

Decision No. 30033

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Petition of the City of Redwood City, a municipal corporation, that the Railroad Commission of the State of California fix a just compensation to be paid by the City of Redwood City, a municipal corporation, for certain property, rights and franchises of the Pacific Gas and Electric Company, a corporation, located and situated within the corporate limits of said City of Redwood City and used and/or useful in the distribution and/or sale of electrical energy within the City of Redwood City and in certain isolated outside territory.

Application No. 19824

Albert Mansfield and Paul A. McCarthy, for Applicant.  
C. P. Cutten, Chaffee E. Hall and R. W. DuVal, for Pacific Gas and Electric Company, Wells Fargo Bank and Union Trust Company, Bankers Trust Company, City Bank Farmers Trust Company, and American Trust Company.

BY THE COMMISSION:

O P I N I O N

This is a proceeding under Section 47(b) of the Public Utilities Act in which the City of Redwood City, a municipal corporation, hereinafter referred to as the City, asks the Railroad Commission to fix and determine the just compensation for the taking of certain lands, properties and rights of the Pacific Gas and Electric Company. The petition was filed February 9, 1935, application for leave to amend petition was filed October 14, 1935, and order amending petition was issued by the Commission on October 21, 1935. The lands, properties and rights described in

the petition as amended consists of certain electric distribution properties and franchises within the corporate limits of the City of Redwood City and certain isolated distribution facilities situated just outside the limits of said City. As provided in Section 47(b) of the Public Utilities Act, just compensation is to be determined for such lands, properties and rights as of February 9, 1935, the date of the filing of the original petition.

Hearings on the order to show cause were held in the Court House of the City of Redwood City on May 2, 1935, and in the offices of the Commission in San Francisco on May 21, 1935. In response to the order to show cause objections were made by respondents and over-ruled by the Commission on May 27, 1935. The receiving of exhibits and taking of testimony commenced November 19, 1935, and was concluded on February 23, 1937, all of said hearings being held in the City of San Francisco. During this period, 21 days were devoted to the taking of testimony. The record consists of 1,417 pages of transcript and 32 exhibits introduced by the interested parties. Concurrent briefs were filed on November 30, 1936; and on February 23, 1937, following the introduction of certain exhibits by the Engineering Staff of the Commission, oral argument was held before the Commission en banc, at the conclusion of which the matter was submitted.

It is evident from the records in this case that the contentions of the City and the Company differ widely as to the just compensation to be fixed. The City claims that the total award should be \$378,467, of which the value of property and rights taken is approximately \$320,425, and damage to property and business not taken is approximately \$58,042. The Company,

on the other hand, claims an award of \$608,883, which may be broken down into \$430,000 for the property and rights taken and \$178,883 for damages to property and business remaining.

The scope of the evidence in this proceeding is such that the Commission has before it evidence on all phases pertinent to the determination of just compensation. Market transactions at a given time often determine, within fairly accurate limits, the market value of commodities, but in the same sense the market value of a portion of an electric utility, owing to its inherent qualities, cannot be readily ascertained. It becomes necessary, therefore, to review all elements in the search for value. Every fact affecting the utility property and enterprise, including costs, recognizing that it has a business attached with power to earn, must be considered and assigned that proper weight which fairness and justice demands. Briefly stated, the record contains evidence reflecting cost of plant, damage to property remaining, present and prospective earnings, and opinion evidence as to the total just compensation which is believed should rightfully be allowed.

A detailed summation of all evidence cannot here be attempted, but certain facts and issues should be discussed to the extent necessary to indicate the basis of the Commission's judgment upon the ultimate question presented. This will be done in the usual manner by first considering the property and rights to be acquired and then those factors contributing to the damage resulting to the property and business not taken. In accordance with the duty imposed by statute, our finding of total just compensation will be made in such a manner as to state separately the amount for severance damage.

### PROPERTY TO BE TAKEN

A detailed field inventory of the properties in question was completed in the latter part of 1935 by the Commission's engineers and was checked to some extent by engineers of the Company and the City. The impossibility of inventorying the described properties on the date of the filing of the petition necessitated the adjustment of the inventory by certain additions and deductions, dependent upon the progress of work under construction as of February 9, 1935. This method, without question, preserves the interests of the parties and complies with the statutory mandate that just compensation shall be fixed as of the day on which the petition was filed with the Commission.

#### Reproduction Cost New

The evidence introduced by the engineers of the Commission covering tangible capital (\$343,420) was accepted in total by the City. The Company introduced evidence covering additional costs amounting to \$51,600 for "supplemental equities" in joint poles and transfer costs. These reflect added construction costs covering an assumed obligation to grant a free interest in certain poles used jointly by the Company and other operating utilities and, in addition, the theoretical expense of transferring the equipment of the other utilities to the jointly used poles. It is our opinion that this claim should not be included in the costs.

The engineers of the Commission, in estimating the cost to reproduce the property new, priced the inventory on the basis of unit costs developed for a six-months' pricing period ending February 9, 1935.

The figures appearing in Exhibit No. 3, under the caption of Reproduction Cost New and covering land and rights of way, organization, franchises, construction work in progress,

commercial and engineering records, are those testified to by Mr. C. T. Mess, Valuation Engineer for the Commission, and other members of the staff, and it appears that no controversy arises as to their allowance. The amount set forth for franchises covers only the estimated cost of securing them and any additional sum covering value will be reflected in the intangible elements included in our findings of just compensation for such lands, property and rights taken. The figure included for commercial and engineering records is the estimated cost of copying certain identified records. Construction work in progress reflects cost of certain items of property not yet operative as of the date of application and should be included as part of the appraisal.

Reproduction Cost New Less Accrued Depreciation

Evidence on this subject was introduced by witnesses for the City, the Company and the Commission. The City's witness, Mr. C. A. Heinze, testified that for the purpose of his examination and testimony in this proceeding he did not use his calculations covering depreciation, but accepted the figures of the Commission's engineers.

The Company's witness, Mr. C. M. Thomas, in Exhibit No. 4, and the Commission's witness, Mr. Paul Thelen, in Exhibit No. 3, based their calculations upon the age-life sinking fund method, the former applying a six per cent interest rate and the latter a five per cent interest rate. It is evident from the record that these witnesses were in agreement that a calculation of accrued depreciation made upon the sinking fund basis fairly reflects the difference between the value of a used plant and one constructed new. The results of their calculations, for purpose of comparison, appear in Table No. 1 following:

TABLE NO. 1

**PACIFIC GAS AND ELECTRIC COMPANY**  
**TANGIBLE CAPITAL - ELECTRIC DISTRIBUTION SYSTEM IN REDWOOD CITY**

Cost to Reproduce New Less Accrued Depreciation as of February 9, 1935  
Comparison of Estimates by Engineering Departments of Commission and Company

Account	R. O. N. Less Accrued Depreciation			Depreciated Cost Ratios		
	C. R. O. Engineers 5% S.F.	- Company - Engineers 5% S.F.**	- Company - Engineers 6% S.F.	C. R. O. Engineers 5% S.F.	- Company - Engineers 5% S.F.	- Company - Engineers 6% S.F.
	(1)	(2)	(3)	(4)	(5)	(6)
<b>TANGIBLE FIXED CAPITAL</b>						
342 Distribution Rights of Way	\$ 1,020.	\$ 1,020.*	\$ 1,020.	100.00%	100.00%	100.00%
346 Distribution Poles & Fixtures	69,188.	79,226.	80,752.	69.03	77.90	79.40
347 Distribution Overhead Conductors	69,507.	75,632.	77,078.	78.92	85.88	87.52
348 Distribution Underground Conductors	13,406.	13,804.	13,933.	92.71	95.46	96.36
349 Distribution Underground Conductors	10,918.	10,917.	11,036.	94.17	94.16	95.19
350 Line Transformers	42,996.	45,597.	46,332.	85.02	90.17	91.62
351 Services	14,579.	17,240.	17,636.	69.13	81.74	83.62
352 Consumers' Meters	37,745.	40,032.	41,028.	79.52	84.34	86.44
355 Installation on Consumers' Premises	4,182.	4,346.	4,428.	84.62	87.94	89.60
357 Street Lighting Equipment	1,106.	1,180.	1,203.	80.98	86.45	89.13
382 Communication System Equipment	926.	985.	1,004.	81.32	86.48	88.15
<b>Total Tangible Fixed Capital</b>	<b>\$265,573.</b>	<b>\$289,979.</b>	<b>\$295,450.</b>	<b>77.33</b>	<b>84.44</b>	<b>86.03</b>
- Transformer and Meter Card Records	255.*	255.*	255.*	100.00	100.00	100.00
- Operative Work in Progress as of 2/9/35	670.*	670.*	670.*	100.00	100.00	100.00

\*Figures introduced by Commission's Engineers.

\*\*Adjusted figures appearing in Company brief.

Inasmuch as the base figures of Reproduction Cost New used by the witnesses are the same, the differences in the depreciated cost figures set forth in Table No. I are primarily caused by the interest rates applied and the lives assigned. The major difference is accounted for in the lives assigned and appears primarily in accounts covering poles and fixtures, and overhead conductors. In these accounts, Mr. Thelen made use of statistical factors developed from experience of the Company, while Mr. Thomas testified he used a physical life in service, the difference being due mainly to the factors of obsolescence and inadequacy. It is improper to assume that no obsolescence or inadequacy can be present in a new and unused item of property identical in design with the existing item; on the other hand, these factors should not be given the same weight in determining a condemnation case as in a rate proceeding.

A minor difference is due to the Company's claim for the use of six per cent interest rate, which is based upon its adoption by the Commission in past rate proceedings pertaining to this utility where annuity calculations were involved. The witness for the Commission based his conclusion that a five per cent rate would be reasonable for this particular proceeding, as of the time of the application, upon analysis of returns available from investments of the sinking funds in the utility's own property and bonds, and also in the purchase of other securities.

Our conclusions covering depreciated cost are the result of a careful and detailed study of the record giving proper weight to the various points at issue.

Conclusions

The following Table No. II sets forth our conclusions covering the reproduction cost new and reproduction cost new less accrued depreciation for the property in question. The detail of the items of property reflected in our conclusions appears in exhibits filed in this proceeding and listed in the order herein:



TABLE NO. II

PACIFIC GAS AND ELECTRIC COMPANY  
OPERATIVE FIXED CAPITAL - ELECTRIC DISTRIBUTION SYSTEM IN REDWOOD CITY

February 9, 1935.

Account	Reproduction Cost New (1)	R. O. N. Less Accrued Depreciation (2)	Ratio of Col. 2 to 1 (3)
<b>INTANGIBLE FIXED CAPITAL</b>			
301 Organization	\$ 3,500.	\$ 3,500.	100.0 %
302 Franchises	600.	600.	100.0
Total Intangible Fixed Capital	\$ 4,100.	\$ 4,100.	100.0 %
<b>TANGIBLE FIXED CAPITAL</b>			
342 Distribution Rights of Way	\$ 1,020.	\$ 1,020.	100.0 %
346 Distribution Poles and Fixtures	101,702.	76,275.	75.0
347 Distribution Overhead Conductors	88,072.	72,220.	82.0
348 Distribution Underground Conduits	14,460.	13,795.	95.4
349 Distribution Underground Conductors	11,594.	10,920.	94.2
350 Line Transformers	50,570.	43,745.	86.5
351 Services	21,091.	15,565.	73.8
352 Consumers' Meters	47,468.	37,745.	79.5
355 Installation on Consumers' Premises	4,942.	4,215.	85.3
357 Street Lighting Equipment	1,532.	1,295.	84.6
392 Communication System Equipment	1,344.	1,140.	85.0
Total Tangible Fixed Capital	\$343,792.	\$277,935.	80.8 %
Total Tangible and Intangible Fixed Capital	\$347,892.	\$282,035.	81.0 %
- Transformer and Meter Card Records,	255.	255.	100.0 %
- Operative Work in Progress	670.	670.	100.0
<b>GRAND TOTAL</b>	<b>\$348,817.</b>	<b>\$282,960.</b>	<b>81.1 %</b>

JUST COMPENSATION FOR PROPERTY AND RIGHTS

The engineers of the Commission's staff did not express an opinion as to the total market value of the properties and rights covered by the application.

Due to the different methods of approach, it will be of aid at this time to compare the claims of the City and the Company, excluding the item of physical severance damage. This is done in Table No. III, following:

TABLE NO. III

PACIFIC GAS AND ELECTRIC COMPANY

Comparison of Claims by City and Company  
for all items except Physical Severance Damage

C l a i m	C i t y	C o m p a n y
1. Total amount of decrease in value of Pacific Gas & Electric Company properties caused by separation of Redwood City properties	\$350,425.	\$550,000.
2. The component parts of these amounts are approximately:		
(a) Property and Rights	320,425.	430,000.
(b) Severance Damage other than physical severance damage	30,000.	120,000.

The City claims that the total just compensation to be paid for the electric distribution properties of the Pacific Gas and Electric Company in Redwood City, as of February 9, 1935, is the amount of \$350,425., exclusive of physical severance damage. This amount was developed, in the testimony of its witness (Mr. Heinze), by the application of a formula, namely, by applying to a depreciated rate base a ratio, derived from the opinion of the witness, between an allowable rate of return and the cost of money in the past to the Pacific Gas and Electric Company.

This witness stated that of this total sum approximately \$30,000 represented diminution in value of the remaining proper-

ties by reason of the severance of the Redwood City properties, and that the remainder, approximately \$320,425, represented the just compensation for the properties and rights taken. Of this latter figure, in turn, approximately \$50,000 represented going concern value. He also expressed the opinion that in his judgment the reproduction cost new as found by the Commission's engineers for the properties was greater than the historical cost of said properties.

The Company did not set up any separate amount for rights and business attached. It claims, through evidence presented by its witness, Mr. W. G. Vincent, Jr., a decrease of \$550,000 in value of Pacific Gas and Electric Company properties caused by separation of its Redwood City properties, exclusive of the cost of the so-called physical severance. Included in this sum is an amount (\$430,000) claimed to represent the total fair market value of and just compensation for the Redwood City distribution properties and rights, as of February 9, 1935. The witness assumed: first, that the inventory as prepared and submitted by the Commission's staff accurately reflects the properties in question; second, that the Reproduction Cost New does not differ materially from the Historical Cost of the properties; third, that the Reproduction Cost New of the properties as of February 9, 1935, is approximately \$344,000, exclusive of so-called "supplemental equities"; fourth, that the Reproduction Cost New Less Accrued Depreciation of the properties as of the same date is approximately \$296,000. These amounts exclude organization expense, franchises and other intangibles, and commercial and engineering records.

In arriving at a conclusion as to the just compensation to be awarded for the property and rights taken, recognition is given to the fact that the property is in active operation, with business attached, and definitely earning a return upon the capital invested therein. Unquestionably, were there an actual exchange of this property in an open market, the parties would give consideration to all facts surrounding the business, as well as the property devoted to that business.

The actual present earnings of this property should not be disregarded, but it is the future earning power of the property which adds or detracts from the value which otherwise would be assigned to the physical plant alone. Therefore, in valuing the property and rights sought to be condemned, we will endeavor fairly to reflect the earning power of the business attached.

There is evidence in the record relating to earnings derived from the property computed on various bases; diversity and growth of electric load within the City of Redwood City and the Pacific Gas and Electric System; character and class of service rendered; the comparative level of the rates now charged; the prospects for future load development and attendant capital requirements to serve that load, and sources of power supply available to a possible purchaser.

Without attempting here to review such evidence, it may be stated that the record clearly indicates that this property, in the hands of a competent operator, would continue to be a profitable going business. In the hands of the present owner it has yielded a high return upon the capital invested, with a gradually increasing load which at this date has not approached the point of saturation. On the other hand, it

cannot be assumed that the present rate schedules will not be subject to changes in the future. And it is also obvious that the effect of competition in various forms must be given due consideration.

It is our conclusion, after considering all the evidence of record, that the just compensation, not including severance damage, which the City should pay to the Company for the land, property and rights set forth in the petition, as amended, including all elements of value therein, is the sum of \$370,000.

#### SEVERANCE DAMAGES

Evidence relating to damage to the property and business of the Company not taken was introduced by witnesses for the City and the Company. No estimates were presented by the City covering idle plant damage, as counsel claims severance damage of this nature is entirely eliminated due to the willingness of the City, after possession of the properties, to purchase all electric energy required from the Pacific Gas and Electric Company for a period of five years, at rates approved by the Railroad Commission. Thus, in lieu of idle plant severance, two proposed contracts were offered in evidence. As already mentioned, the City's witness expressed opinion evidence to the effect that approximately \$30,000 represented the diminution in value attached to the remaining properties of the Pacific Gas and Electric Company, exclusive of physical severance. An amount of \$28,042 for physical severance damage was set forth in detail in Exhibit No. 16.

The Company, through its witnesses, presented evidence in the form of exhibits and oral testimony relating to the various phases of diminution in value of the whole properties caused by the taking and, in addition thereto, its estimate of the amounts

of physical severance damages. Of the total claim of \$178,883 covering severance damages, \$58,883 represents physical severance damages, the details of which are set forth in Exhibits Nos. 8, 9, and 9-a.

We believe that the damage to the business remaining to the Company, as distinguished from the damage to the physical property remaining, is, under the law, a compensable item. But it is essential that a clear distinction be maintained between damage to the business which is not taken and the allowance made for the business actually taken and included in the award of just compensation for the property and rights condemned. Certainly the law does not contemplate that, when an award is made to compensate for the property and rights taken, which award properly reflects the potential earnings from the business attached to that property, there should again be made an allowance under the head of severance damage to compensate for the loss of those same earnings.

The necessary costs of construction, reconstruction, and removal of facilities to be incurred by the Company in re-establishing its electric service in the areas adjacent to the City of Redwood City properly constitute allowable damages to the remaining system. The large difference in the claims presented by the interested parties is due, fundamentally, to the method of approach, and to the requirements to be met in order to render service in the adjacent areas after the taking, similar to that which was enjoyed within the City prior to the separation of the described facilities from the balance of the system. In determining severance damages of this nature, the conditions that control are those existing as of the date of

application, and costs of reconstruction of physical facilities necessary in order to comply with statutory requirements are proper charges to be included in the award for damages. A proper allowance will be made covering the necessary costs of construction, reconstruction, and removal of facilities to be incurred by the Company.

As already stated, the record sets forth the proposed contract on the part of the City to purchase electric energy from the Pacific Gas and Electric Company. The probability of the City becoming a consumer cannot be ignored and, after carefully reviewing the evidence with respect to the future carrying charges on those portions of the plant which will be rendered less useful after severance of the Redwood City load, this probability will be considered under the head of severance damage.

Likewise with the severance of Redwood City properties certain operating and supervising costs of the Pacific Gas and Electric Company cannot be immediately reduced, and until such time as the growth of its remaining territory and other factors absorb such costs, a loss is suffered by the utility.

The order herein to be made covers the total just compensation and includes both compensation for property and rights taken and for severance damages (based upon the conclusions here expressed). Each case must be determined upon its own facts, and the conclusions in this instance can not be taken as a criterion for the determination of just compensation for other properties.

After giving careful consideration to all evidence in the record relating to the damage resulting to the property and business remaining to the Company from the taking of the Redwood City properties and rights set forth in the petition as amended, we conclude that the damage resulting, and therefore to be allowed separately as severance damages, is the sum of \$118,000.

O R D E R

The City of Redwood City, a municipal corporation, having filed with the Railroad Commission, on the 9th day of February, 1935, 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 City of Redwood City to the Pacific Gas and Electric Company, a corporation, for the taking of the property and rights described in the petition and amendment thereto, public hearings having been held, and the matter having been submitted, the Railroad Commission is now fully appraised in the matter and makes the following findings:

1. It is hereby found as a fact that the just compensation, not including severance damages, to be paid by the City of Redwood City to the Pacific Gas and Electric Company, a corporation, for the property and rights described in the petition, as amended, said property being set forth in detail in Exhibits Nos. 3, 25, 26, 27, 28, 29, 30, 31 and 32, introduced in this proceeding, is the sum of \$370,000.

2. It is hereby found as a fact that the just compensation to be paid by the City of Redwood City to the Pacific Gas and Electric Company, a corporation, as severance damages to the remaining property and rights of the Company after the taking of the property and



rights described in the petition, as amended, is the sum of \$118,000.

3. It is hereby found as a fact that the total just compensation to be paid by the City of Redwood City to the Pacific Gas and Electric Company, a corporation, for the taking of property and rights described in the petition, as amended, is the sum of \$488,000.

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

Dated at San Francisco, California, this 9<sup>th</sup> day of August, 1937.

Walter Moore  
Leon J. Whitell  
Frank R. Brown  
Ray C. Wabersford  
Ray L. Wiley  
Commissioners.