Section 14, Township 13 North, Range 1 West; thence west to the northwest corner of Section 15, Township 13 North, Range 2 West; thence south to the boundary line between Colusa and Yolo Counties; thence east along said boundary line to a point approximately one-half mile west of the west bank of the Sacramento River; thence in a northeasterly direction to a point on the west bank of the Sacramento River approximately one-half mile west of Frazer's Landing; thence in a northerly direction along the west bank of the Sacramento River at or near the southwest corner of Section 23, Township 14 North, Range 1 East; thence west to the northwest corner of Section 30, same Township and Range; thence north to the northeast corner of Section 24, Township 14 North, Range 1 West; thence west to the southeast corner of Section 16, same Township and Range; thence north to the northeast corner of Section 20, Township 15 North, Range 1 West; thence west to the northwest corner of the same Section; thence north to the northeast corner of Section 7, same Township and Range; thence west to the southeast corner of Section 2, Township 15 North, Range 2 West; thence north to the County Road from Williams to Colusa; thence west along said County Road approximately one-half mile; thence north to the right-of-way of the Colusa and Lake Railroad; thence west along said right-of-way to the northeast corner of Section 27, Township 16 North, Range 2 West; thence north to the northeast corner of Section 34, Township 17 North, Range 2 West; thence west to the southeast corner of Section 28, same Township and Range; thence north to the northeast corner of Section 20, same Township and Range; thence west to the southwest corner of the same Section; thence north to the southwest corner of Section 32, Township 18 North, Range 2 West; thence east approximately 2-1/3 miles; thence north to the said boundary line between Glenn and Colusa Counties; thence west along said boundary line to the point of beginning.



This parcel is a continuation in a southeasterly direction of area No. 3 in Glenn County hereinbefore described.

The territory which petitioner desires to serve in Glenn and Colusa Counties has an area of approximately 168 square miles.

Tehama County.

Petitioner desires permission to serve all that portion of Tehama County which lies within a distance of 15 miles on each side of its proposed main transmission line, including all the river territory and approximately 90 per cent of the agricultural lands of the county.

Shasta County.

Petitioner does not at this time propose to distribute electric energy in Shasta County and desires to exercise the rights and privileges granted in that County merely to the extent of constructing and operating a transmission line for approximately one thousand (1000) yards in said county, to connect petitioner's proposed Power Plants No. 1 and No. 2.

Butte County.

Although the franchise granted by Butte County to Mr. Agnew is referred to in the petition herein, petitioner stated at the hearing that it does not ask a certificate of public convenience and necessity for this county.

Petitioner announced at the hearings herein that it does not ask authority to serve any municipality within the areas hereinbefore described. Its service is to be limited to unincorporated territory.

Area No. 1 in Glenn County contains about 11,500 acres now devoted to grain farming. Little or no effort to engage in intensive farming is made. No present demand for power exists in this area.

Area No. 2 in Glenn County and Area No. 1 in Colusa County, constituting one entire tract, was represented as being suitable for the cultivation of deciduous and citrus fruits. The only utilized source of water for irrigation at the present time in this area is the Central Canal of the Sacramento Valley West Side Canal Company, which canal traverses the entire area from north to south. This area contains about 17,280 acres, approximately 6,400/<sup>acres</sup> of which were included in the old Central Irrigation District. The remaining portion is now held in relatively large tracts which are either non-producing at the present time or are devoted almost exclusively to dry farming. At the present time no deciduous or citrus orchards exist in this area other than a few trees for domestic needs. There is no present demand for power in this territory.

Area No. 3 in Glenn County and Area No. 2 in Colusa County, constituting one continuous tract, lie almost entirely in what is known as the "Trough", being the lowlands between the Sacramento River and the foothills to the west. These lands carry the flood waters both from the higher lands lying to the north and west, and the higher lands lying along the west bank of the Sacramento River. These lands are largely subject to overflow during each rainy season, the excess water finding its way to the Sacramento River through numerous sloughs and other water ways. Until recently, these lands, which are almost entirely uninhabited, were considered

practically valueless. However, due to the recent successful cultivation of rice in the upper Sacramento Valley, it is now apparent that with proper irrigation, reclamation and drainage facilities, these lands can be made profitable. The Sierra Electric Power Company expects to devote the larger part of its production and transmission capacity to the supply of power for rice irrigation and kindred industries on these lands and from them it expects to realize the largest part of its revenues. This area contains approximately 122,240 acres of land, a considerable portion of which is under the Sacramento Valley West Side Canal Company's canal system. About 17,600 acres are under contract for power with the Northern California Power Company, Consolidated and about 5,400 acres are under contract for power with Pacific Gas and Electric Company. The remaining lands in this area are almost entirely owned or controlled by non-resident land owners and for the most part are entirely non-producing at this time.

The area in Tehama County, which petitioner desires to serve is only partially developed. Such farming as has heretofore been conducted thereon has mostly been dry farming. While a number of landowners in this territory testified to their desire to secure power from petitioner, it developed that in each instance there was a serious question whether the relatively small revenue to be derived would justify either petitioner or the electric utility now in the territory in making the necessary extension entirely at their own expense.

3. Petitioner's proposed construction and operation.

Petitioner at present owns no power house or other production plant, and no transmission lines or distributing system.

Petitioner, however, has acquired certain lands and water rights on Digger Creek and the north and south branches thereof, and on Rock Creek, in Shasta and Tehama Counties, where petitioner proposes to install two power plants having a rated capacity of approximately 3,500 kilowatts each. Assuming that petitioner's rights to water in these streams have been established and are valid, it is apparent from the evidence introduced in this proceeding that petitioner will have available for the development of electric energy approximately 75 cubic feet per second of water from October 1st until June 1st of each year. During June and July there will be available, in an average year, about 56.4 cubic second feet of water, but in August and September the quantity of water available will probably not exceed 37.5 cubic second feet. With an over-all efficiency of 60.8 per cent, from the forebay of the power plant to the consumers' meters, approximately 3,870 horsepower could be delivered, under average conditions, to the consumers' installations. During August and September, the entire amount of power which could be delivered to consumers from the water available would probably not exceed 2,709 horsepower. Assuming a load factor of 50 per cent based upon the average deliverable capacity, the amount of energy which petitioner would have available at the consumers' meters would be 12,644,712 K.W.H. annually.

Petitioner intends to construct a transmission line beginning at its proposed Power House No. 2 on Digger Creek, about nine miles east of Manton, Tehama County; thence in a general southwesterly direction along the highway to a point about five miles east of Red Bluff; thence south along the highway to a point about one mile north of Los Molinos; thence west, crossing the Sacramento River south of Tehama; thence west along

the highway about two miles from the Sacramento River, following the highway directly south, in the counties of Tehama, Glenn and Colusa, to a point approximately four miles northeast of the Town of Maxwell, in Colusa County.

No definite information with reference to a distributing system was presented other than that approximately 30 miles of distributing lines would be necessary.

Petitioner presented in its Exhibit No. 1 an estimate of the cost of its project amounting to \$620,328.00, a summary whereof is shown in the following table:

TABLE IV.

THE SIERRA ELECTRIC POWER COMPANY-ESTIMATED  
COST OF PROJECT.

Power Plant No. 1	\$ 122,050.00
Power Plant No. 2	100,298.00
Transmission Line and Distribution Feeder	331,980.00
Miscellaneous	10,000.00
Engineering at 10%	<u>56,000.00</u>
Total	\$ 620,328.00

The above estimate covers two power plants, 105 miles of steel pole transmission line, 30 miles of distribution line and two outdoor substations. No provision is made in petitioner's estimate for the cost of the following items: forebay reservoir at Plant No. 2; canal which will be necessary to return the Rock Creek water to Rock Creek; necessary additional rights of way and substation sites; pole transformers; services; and meters. Bearing these omissions in mind, it is reasonable to assume that the total cost of the project will not be materially less than the \$825,000.00 which petitioner stated that it expects to realize from the sale of its bonds of the face value of \$1,000,000.00.

The estimated cost of operation, including fixed charges, which was submitted by petitioner, is shown in Table No. V.

TABLE V.

THE SIERRA ELECTRIC POWER COMPANY—ESTIMATED  
OPERATING COSTS, INCLUDING FIXED CHARGES.

Depreciation - 5% on all machinery, pipe lines, valves, transmission line, substations, etc.	\$ 18 000.00
Labor and cost of operation and maintenance- at 40% load factor or over	30 000.00
Bond issue at 90% par - 6% interest	45 000.00
Sinking Fund - at 2%	<u>15 000.00</u>
Total	\$ 108 000.00

It is evident that the foregoing table was prepared on an assumed issue of \$750,000.00 of petitioner's six per cent bonds, selling at 90 per cent of face value. It is entirely unreasonable to assume, on petitioner's showing, that its bonds could be sold for more than 80 or 82½ per cent of face value. Assuming a cost of \$825,000.00 for the entire project, it would be necessary to sell bonds of the face value of \$1,000,000.00. Assuming, for the purpose of the computation, that the money for petitioner's plant could be derived solely from the sale of bonds (a most unlikely assumption) and that no changes are made in the first two items in Table No. V, the estimated annual costs would be increased from \$108,000.00 to \$128,000.00.

Assuming 12,644,112 K.W.H. as the probable maximum amount of electric energy which the proposed power plants will be able to deliver, it is at once evident that petitioner, to meet its necessary expenditures, must sell every K.W.H. of electric energy capable of being generated by it and must secure

an average revenue of 1¢ per K.W.H. for each K.W.H. sold. When we bear in mind that petitioner will not serve any municipality, that the greater part of its energy must be sold to large agricultural consumers at relatively low rates, that there is no present demand for additional power in the greater portion of the territory which petitioner desires to serve, that such demand for additional power as now exists would require only a small part of petitioner's proposed capacity even if petitioner secured all of it, that Northern California Power Company, Consolidated, has its lines within a few miles of petitioner's proposed lines, throughout the territory to be served and has a large surplus of available hydro-electric energy, as will hereinafter be shown, and that it is only reasonable to suppose that as business develops Northern California Power Company, Consolidated, will secure its share thereof, and all the other factors in the problem, we are absolutely convinced that petitioner, on the set up presented herein can not possibly be successful and that if petitioner is permitted to proceed and does proceed, the result will ultimately be the loss of a large part if not all the money to be invested in the enterprise.

4. Franchises claimed by petitioner.

Petitioner claims to be the owner, by assignment, of the following franchises granting to Albert C. Agnew, his heirs, successors and assigns, <sup>the right</sup> for a term of fifty years, to use the county highways for the erection and maintenance of electric transmission and distributing lines:

1. County of Butte, Ordinance No. 280, adopted April 10, 1913, effective 15 days after adoption.
2. County of Colusa, Ordinance No. 74, adopted April 9, 1913, effective 15 days after adoption.
3. County of Glenn, Ordinance No. 77, adopted April 11, 1913, effective May 1, 1913.
4. County of Shasta, Ordinance No. \_\_\_\_\_, adopted April 7, 1913, effective 15 days after adoption.

5. County of Tehama, Ordinance No. 48, adopted April 8, 1913, effective 30 days after adoption.

Each of these ordinances provides that work must be commenced thereunder in good faith within ~~not~~ not more than four months from the date on which the ordinance became effective, that it must be completed within not more than three years after the date of the granting of the franchise, and that if not so completed, the franchise shall be null and void and of no effect.

Table No. VI shows the work which has been done and the expenditures incurred by petitioner herein under each of these franchises.

Table No. VI.

Franchises claimed by the Sierra Electric Power Company and work done there-

<u>County</u>	<u>Date Granted</u>	<u>Date Effective</u>	<u>Nature of Work</u>	<u>Money Expended</u>
Butte	Apr. 10, 1913	Apr. 25, 1913	Survey for line	\$ 44.25
Colusa	Apr. 9, 1913	Apr. 24, 1913	Survey for line	70.85
Glenn	Apr. 11, 1913	May 1, 1913	Survey for line	43.00
Shasta	Apr. 7, 1913	Apr. 22, 1913	Clearing Brush	30.00
Tehama	Apr. 8, 1913	May 8, 1913	Clearing Brush	<u>35.00</u>
				\$ 223.10

On the showing made herein, we are clearly of the opinion that each of these five franchises is now subject to forfeiture. It is hardly necessary for us to say that the Railroad Commission will not declare that public convenience and necessity require the exercise of rights under such franchises.

It will be observed that each of these franchises was granted subsequent to March 23, 1912, the effective date of the Public Utilities Act. Albert C. Agnew, the grantee thereof, did not apply



for or secure the consent of the Railroad Commission to the assignment thereof to petitioner herein, as provided by Section 51 of the Public Utilities Act. Hence, petitioner has not secured title to these franchises.

Furthermore, while but little work has been done under any of these franchises, such work as has been done under them has been in violation of Section 50 of the Public Utilities Act which provides in part that no electric utility shall exercise any right or privilege under any franchise or permit granted subsequent to March 23, 1912, "without first having obtained from the commission a certificate that public convenience and necessity require the exercise of such right or privilege." Every dollar which petitioner has invested in its project subsequent to March 23, 1912, without making the necessary applications to the Railroad Commission, has been expended solely at petitioner's own risk.

5. Present service in territory.

The Counties of Tehama, Glenn and Colusa, in which petitioner desires to distribute electric energy, are now served by the Northern California Power Company, Consolidated, with the exception of the Town of Colusa, the Cheney Slough irrigation project lying to the northeast of Colusa, and certain territory in the southeastern portion of Colusa County where service is supplied by the Pacific Gas and Electric Company. Every town and village in these counties having a population of 50 or over, with the exception of possibly two or three foothill towns, are receiving electric service from either the Northern California Power Company, Consolidated, or the Pacific Gas and Electric Company, and with the exception of Colusa and Grimes, these communities are served entirely by the Northern California Power Company, Consolidated.

In Tehama and Glenn Counties electric energy from hydroelectric plants has been supplied by the Northern California Power

Company or its predecessors since 1902. The Town of Colusa has been receiving service from the Pacific Gas and Electric Company or its predecessors upwards of fourteen years. The County of Colusa, outside of the Town of Colusa, was first supplied with electric energy in 1911, when the lines of the Northern California Company were extended from Hamilton City in Glenn County to College City in Colusa County.

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The Northern California Power Company has a present installed generating capacity of approximately 44,420 horsepower, and has available for emergencies or to supply unexpected demands of the territory, through reciprocal contracts and a reserve generating unit, approximately 9,050 horsepower, in addition to the generating capacity above referred to. This entire generating capacity of the Northern California Power Company is installed in six separate power plants, none of which are more than eighteen miles from the proposed location of petitioner's Power Plant No. 2. Three of the power developments of the Northern California Company, having a combined generating capacity of 29,480 horsepower, utilized, with other water, the waters of Digger and Rock Creeks, which latter petitioner also proposes to utilize for the development of electric energy in the two plants hereinbefore referred to. Two of the Northern California Company's power developments, having a combined capacity in excess of 12,900 horsepower, are located within five miles of petitioner's proposed Power Plant No. 2.

The electric energy generated by the Northern California Power Company is transmitted into and through Tehama and Glenn Counties over three separate transmission lines, constructed over three separate routes. A 60,000 volt line extends from a point about four miles west of the location of petitioner's proposed Power Plant No. 2, along the west side of the Sacramento River to the City of Chico with tie

lines making connection with the transmission system on the west side of the River at Tehama and Hamilton City. On the west side of the Sacramento River, a 20,000 volt and a 60,000 volt line extend from the City of Redding, where connection is made with the main Shasta County loop, southward through Anderson, Cottonwood, Red Bluff, Corning and Orland to the Town of Willows in Glenn County. From Hamilton City a 60,000 volt line extends southward along the west side of the Sacramento River to Butte City in Glenn County and to Princeton, Maxwell, Williams and Arbuckle in Colusa County. From Arbuckle a 6,600 volt line supplies College City. The Town of Colusa and the southeastern portion of Colusa County receive service direct from the main transmission system of the Pacific Gas and Electric Company.

Radiating from the substations which are located at frequent intervals along the transmission lines of the Northern California Power Company, hereinbefore referred to, numerous 2,200 volt and 6,600 volt distribution lines have been constructed into the rural districts where power service is supplied to some 530 agricultural consumers having an aggregate connected load in excess of 7,000 horsepower.

It will be desirable, in addition to describing the relative location of petitioner's proposed electric generating plants, to indicate the relative location of the proposed transmission and distribution lines of petitioner and those of Northern California Power Company, Consolidated.

Beginning at the location of petitioner's proposed Power Plant No. 2, petitioner's proposed transmission line extends in a westerly direction approximately 3-1/2 miles to a point where it crosses the 60,000 volt transmission tie line between the Northern California Power Company's Volta and South Power Houses. The proposed line then continues westerly about six miles to a point where

it crosses the 60,000 volt tie line between the Northern California Power Company's Inskip and Coleman Power Houses, and the 60,000 volt transmission line from Volta Power House to Chico. From the point of crossing last above mentioned, the proposed line extends in a southwesterly direction, approximately and closely paralleling the Northern California Power Company's Volta-Chico line, a distance of about 13-1/2 miles, when it again crosses the last mentioned line of the Northern California Company. From the last mentioned crossing, the proposed line continues in a southwesterly direction about four miles, when it changes direction abruptly to the south and again to the southeast. At this point the proposed line is brought to within 2-1/4 miles of the City of Red Bluff and parallels two transmission taps of the Northern California Company's transmission system for approximately 2 miles. From the point last mentioned, the proposed line takes a general southerly course paralleling within from 1/4 to 2 miles the said Volta-Chico line of the Northern California Power Company for a distance of about 12 miles to a point about one mile east of Tehama, where the Northern California Company's transmission line is again crossed. From this point the proposed line crosses the Sacramento River at Tehama and extends southward through the Maywood Colony to a point approximately 2-1/2 miles south of Kirkwood, from which point south to a point approximately two miles east of Orland, the proposed line occupies a position closely paralleling the Northern California Power Company's 60,000 volt Redding-Willows line. Between the two points last above mentioned, the proposed line crosses both the 60,000 volt Chico tie line and the 20,000 volt Orland-Hamilton City line of the Northern California Company. From Orland south for 15 miles to Willows, the proposed line parallels at a distance of two miles the Northern California Company's Orland-Willows 60,000 volt circuit, and also parallels at a distance of

three miles the Northern California Company's 20,000 volt Orland-Willows line. Continuing south from a point east of Willows, the proposed line extends southward about 12 miles to the terminus of petitioner's proposed transmission system. From this point, a 11,000 volt line continues southward about six miles to the county road between Maxwell and Colusa Four Corners. It then runs easterly along said county road two miles for which distance it parallels, apparently by the width of the county road, the Northern California Company's Hamilton-Arbuckle 60,000 volt line; then turning south, the proposed line extends in a southeasterly direction to the southeasterly part of Colusa County.

It is apparent after a careful consideration of the evidence introduced in this proceeding that petitioner's proposed transmission line at no point except where it leaves the proposed power plants would be located at a greater distance than three miles from transmission and distribution lines of the Northern California Power Company, Consolidated. From the proposed terminus of petitioner's 60,000 volt transmission system, the proposed 11,000 volt feeder line extends almost entirely through the undeveloped portion of Colusa County known as the "Trough" and would, if it were constructed along the route indicated on the maps submitted by petitioner, be separated from the lines of other utilities by as much as five miles, and possibly more.

Allowing a reserve capacity of 6,700 horsepower in spare generating units to provide emergencies and unexpected demands for service, the Northern California Company could, if necessary, supply from its present system about 14,900 horsepower in excess of all the present requirements of the territory served without having to avail itself of reciprocal contract privileges or the installation of an additional generating unit. By taking advantage of its contract with the Pacific Gas and Electric Company, 5,000

horsepower additional would be immediately available, and by the installation of a spare generating unit on hand, 4,000 horsepower more in generating capacity could be placed in operation on very short notice. From the facts here related it will be apparent that the Northern California Power Company, Consolidated, is in a position to serve, upon short notice, at least four times the entire connected agricultural load in all of the rural districts supplied by that Company, and it should be pointed out that the present development is the result of not less than 14 years effort on the part of the existing utility.

Insofar as the territory now supplied by the Pacific Gas and Electric Company is concerned, and territory immediately adjacent thereto, there can be no question but that the existing company is amply able to supply all demands for power which now exist, or which may develop in the immediate future.

No evidence was presented to show that the rates of Northern California Power Company, Consolidated, and Pacific Gas and Electric Company are unreasonable, or that the service of these companies in the territory affected has not been satisfactory. There is nothing in the record to show that petitioner could accord the territory affected better rates or better service than the territory is now receiving. Although there were a few complaints that Northern California Power Company, Consolidated, had been unwilling to make certain long extensions at its own expense, we are not satisfied that the company acted unreasonably in the instances revealed in the record herein, nor does the record show that petitioner could or would have adopted a more liberal policy.

#### 6. Conclusion

We have here a case in which a petitioner is seeking a declaration that public convenience and necessity require the exer-

cise by it of rights under franchises which are subject to forfeiture. Furthermore, it appears from the record that it will be almost impossible for petitioner to be successful.

Petitioner is seeking to enter a territory which is already being served by another utility of like character, which utility is giving good service at rates prescribed by this Commission. There is nothing to show that petitioner could grant as good service at rates any lower than those being charged by the existing utility. The existing utility has sufficient surplus capacity to enable it to supply all the demands of the territory here under consideration, and there is not enough business in sight to permit both the existing utility and petitioner to earn a reasonable return.

The case is governed by the principles declared by this Commission in PACIFIC GAS AND ELECTRIC COMPANY vs. GREAT WESTERN POWER COMPANY. (Vol. 1, Opinions and Orders of the Railroad Commission of California, p. 203), the ORO ELECTRIC COMPANY case, (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 748) and more recent cases in which the principles applicable to proceedings of this character are clearly set forth.

Under these decisions, and by reason of the additional circumstances appearing in this proceeding, as hereinbefore set forth, this proceeding should <sup>be</sup> dismissed.

We submit the following form of order:

O R D E R .

The Sierra Electric Power Company having filed its petition asking that the Railroad Commission declare that public convenience and necessity require the exercise by petitioner of rights and privileges granted by the Counties of Butte, Colusa, Glenn, Shasta and Tehama to one Albert C. Agnew by the ordinances referred to in the Opinion which precedes this Order, a public hearing having been held, evidence

having been presented by petitioner and by protestants, briefs  
having been filed and this proceeding being now ready for decision,

IT IS HEREBY ORDERED that this proceeding be and the same  
is hereby dismissed.

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 26th  
day of September, 1916.

Max Thelen

W. H. England

Edwin V. Edgerton

Frank R. Decker  
Commissioners.