

Decision No. 28602

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of GREAT WESTERN POWER COMPANY OF CALIFORNIA and of its subsidiaries, GREAT WESTERN POWER COMPANY, CITY ELECTRIC COMPANY, FEATHER RIVER POWER COMPANY, NAPA VALLEY ELECTRIC COMPANY and CALIFORNIA ELECTRIC GENERATING COMPANY, to distribute and transfer, in the process of winding up their affairs and effecting their voluntary dissolution, all of their assets to PACIFIC GAS AND ELECTRIC COMPANY, and of the latter to take and hold the shares of capital stocks, and to assume and agree to pay the bonds and other debts and to perform and discharge all other obligations of the aforesaid other companies.

Application No. 20116

ORIGINAL

BY THE COMMISSION:

THIRD SUPPLEMENTAL ORDER

Good cause appearing therefor,

IT IS HEREBY ORDERED that the provision of paragraph six(6) of the order in Decision No. 28517 dated January 20, 1936 reading-

"said authority is subject to the further condition that any sum, approximately \$9,413,628.61, paid by Pacific Gas and Electric Company for the aforesaid properties in excess of the net amount which it is by this order permitted to charge to fixed capital accounts, will be charged to Account 137-Miscellaneous deferred debits, and carried in such account until charged off to profit and loss"

be, and the same is hereby amended so as to read-

said authority is subject to the further condition that any sum, approximately \$9,413,628.61, paid by the Pacific Gas and Electric Company for the aforesaid properties in excess of the net amount which it is by this order permitted to charge to fixed capital accounts, as aforesaid, will be charged to balance sheet account 102-1/2 entitled "cost of acquisition of properties in excess of historical cost of properties acquired", which account shall be separately shown in the annual report of the Pacific Gas and Electric Company filed with the Railroad Commission of the State of California, and which account Pacific Gas and Electric Company is hereby authorized to record on its books.

IT IS HEREBY FURTHER ORDERED that paragraph seven(7) of the order in Decision No. 28517 dated January 20, 1936, as amended, reading-

"The authority herein granted will become effective forty(40) days after the date of said Decision No. 28517; and when Pacific Gas and Electric Company has filed with the Commission in satisfactory form a stipulation duly authorized by its Board of Directors, and by the Board of Directors of Great Western Power Company of California and its subsidiaries, in which said applicants agree that neither they nor their successors and assigns will, in the event some public body or public bodies seeking to condemn all or part of their properties, claim severance damage because of the fact that the Commission in this proceeding authorized the transfer and consolidation of the aforesaid properties and when said Pacific Gas and Electric Company has filed with the Commission in satisfactory form a contract, duly authorized by its Board of Directors similar in form to the contract set forth in the foregoing opinion"

be, and the same is hereby, amended so as to read-

The authority herein granted will become effective forty(40) days after the date of said Decision No. 28517; and when Pacific Gas and Electric Company shall have filed with the Commission, in satisfactory form, a stipulation duly authorized by its Board of Directors, in which said Pacific Gas and Electric Company shall agree, without prejudice to its rights under the constitution and laws of this state and of the United States to just compensation, that, in the event that the State of California or some other public body or bodies authorized so to do shall, within a reasonable time not exceeding five(5) years after the date of this order, commence and diligently prosecute proceedings for the condemnation of all or part of the properties of said Great Western Power Company of California and its subsidiaries, it will not claim special severance damages because of the fact that the Commission in this proceeding, has authorized the transfer and consolidation of the aforesaid properties; and when said Pacific Gas and Electric Company shall have filed with the Commission, in satisfactory form, a contract duly authorized by its Board of Directors substantially in the form of the contract set forth in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that the order in Decision No. 28517 dated January 20, 1936, as amended, shall remain in full force and effect, except as modified by this Third Supplemental Order.

DATED at San Francisco, California, this 27th day of February, 1936.

M. B. Blinn
Leon C. Whelan

Frank R. DeWitt

I regret my inability to join in the first of the modifications here made.

In effect it overrules a principle and policy expressed in more than a score of decisions and orders of this Commission that over-plus payments must either be absorbed at once through charges against surplus or be carried in a suspense account until so absorbed.

This principle and policy in the past has proved a useful servant in the public interest. I am not prepared to say that the time has arrived when it should be discarded.



Commissioner.

Commissioner Ware declined to participate in the foregoing Third Supplemental Order because of the fact that two of his brothers are attorneys of record.