

Decision No. 27050

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of)
the MODESTO IRRIGATION DISTRICT)
that the Railroad Commission fix and)
determine the just compensation to be) Application No. 18653.
paid for the electric distribution)
system of the SIERRA AND SAN FRANCISCO)
POWER COMPANY (PACIFIC GAS & ELECTRIC)
COMPANY, LESSEE).)

L. J. Maddux and Vernon F. Gant, for applicant.

C. P. Cutten and Ralph W. DuVal, for Sierra and
San Francisco Power Company and Pacific Gas and
Electric Company, Lessee.

BY THE COMMISSION:



O P I N I O N

This is a proceeding brought by the Modesto Irrigation District in conformity with Section 47(b) of the Public Utilities Act. Applicant asks the Railroad Commission to fix and determine the just compensation to be paid for that part of the electric distribution system of the Sierra and San Francisco power Company (Pacific Gas and Electric Company, Lessee), as set forth and identified in Exhibit "A" and modified by Exhibit "B", both annexed to the petition filed herein on January 17, 1933, said system existing within the boundaries of the Modesto Irrigation District.

Hearing on the Commission's order to Show Cause occurred in Modesto, California, on May 9, 1933. Thereafter exhaustive testimony affecting valuation and just compensation of the

property and rights sought to be condemned was heard in San Francisco before Commissioner Ware, requiring 13 trial days commencing November 21, 1933, and terminating February 16, 1934, and embracing 991 pages of testimony and⁴⁷ extensive Exhibits.

The matter having been submitted and the concluding brief having been filed on April 2, 1934, the Commission is now ready to decide the amount of just compensation. The property which the District desires to condemn consists of rights of way, easements, franchises and property, constituting the electric distribution system described in Exhibit "A" heretofore mentioned.¹ The portions of the franchise sought herein comprise the right to conduct and operate a system to distribute electric energy for public sale within the Modesto Irrigation District. Values herein determined are as of January 17, 1933, the date of filing the instant proceeding.

In our effort to arrive at fair value, we have segregated the various items and factors involved, and have attached to each our conception of just compensation. This segregation includes:

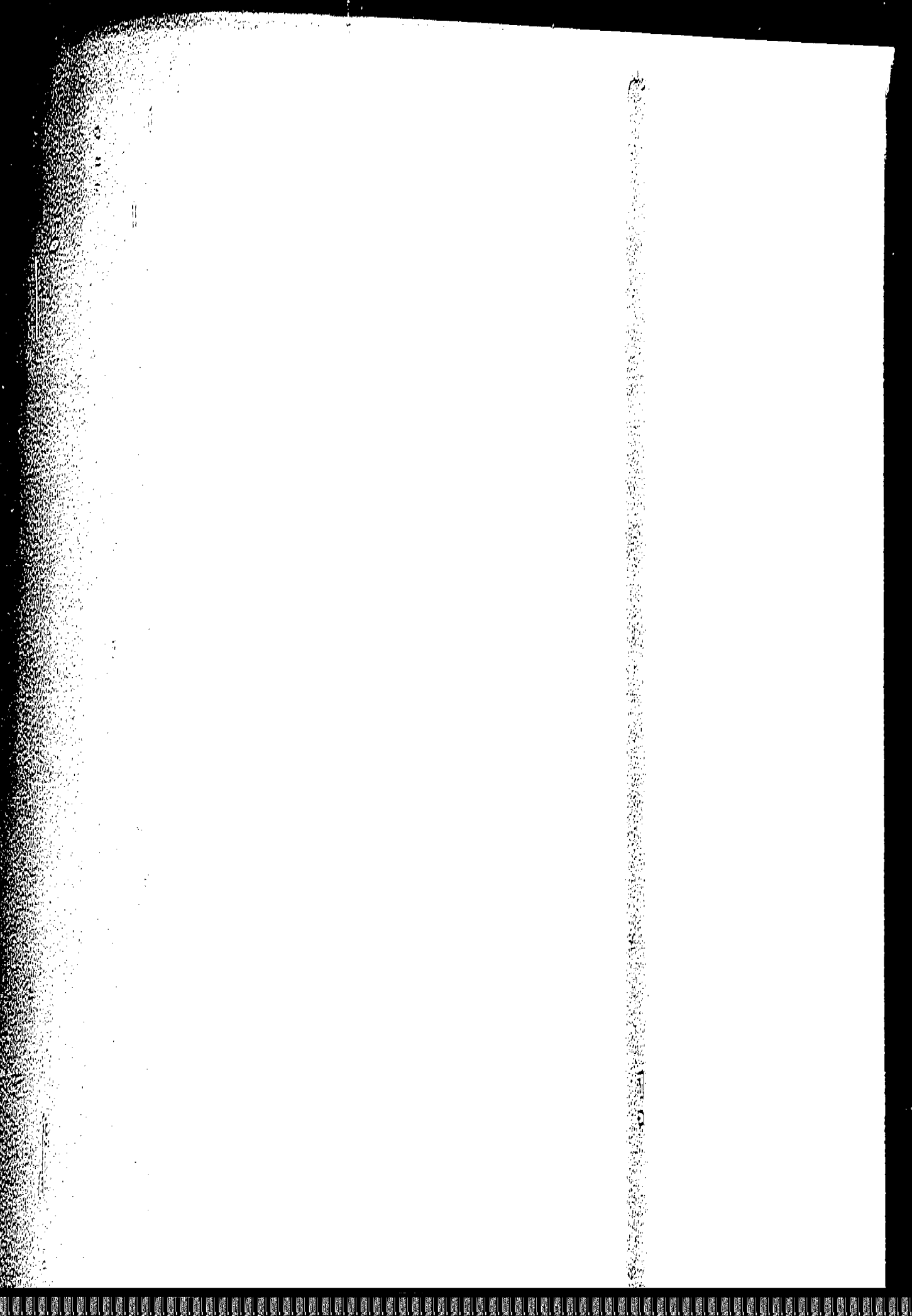
1. With the exception of one 17 K.V. substation serving the plant of the Pacific Fruit Express, and the 17 K.V. line extended from the Modesto substation to the Pacific Fruit Express substation, the property to be acquired does not include any distribution plant operating at voltages in excess of 5000 volts.

Property to be acquired does not include the 60 K.V. transmission lines extending through the District; the 17 K.V. secondary transmission lines extending from the Modesto Substation through the District; the Modesto Substation and the rural 17 K.V. substations located within the District; certain 4 K.V. lines within the District which are to serve territory outside the District as described in Exhibit "B" attached to the Application; and furthermore, no general property is included.

1. Fair values as of January 17, 1933, of properties and rights described in application, as determined by reproduction cost new less accrued depreciation.
2. Damages inflicted upon Company property not condemned and rendered entirely useless.
3. Reasonable carrying charges for Company facilities not condemned, or proportionate parts thereof, rendered temporarily idle.
4. Necessary costs of construction to place property, not condemned, in adequate operating condition.
5. Incidental expenses occasioned by severance.

FAIR VALUE.

The most important factor with which we are concerned is fair value of property and rights. Many expert witnesses employed alike by condemning District and defending Company, as well as numerous engineers from the Commission's staff, were heard at length. For purposes of clarity we present herewith an abstract of their various attestations, for it is only by a comparison and reflective consideration of all the testimony that we may be able to embrace a satisfactory conclusion.



SIERRA & SAN FRANCISCO POWER COMPANY - MODESTO DISTRICT

APPLICATION NO. 18853

CAPITAL SUMMARY

Account Nos.	O.R.O. ORIGINAL		O.R.O. ADJUSTED		PACIFIC GAS AND ELECTRIC COMPANY		B. W. ORSIM		L. S. READY		
	R.O.N.	Less Depreciation	R.O.N.	Less Depreciation	R.O.N.	Less Depreciation	R.O.N.	Less Depreciation	R.O.N.	Less Depreciation	
INTANGIBLE CAPITAL											
301 Organization	\$ -	\$ -	\$ 1,800.	\$ 1,800.	\$ 3,105.	\$ 3,105.	\$ -	\$ 1,800.	\$ 1,800.	\$ 1,800.	\$ 1,800.
302 Franchises	800.	800.	800.	800.	2,500.	2,500.	475.	475.	475.	475.	475.
TANGIBLE CAPITAL											
342 Distr. Lands	1,073.	1,073.	1,073.	1,073.	1,073.	1,073.	240.	240.	240.	240.	240.
344 " Substa. Equip.	10,091.	8,576.	10,192.	8,662.	10,186.	8,658.	9,919.	9,919.	8,430.	9,919.	8,430.
346 " Poles & Fixt.	66,010.	49,233.	66,502.	49,601.	66,677.	50,008.	64,478.	64,718.	48,273.	64,718.	48,273.
347 " Overhead Cond.	45,537.	33,339.	43,965.	33,672.	44,052.	33,920.	42,785.	42,793.	32,775.	42,793.	32,775.
350 " Line Trans.	57,328.	39,418.	57,830.	39,739.	58,799.	40,571.	56,348.	56,348.	38,738.	49,094.	33,661.
351 Services	11,757.	8,541.	11,875.	8,626.	11,914.	8,697.	11,556.	11,556.	8,395.	7,981.	5,893.
352 Cons. Meters	10,666.	8,822.	10,773.	9,064.	10,765.	9,043.	10,483.	10,483.	8,816.	10,483.	8,816.
TOTALS ***	\$ 201,262.	\$ 149,802.	\$ 204,810.	\$ 153,036.	\$ 209,071.	\$ 157,575.	\$ 196,284.	\$ 198,332.	\$ 147,943.	\$ 187,503.	\$ 140,363.

* Includes \$49.00 item covered by testimony.

HCM

The various contributions, throughout this proceeding, from the Commission's engineers are significant. Their answers are characteristically expert, accurate and impartial. The study and conclusions of C. T. Mess, Commission Valuation Engineer, which ~~is~~ ^{were} detailed in the 44 pages of his Exhibit No. 2 ~~was~~ ^{were} received without challenge of contending counsel. The adjusted figures on the preceding chart offer a satisfactory and convincing basis upon which to rest our answer of fair value for properties and rights.² *HCM*

It is our judgment that \$153,000.00 affords fair value for reproduction cost new less depreciation of the rights and properties sought herein.

2. We quote the following from Exhibit No. 2 presented by C.R.C. Valuation Engineer, Mr. C. T. Mess:

"The estimated reproduction cost is the standard used in this study and for those units of property which are depreciable this estimate of cost new has been lessened by an amount which is believed to represent the diminished operative serviceability of the old units as compared to new ones. * * *"

"In the development of this depreciation study it has been considered fundamental that a compound estimate of a whole, resulting from summation of estimates of the parts, is more reliable than a simple estimate of the whole. From this principle it follows that the greater the number of parts into which a whole is divided in arriving at a judgment figure, the greater is the reliability of the composite estimate of the whole. * * *"

"In this analysis the greatest weight was given to field inspection and interpreting these findings in the light of the practical operator of such a system. Full advantage has been taken of age and life data, where available, as this information is of considerable importance in the consideration of the future service. The practical time unit is the year. In addition to the future expectancy factor, the interest item and other costs of operation are considered. This latter cost is material when the old facility will have greater average costs, over its remaining service life, as opposed to such costs over its total service life. A study of this method will show it to be a modification of the sinking fund theory, whereby factors other than age, life and interest are given consideration. It, of course, follows that where such other factors are present the depreciated cost thus computed will be lower than that found by straight application of the sinking fund method."

"Where removal of plant at definite time in future is known, the value is that of net salvage plus time interval service value of plant. The value of this service is measured by comparison with new plant for which the annual cost is computed on basis of investment cost, interest on investment, life, salvage and sinking

Mr. L. S. Ready, one of the experts employed by the District, contended that in arriving at fair value for that portion of the transformers and services as he designated as being excessive and unnecessary, we should deduct the costs of installation incurred by the Company. He argued that such excessive equipment should be evaluated on the same basis as though it were in storage. Any such contention is untenable.

We cannot review this point with the same approach applicable to a utility operating under monopolistic conditions and advantages. For many years the Company has felt the active and consuming competition of the District. All of this alleged excessive equipment was originally installed by the Company in good faith, prudently, and in the furtherance of sound business policy and judgment. Only because of the severe competition of past years has much of this property been rendered idle for comparatively long periods of time. A full consideration of these existing competitive conditions impel the conclusion that in the

2. (Continued)

fund annuity and increasing maintenance, if appropriate."

"The difficulty of definite differentiation between normal system maintenance, deferred maintenance and increasing maintenance with age, in many instances is fully recognized in this study. In some classes of equipment judgment must be entirely based on field inspection and knowledge of operations and reflected in the constants of expectancy and accrued depreciation.
* * *"

"Deferred maintenance may or may not reveal itself as an actual physical deterioration of plant. Only where definite cost increases in maintaining similar service can be established with reference to specific items of maintenance, should recognition be given to this item. When this becomes apparent, utility practice usually dictates replacement. * * *"

"This study reflects no price depreciation as the reproduction cost new appraisal prices give full recognition to this item.

"While inadequacy and obsolescence lessen service life, where same is partial, the life cycle of the item or items may be greatly extended when adapted to other forms of service. Similarly, equipment not definitely in use, but possible of future operation at same or other location on an operative system, has a definite service value considered in this instance as residual value."

furtherance of this contest and struggle for consumers, the Company exercised the greater part of judgment, and adopted the ordinary and proper course by allowing this idle equipment to remain installed and available for such usage as the anticipation of increased patronage might require.

All transformers, meters and services have remained usable at any moment, and the Company had a right to anticipate that any of them might be called into use at any time. In amplification of this fact, Exhibits Nos. 7 and 20 show a healthy increase in number of patrons as well as revenues during the last two years of the Company's business.³ This is true notwithstanding the difficulty of inducing any considerable trend of patronage from the District to the Company when the approximate and apparent loss of all Company patronage is imminent through condemnation.

It seems reasonable to conclude that much of this alleged excess of installation may be readily and actively pressed into ~~effective~~ service by and in the District should said District

3. (From Exhibit 25)

Revenues and Consumers.

	<u>Revenues</u>	<u>Average Yearly Consumers</u>
<u>1932</u>		
Inside City Limits	\$35,758.	521
Outside " "	<u>14,705.</u>	<u>56</u>
Total	\$50,463.	577
<u>1933</u>		
Inside City Limits	\$40,142.	652
Outside " "	<u>12,326.</u>	<u>66</u>
Total	\$52,467.	718
1933 Increase	\$ 2,004.	141
1933 % Increase	3.98	24.5

The foregoing shows a definite increase due in a large degree to the domestic consumers' accounts whose revenues are reflected in the higher blocks of the rate structures.

presently consummate the acquisition of such property, together with all of the Company's consumers within the District and the exclusive right to distribute electric energy therein.

The contending factions concur in many small corrections and adjustments, all of which are reflected in the column entitled "C.R.C. Adjusted" in the foregoing "Capital Summary". However, there remain various matters of controversy which may be briefly discussed and then disposed of.

From a full consideration of the respective testimony and evidence presented, we will allow 18 per cent as the proper overhead to be applied to the tangible fixed capital, exclusive of land. In arriving at this percentage we add one per cent as an additional allowance to the 17 per cent recommended by John E. Cooper, a witness representing the Commission staff, in order to adequately and fairly cover errors and omissions. We believe \$1,800.00 is a fair and proper allowance for organization and \$800.00 just and proper to cover franchises, the existence of which has been sufficiently established through the testimony and Exhibits offered by the Company.

The District protested any allowance for freight on transformers between San Francisco and Modesto and presented a letter (Exhibit No. 35) from "Maloney Electric Company of St. Louis" evidencing the willingness of said Company to include in sale price such item of freight. The fact remains that all of the transformers involved are Westinghouse, General Electric and Wagner transformers and the Company proved that in reproducing the same, freight from San Francisco to Modesto in the sum of \$480.00 would be added to the initial cost. Hence, an allowance appears justifiable and correspondingly has been incorporated in the amount found due.

The contending factions have alternately attacked and defended the motive and the legal right of the District in choosing

certain portions of the Company's franchise and rejecting all others. Analysis of these contentions urge the conclusion that the District's actuating desire was to acquire the exclusive right to serve electricity within the District, and leave unto the Company all of its rights and properties not useful to said service. That which may thus be retained will afford the Company the right to transmit power through the territory of the District for uses beyond its borders. It therefore follows that the District has pursued a plan consistent with law and comity in splitting the franchise rights of the Company, taking through condemnation the parts wanted and leaving unto the Company all others not inconsistent with the District's operations and apparently necessary or conceivably useful to the Company.

For 12 years the District has pursued vigorously and effectively a campaign of acquisition, and now is exercising its constitutional and arbitrary power of condemnation. No one can protest and prevail against either act. But when we see the arbitrary and irretrievable removal of privately owned property and rights passing forever into the control of government, we should likewise see another hand of government extend unto the former owner a just and ample compensation for the property and rights taken, and for any damages resulting directly or indirectly. We have endeavored to effect such compensation in this order.

GOING VALUE.

Preliminary to a disposition of severance damages, it should be noted that the Commission has duly considered another constant factor in condemnation, to wit, Going Value. The record conclusively establishes and this order plainly shows that the element of huge, wholesome or any net profits is absent in the Company's recent operation of properties and rights involved. Past competition has humbled the status of the Company's earnings.

Future growth, assuming the Company's activities were to continue undisturbed, would probably move slowly to the cadence of approximately 5 per cent annual increases. We have concluded that any going value that may be attached to the properties and rights to be condemned is nominal and moreover is amply reflected in the adjusted fair value figure of \$153,000.00.

SEVERANCE DAMAGES.

We come now to a determination of fair compensation for:

- I. PHYSICAL SEVERANCE.
- II. IDLE PLANT SEVERANCE.
- III. TEMPORARILY IDLE EQUIPMENT SEVERANCE.

The views of the District on the one hand, and the Company on the other, are widely divergent. Mr. Ready, contending for the former, urges \$730.00 to be allowed for physical severance damages. The District further argues: " * * * the property" (herein valued for condemnation) "to an independent purchaser would be worth no more than NET SALVAGE VALUE of structures and equipment. * * * The revenue from the service from these lines and connecting substations, serving within the District, is insufficient to pay the operating expenses of the connecting secondary lines included in the property to be acquired. * * * The service from these lines within the District is rendered at an out-of-pocket loss and if removed, Company losses would be reduced and the Company financially benefited."

The Company contends that the contemplated removals will render wholly useless the residual electric properties and rights within the District and argues at length in support of "the plan of the Company" to remove and salvage all electric properties and facilities within the District not sought to be taken. Hence, the Company claims not only severance damages but

contends "that the Company should be compensated fully for the value of the properties necessarily to be removed, together with the costs which must be incurred in the construction and reconstruction of facilities to be made necessary". The Company's total figure for all severance damage items is in the aggregate sum of \$206,147.00. The District comes much closer to the correct answer, suggesting total severance damages in the sum of \$38,230.00.

Equally divergent concepts appear relative to the future utility of the remaining Modesto substations. Mr. Ready in recognition of an element of severance damage coupled with future usefulness, supplies in his Exhibit No. 12 the foundation for his conclusion that the severance damages connected with the Modesto Substation aggregate \$17,720.00. In bold contrast Mr. Lisberger, representing the Company, estimates these damages in his Exhibit No. 28 at \$65,995.00.

Again we find it necessary to arrive at the value of severance damages over a course somewhat between these two extremes.

Disposing of the future utility value of the Modesto Substation, it is proper to observe that the present 17 K.V. and distribution system was designed to meet the load requirements of the City of Modesto and rural contiguous territory. Also it was intended to be a link in the inter-connected 17 K.V. feeders originating from Manteca and Stanislaus. With the 60 K.V. step down at Modesto on the Manteca-Patterson loop, continuity of service to Modesto was practically assured, without consideration of the three 17 K.V. feeders from other sources. At the time of this application there was connected to the 17 K.V. loops, exclusive of the step down stations within the area in question, in excess of 3250 K.V.A. of transformer capacity, located in eight substations. The present and future necessity of maintaining the Modesto Substation as a source of supply to the 17 K.V. radial feeders 17 K.V. substations

as well as a point for voltage regulation to the 17 K.V. system becomes a matter of fact.

The franchise rights remaining with the Company while of negative value as regarding serving load within the district, have been assumed to include the definite right to operate and maintain those certain substations, feeders and telephone circuits necessary for rendering service to all areas without the district. This assumption also precludes the advisability of retirement of either the Modesto Substation, or the 17 K.V. radial feeders. A public utility is obliged to render adequate service where said service has been long established and the Company's proposal as to plant removal seriously threatens continuity of service to its contiguous territory. No sufficient or convincing evidence was offered as to substitutional plant to guarantee the present service enjoyed, and the resulting economies are extremely questionable.

It is our conclusion that the fair award for physical severance is \$2,000.00. This sum properly compensates for the severance occurring to the distribution circuit and telephone circuits. Relative to telephone circuits, we make allowance for the new circuit necessitated from Modesto Substation to the District office; the other system telephone circuits we conclude will remain intact.

We have made a full and complete comparison of all of the evidence and Exhibits herein. The method followed in determining IDLE PLANT SEVERANCE has been to determine approximately the historical depreciated cost and from this we have deducted the net salvage of all property involved, after making the proper allocation of excess plant capacity; the resultant representing total damages incurred. The main item of this account of damages is incurred by the Modesto Substation 2.3 K.V. and 17 K.V. equipment, which we fix at \$9,800.00. Combined with the Modesto Substation,

we have computed the idle plant's severance affecting Salida Substation, Sylvan Substation, 17 K.V. distribution (Salida District), and 4 K.V. rural (Paradise Substation). We have concluded that \$17,000.00 is fairly compensatory for all these items of idle plant severance.

Concluding the question of TEMPORARY IDLE EQUIPMENT SEVERANCE, historical cost forms the basis and after its determination, allocation for the service attained is necessary to form the basis to compute fixed charges. The resulting losses, based on conditions as of date of application, for the periods contemplated, have been estimated and the amounts reduced to a damage at the time of severance by the application of present worth factors. Such damage to 17 K.V. and 60 K.V. equipment, at the Modesto Substation we compute in the sum of \$16,000.00. The severance damages on account of rendering temporarily idle portions of the production and transmission system plant capacity, we have determined in the amount of \$26,000.00. Other factors in this group of equipment suffering severance damage includes, in the following respective order of importance: (a) Per cent operating costs Modesto Substation. (b) General capital. (c) 4 K.V. Distribution (Paradise Substation). (d) 17 K.V. (Modesto-Salida). (e) 17 K.V. (Modesto-Sylvan). (f) 17 K.V. (Modesto-Paradise). (g) Per cent operating costs (Paradise and Gates Substation). The total temporary idle equipment severance aggregates \$50,000.00.

Summarizing, the following is therefore our conclusion of just compensation herein:

I. REPRODUCTION COST NEW LESS DEPRECIATION - PHYSICAL PROPERTY AND RIGHTS TAKEN	\$153,000.00
II. PHYSICAL SEVERANCE	2,000.00
III. IDLE PLANT SEVERANCE	17,000.00
IV. TEMPORARY IDLE EQUIPMENT SEVERANCE	<u>50,000.00</u>
TOTAL - JUST COMPENSATION	\$222,000.00

The following order is issued:

O R D E R

The MODESTO IRRIGATION DISTRICT, an irrigation district organized and existing under and pursuant to the laws of the State of California and situated in the County of Stanislaus, having filed with the Railroad Commission on the 17th day of January, 1933, a petition as above entitled, and the Commission having proceeded in accordance with the provisions of Section 47(b) of the Public Utilities Act to fix and determine the just compensation to be paid by the Modesto Irrigation District to the Sierra and San Francisco Power Company (Pacific Gas and Electric Company, Lessee) for the taking of the property and rights described in the Exhibits attached to the petition and in amendment thereto, public hearings having been held, the matter having been submitted, and the Railroad Commission being fully apprised in the matter, makes the following findings:

1. IT IS HEREBY FOUND AS A FACT that just compensation to be paid by the Modesto Irrigation District to the Sierra and San Francisco Power Company (Pacific Gas and Electric Company, Lessee) for the property and rights described in the application, not including severance damages, is the sum of \$153,000.00.

2. IT IS HEREBY FOUND AS A FACT that the sum to be paid by the Modesto Irrigation District to the Sierra and San Francisco Power Company (Pacific Gas and Electric Company, Lessee) as severance damages to the remaining property and rights of the Sierra and San Francisco Power Company (Pacific Gas and Electric Company, Lessee), after the taking of the property and rights described in the application is the sum of \$69,000.00.

3. IT IS HEREBY FOUND AS A FACT that the total just compensation to be paid by the Modesto Irrigation District to the

Sierra and San Francisco Power Company (Pacific Gas and Electric Company, Lessee) for the taking of the property and rights described in the application is the sum of \$222,000.00.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 14th day of May, 1934.

C. L. Seamy
Leon Seamy
M. J. Can
M. B. Harris
A. J. ...

Commissioners.