

Decision No. 32027

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)

CENTRAL MENDOCINO COUNTY POWER)
COMPANY,)

for authority to issue \$100,000.00)
principal amount of its bonds.)

Application No. 22706

BY THE COMMISSION:

FIRST SUPPLEMENTAL ORDER

The Commission, by Decision No. 31985, dated May 2, 1939, authorized Central Mendocino County Power Company to issue \$100,000.00 of First Mortgage 5% "Series A" Sinking Fund Bonds, due July 1, 1959, subject to the provision that said authority will become effective when the Commission has authorized Central Mendocino County Power Company to execute a mortgage of chattels and trust indenture to secure the payment of said bonds.

Since the date of said decision, applicant has amended in several respects, its proposed mortgage of chattels and trust indenture referred to in said decision. Among other things, the bonds which the Commission's decision authorizes the company to issue will be designated as "First Mortgage Bonds, Series A, due July 1, 1959". The redemption features of the bonds, the sinking fund and the renewal and replacement fund provisions referred to in said decision remain unchanged. The definition of "net earnings" has been amended so as to mean and include an amount computed as follows:

"From the total gross operating revenue and nonoperating income of the company from all sources, there shall first be eliminated any profit realized from the sale or other disposition of capital assets. There shall then be deducted all operating and nonoperating expenses (including therein, reasonable and proper charges for current repairs and current maintenance,

of its plants and properties) reasonable and proper allowances for depreciation to replace said plants and properties, rentals, salaries, license charges, damages, insurance charges, and taxes (except Federal Income Taxes, including normal taxes and surtaxes on undistributed profits). The term "repairs" shall include all renewals which, in the ordinary practice of companies carrying on businesses similar to that of the company, are charged to current repairs, and no amount shall be deducted for reserves for renewals and replacements other than for renewals which, in such practice, are chargeable to current repairs. Reasonable and proper charges for current repairs and current maintenance shall not include charges for depreciation, and operating expenses shall not include interest charges, or charges for reserves for amortization of debts or stock discount or premiums and expenses. Charges for depreciation shall be in accordance with the rules and regulations of the Railroad Commission of the State of California, or other body having the power to regulate the accounting methods of the company, or in the absence of such body, in accordance with standard accounting practice."

In the supplemental trust indenture, the company agrees, "that so long as any of the Series A Bonds shall remain issued and outstanding it will not incur any indebtedness or borrow any money (either upon furnishing or without any security) exceeding an aggregate amount of \$10,000.00 at any one time; provided, however, that in computing said aggregate amount there shall be excluded (a) all indebtedness of the company existing on the date of issuance of Series A Bonds; (b) all bonds issued or authorized to be issued under the terms of the indenture; (c) all indebtedness incurred by the company as current liabilities in the ordinary course of its business; and (d) all indebtedness, secured or unsecured, incurred for the purpose of refunding any bonds (including the Series A Bonds) at any time issued and outstanding under the indenture".

Both the form of the bond and the indenture provide that no recourse shall be had for the payment of the principal of, or the interest on, the bonds against any stockholder for amounts unpaid on stock subscriptions. We regard unpaid stock subscriptions as an asset of the corporation. The provision in the indenture and in the bonds whereby the holder of bonds waives his right to realize on such asset should be eliminated therefrom.

The trust indenture provides that at any time and from time to time, any of the terms and provisions of the bonds (including claims for interest) and/or coupons appurtenant thereto, or of the indenture, or any indenture supplemental thereto, may be changed (including within the meaning of such term, any amendment, modification, authorization, alteration, or abrogation) by a supplemental indenture executed by the company and the trustee, and authorized, approved or consented to by the bearers or registered owners of not less than 80% of the bonds then outstanding, and the Railroad Commission of the State of California.

The Railroad Commission has considered the proposed mortgage of chattels and trust indenture and the first supplemental mortgage of chattels and trust indenture filed in this proceeding and subject to the change herein noted, finds said mortgage of chattels and trust indenture and said first supplemental mortgage of chattels and trust indenture in satisfactory form, therefore,

IT IS HEREBY ORDERED, that Central Mendocino County Power Company be, and it is hereby authorized to execute on or before August 1, 1939, a mortgage of chattels and trust indenture and a first supplemental mortgage of chattels and trust indenture in substantially the same form as the mortgage of chattels and trust indenture and the first supplemental mortgage of chattels and trust indenture filed in this proceeding, amended as herein indicated, provided that the authority herein granted is for the purpose of this proceeding only, and is granted only insofar

as this Commission has jurisdiction under the provisions of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which they are subject.

IT IS HEREBY FURTHER ORDERED, that within sixty (60) days after the execution of said mortgage of chattels and trust indenture and said first supplemental mortgage of chattels and trust indenture, said Central Mendocino County Power Company shall file with the Railroad Commission, two (2) certified copies of each of said mortgage of chattels and trust indenture and of said first supplemental mortgage of chattels and trust indenture.

DATED at San Francisco, California, this 23rd day of May, 1939.

Robert W. Brown
Frank D. Brown
Ray P. Kelly
H. B. Baker
Justus J. Casner
COMMISSIONERS