

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of PACIFIC GAS AND ELECTRIC COMPANY, a corporation, to sell and UNITED WATER AND POWER COMPANY OF CALIFORNIA to purchase certain water rights and property interests, and of UNITED WATER AND POWER COMPANY OF CALIFORNIA to sell and PACIFIC GAS AND ELECTRIC COMPANY to purchase certain water rights, property interests, etc., all subject to certain terms and conditions.

Application No. 566.

W. B. Bosley and C. P. Cutten for Pacific Gas and Electric Company.  
James D. Stewart for United Water and Power Company of California.

WHELEN, Commissioner.

O P I N I O N.

This is an application for an order authorizing the applicants to buy and sell certain water rights, ditches, canals and appurtenances in Nevada and Placer counties in this State. The United Water and Power Company proposes to sell to the Pacific Gas and Electric Company two certain ditches, one of which is known as the Miner's Canal and the other as the Miner's Ditch Extension, together with the right to the water diverted by said ditches. The Miner's Canal extends from a point in Section 4, Township 16 North, Range 11 East, M.D.B. & M., to a point near Gold Run, Section 4, Township 15 North, Range 10 East, M.D.B. & M., a distance of about 10 miles. This canal was constructed in the 50's and has been used to convey water for mining purposes from the Bear River to points in and about Gold Run. The Miner's Ditch Extension Canal extends from a point in Section 24, Township 17 North, Range 12 East, M.D.B. & M., a distance of some 4 1/2 miles, to a point in Section 22, Township 17 North, Range 12 East, M.D.B. & M. The ditch diverts a portion of the waters of the south fork of the yuba River and conveys them to the Bear River. The Miner's Ditch Extension was constructed about the year 1870, for

the purpose of assuring a supply of water from the south fork of the Yuba River for the mining operations in and about Gold Run at those seasons of the year during which sufficient water could not be conveyed from the Bear River by the Miner's Canal. It appears that the owners of the waters conveyed by the Miner's Canal and the Miner's Ditch Extension have never held themselves out as supplying water to the public and that they have never been a public utility.

In return for these canals and water rights, the Pacific Gas and Electric Company will cause to be surrendered and cancelled a certain promissory note bearing date January 2, 1912, for a principal sum of \$130,000, made by United Water and Power Company of California to Arthur L. Pearce, and two other promissory notes bearing date January 4, 1912, made by said United Water and Power Company of California to said Arthur L. Pearce, for principal sums aggregating \$4,792; also will secure the release of mortgage securing the payment of said note of \$130,000; also will pay to United Water and Power Company of California the sum of \$25,000; also will cause to be transferred to such person or persons as may be designated by the United Water and Power Company of California 6400 shares of said Company's common stock, now owned or supposed to be owned by A. L. Pearce; also will give to said United Water and Power Company a quitclaim deed, subject to certain reservations, conveying all of the Pacific Gas and Electric Company's estate in what is known as the Rattlesnake Ditch, in Sections 2 and 3, Township 15 North, Range 10 East, M.D.B. & M., southeast of Dutch Flat, with rights of way, a dam, and water rights connected therewith. The purpose of quitclaiming the Rattlesnake Ditch and appurtenances is to enable the United Water and Power Company to secure water necessary for its mining operations in the vicinity of Gold Run <sup>during</sup> a portion of the year.

The only portion of this application as to which this Commission's consent is necessary is the conveyance by Pacific Gas and Electric Company of its interest in the Rattlesnake Ditch and appurtenances and the water rights connected therewith.

The purpose of the Pacific Gas and Electric Company in entering into the proposed agreement is to enable it to take the waters which have hitherto been conveyed through the Miner's Ditch Extension and to continue them down the south fork of the Yuba River, so as to help fill Lake Spaulding, and also to take the waters which have hitherto been conducted from the Bear River through the Miner's Canal and to use them either in connection with the operations which the Company has heretofore conducted through the Boardman Canal, or to use them in connection with Power Developments No's 4, 5 and 6 on the extension of the Bear River Canal. It appears that the complete development of Lake Spaulding and the hydro-electric developments connected therewith demands that the water hitherto conveyed from the south fork of the Yuba River through the Miner's Ditch extension ~~is~~ be permitted to continue down the south fork of the Yuba River into Lake Spaulding, so as to help fill that lake. The Company also claims that it would be desirable to own the Miner's Canal and the Miner's Ditch Extension for use in case its other canals in the same locality for any reason become unavailable.

The Commission does not have sufficient evidence to enable it to say whether or not the consideration paid represents the actual value of the property to be conveyed by each of the companies. The agreement which has been reached between these companies represents the result of extended negotiations and both parties are satisfied with the agreement as finally entered into and attached as Exhibit "A" to the petition in this proceeding. It should be understood that the considerations which have been agreed upon between the parties to said agreement shall not be used in any rate fixing inquiry or other matter pending before this Commission or any other public authority, as representing the real value of the properties affected and the order in this proceeding will contain a condition to this effect.

We understand that there is certain litigation affecting certain waters in this vicinity. The order in this proceeding is, of course, subject to all rights of third parties.

I recommend that the application be granted in so far as this Commission's consent is necessary, and submit herewith the following form of order:

O R D E R.

PACIFIC GAS AND ELECTRIC COMPANY and UNITED WATER AND POWER COMPANY OF CALIFORNIA having filed with this Commission their application for authority to purchase and sell certain properties, referred to in the opinion which precedes this order, which properties are more specifically described in said application and in the exhibits attached thereto, and it appearing that this Commission's authority is necessary only in connection with the properties which are to be conveyed by the Pacific Gas and Electric Company, which properties are hereinafter more specifically designated, and it appearing that said application should be granted,

IT IS HEREBY ORDERED that Pacific Gas and Electric Company is authorized to transfer to United Water and Power Company of California all of said Pacific Gas and Electric Company's rights, titles, interests and authorities in and to what is known as the Rattlesnake Ditch, together with the dam in Canyon Creek, by means of which water is diverted from said creek into said Rattlesnake Ditch and the water right used in connection with said ditch and dam, subject to such prior rights as said Pacific Gas and Electric Company may have to divert the waters naturally flowing in said Canyon Creek by means of its existing diverting dams and ditches located above the head of said Rattlesnake Ditch, and also subject to the right reserved in said Pacific Gas and Electric Company to the temporary use of said Rattlesnake Ditch for conveying its own water in case of emergency, all as specified in Exhibit "A" attached to the application in this proceeding.

This order is made upon the express condition that the consideration paid by the parties to the agreement for the properties

respectively conveyed by them shall not be taken before this Commission or any other public authority as representing in a rate fixing or any other inquiry the actual value of said properties or any of them.

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 19th day of July, 1913.

John W. Eschman  
Max Shellen  
Edwin O. Edgerton  
Commissioners.