

Decision No. 34230

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of SACRAMENTO VALLEY UTILITY CO. and PACIFIC GAS AND ELECTRIC COMPANY for an order of the Railroad Commission of the State of California authorizing Sacramento Company to issue as fully paid shares of its common stock, authorizing Pacific Company to purchase, acquire and hold shares of the common stock of Sacramento Company, and issuing to applicants a certificate declaring that the public convenience and necessity require and will require the construction, operation and maintenance of the Narrows Power Project on the Yuba River, near Smartsville, California.

ORIGINAL

Application No. 24102

R. W. DuVal for Applicant.

BY THE COMMISSION:

O P I N I O N

Sacramento Valley Utility Co., hereinafter some times referred to as Sacramento Company, and Pacific Gas and Electric Company, hereinafter some times referred to as Pacific Company, ask the Commission to enter its order authorizing:

1. Sacramento Valley Utility Co. to issue 450 shares of its common capital stock, of the aggregate value of \$11,250, and
2. Pacific Gas and Electric Company to acquire said 450 shares of common capital stock of Sacramento Valley Utility Co., and
3. Sacramento Valley Utility Co. and Pacific Gas and

Electric Company to construct, operate, maintain and use the hydro-electric plant and property to which reference will hereafter be made.

Sacramento Valley Utility Co. is a corporation organized in 1936 under the laws of the State of California. It has an authorized capital stock issue of \$1,000,000.00, consisting of 32,000 shares of 6% cumulative preferred stock of the par value of \$25 each, and 8,000 shares of common stock of the par value of \$25 each. None of the stock has been issued.

The primary objective of the Sacramento Company from its inception has been, and now is, the development of the hydro-electric potentialities created by the construction of the Narrows Debris Dam on the Yuba River. This dam has been completed, at a cost of about \$4,000,000.00, by the California Debris Commission (U. S. War Department). This investment is to be recovered by a tax on the hydraulic mining tributary thereto. The Federal Act under which the dam was constructed provides that any incidental revenues from the dam shall be credited to the costs and deducted from the tax on mining. The dam is located at a point known as the Upper Narrows Site on the Yuba River about three miles northeasterly of the Town of Smartsville, Nevada County, California. The dam project was authorized by Congress for the primary purpose of storing debris from hydraulic mining operations and incidentally for the improvement of navigation. The latter purpose will be served by impounding the products of natural erosion and the materials moving down the river from old mining operations which otherwise would require dredging for removal from the navigable waters between Sacramento and San Francisco. The dam is a concrete arch type structure about 240 feet in height. The reservoir created by the dam will extend upstream

nine miles and provide for the storage of approximately 136,000,000 cubic yards of material of which about 118,000,000 cubic yards will be devoted to the storage of mining debris from new mining activities. The dam has its permanent crest at an elevation of 527.0 and at such level the gross water storage, prior to any depletion because of debris storage, will be approximately 76,500 acre feet.

In connection with the dam the California Debris Commission has constructed outlet works consisting of a nine foot horseshoe tunnel controlled by an emergency roller gate in a shaft. The tunnel is concrete lined and terminates at an adit 230 feet downstream from the left abutment of the dam. The tunnel invert is at an elevation of 438.0, thus permitting the reservoir drawdown to elevation 450.0 and making available approximately 46,500 acre feet of water storage capacity prior to depletion by debris storage.

Congress did not provide funds to construct the supplementary power plant. There is on file in this proceeding an agreement by and between the Secretary of War, represented by the California Debris Commission, and Sacramento Company and Pacific Company, under the terms of which the said companies, if they will build the power plant herein mentioned, will pay to the former \$1,500,000 in annual payments at the rate of \$18,000 per annum for the first thirty years, and \$48,000 per annum for the succeeding twenty years of the agreement. These payments will, as indicated, be credited to the cost of the dam and reduce the payments required of the owners of mining properties.

It is of record that prior to the organization of the Sacramento Company, F. E. Bonner, a Consulting Engineer, conceived the Upper Narrows Dam project as a solution of the hydraulic

mining problem in the Yuba River watershed. He made extensive engineering investigations of the power possibilities of the project. He and his associates caused the organization of Sacramento Valley Utility Co. Their original plan was for the Sacramento Company to build the power plant and operate it or lease it to Pacific Gas and Electric Company. The Federal Power Commission, from whom the Sacramento Company had to obtain a license to build the plant, insisted that the Pacific Company join in the application for the license and become a co-licensee. This the Pacific Company was unwilling to do unless it could control Sacramento Company. As a result F. E. Bonner and Pacific Company entered into the agreement on file in this proceeding as Exhibit E. The effect of this agreement is that Pacific Company will pay F. E. Bonner and Sacramento Company, or its claimants, \$40,000 for their power project plans, surveys, rights and permits. Of this sum \$11,250 will be paid to F. E. Bonner for 450 shares of stock of Sacramento Company, and \$28,750 made available to him, or Sacramento Company, for the payment of open account indebtedness of Sacramento Company. The agreement defines the terms and conditions of the payment in greater detail.

As the situation now stands the power plant will be built by the Pacific Company, and as soon as practical the Sacramento Company will be dissolved. Pending the termination of the life of the Sacramento Company the title to the power plant will be in the names of the Pacific Company and the Sacramento Company, as co-tenants.

Subject to the provisions of its order of March 11, 1941 (Exhibit H), the Federal Power Commission has issued to the Pacific Company and to Sacramento Company, as joint licensees, a

license for a period of fifty years for the construction, operation and maintenance of said power project insofar as it affects lands of the United States.

Henry W. Lutge, an assistant engineer for the Pacific Company, testified that the power house will be located on Lot 5, Section 23, Township 16 North, Range 6 East, M.D.B&M., Nevada County, California. The power house will have an installation of 11,000 K.V.A. and will be operated at 60,000 volts. The power will be transmitted from the power house to the Smartsville Substation of the Pacific Company, about three miles distant, and there introduced into the 60,000-volt system of the Pacific Company. Henry W. Lutge estimates the cost of the power project at \$1,027,000, segregated as follows:

Lands and rights of way	\$ 72,000
Improvements to property	20,000
Power house buildings	145,000
Tunnel	105,000
Penstock	66,000
Power plant equipment, including transformers	560,000
Tailrace	13,000
Roads	26,000
Transmission line	20,000

These costs include the \$40,000 heretofore mentioned. It is estimated that there are initially about 41,000,000 kilowatt-hours, or 7,200 kilowatts of peak available, and that this will diminish to an estimated 1,500 kilowatts whenever the reservoir becomes filled with debris. At that time the usable energy is estimated at 36,000,000 kilowatt-hours on the average. The average annual usable energy for the 50-year period for which the Federal Power Commission has granted a license is estimated at 37,500,000 kilowatt hours. The record shows that the Pacific Company has need for an additional supply of electric energy and that the construc-

tion and operation of the power plant will result in a substantial contribution to the Government toward the cost of the Upper Narrows Debris Dam.

O R D E R

A public hearing having been held in the above entitled application and the matter having been fully considered, and it appearing and being found as a fact that public convenience and necessity so require,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be granted to Sacramento Valley Utility Co. and Pacific Gas and Electric Company to construct, operate and maintain the electric production and transmission facilities referred to in the foregoing opinion and in this application.

IT IS HEREBY FURTHER ORDERED that Sacramento Valley Utility Co. be, and it is hereby, authorized to issue at not less than par, on or before October 1, 1941, 450 shares of its common capital stock of the aggregate par value of \$11,250, for the purpose of paying indebtedness. The Commission hereby finds that the issue of said stock by Sacramento Valley Utility Co. is reasonably necessary for the purposes herein stated, and that the expenditures for said purposes are not, in whole or in part, reasonably chargeable to expenses or to income.

IT IS HEREBY FURTHER ORDERED that Pacific Gas and Electric Company may acquire from F. E. Bonner said 450 shares of common capital stock of the Sacramento Valley Utility Co., subject to the terms and conditions of the agreement filed in this proceeding as Exhibit F., and thereafter hold said 450 shares of stock.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days after the issue of said stock, Sacramento Valley Utility Co. shall file with the Railroad Commission a report under the Commission's General Order No. 24-A, which order insofar as applicable is made a part of this order.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective when the State Department of Finance has issued its consent to the assignment to Pacific Gas and Electric Company by Sacramento Valley Utility Co. of the latter's rights under a release from priority of said Department's Applications No. 5631 and No. 5632 to appropriate water from the Yuba River, and the State Department of Public Works shall have issued to Sacramento Valley Utility Co. and Pacific Gas and Electric Company, or to either of them, a permit under Application No. 8794.

Dated at San Francisco, California, this 20th day of May, 1941.

W. T. Doherty
Ray & Riley
Justus F. Carver
Richard Kachner
Commissioners

I dissent.

My principal reason for withholding approval of the order in the matter of the application of SACRAMENTO VALLEY UTILITY COMPANY and PACIFIC GAS AND ELECTRIC COMPANY authorizing the Sacramento Company to issue and the Pacific Company to purchase stock of Sacramento Company, and issuing to applicants a certificate declaring that the public convenience and necessity require construction, operation and maintenance of the Narrows Power Project, is based upon a letter addressed to the Railroad Commission, under date of May 17, 1941, by Honorable Frank W. Clark, Director of the Department of Public Works of the State of California. Mr. Clark's letter is as follows:

Railroad Commission of State of California,
State Building,
San Francisco, California.

Gentlemen:

Attention: H. G. Mathewson, Secretary.

Director of Finance George Killion has turned over to this Department for action your letter to him dated May 13, 1941, concerning Application No. 24102 of the Sacramento Valley Utility Company and the Pacific Gas and Electric Company. In that letter you inquire as to whether or not the State of California has any objections to the granting of a certificate of public convenience and necessity under that application.

There are now pending before this Department the applications of the Sacramento Valley Utility Company to appropriate water rights on the Yuba River. This Department, at the request of the Department of Finance, is also considering the conditions under which the State of California might properly consent to an assignment of the Release of Priorities executed by the Department of Finance on December 30, 1938, from the Sacramento Valley Utility Company to the Pacific Gas and Electric Company. Neither of these matters have as yet been determined by this Department.

May I respectfully point out that paragraph 6b of the pending application before your Commission is not entirely accurate, in that the existing Release of Priorities cannot be assigned by Sacramento Valley Utility Company without the consent of the Department of Finance. The applicant, Pacific Gas and Electric Company, thus cannot avail itself of that release of priority until action has been taken by the Department of Finance.

May I also point out that paragraph 6a of the pending application does not call to the Commission's attention the fact that the license granted by the Federal Power Commission under date of March 11, 1941, is expressly conditional upon the approval

by the State of California of participation by the Pacific Gas and Electric Company in the use of the waters of the Yuba River jointly with the Sacramento Valley Utility Company.

In connection with this matter, this Department has two fundamental interests:

(1) The protection of the market for Central Valley Project Power when that power becomes available for public use in that area.

(2) The protection of the waters of the State so that they may be available for use under the comprehensive development program known as the State Water Plan.

Particularly in the latter connection, this Department has at all times urged upon the War Department and the Federal Power Commission, the necessity that any license granted to the applicants Sacramento Valley Utility Company and/or Pacific Gas and Electric Company be subject to the Release of Priorities heretofore referred to.

In view of the fact that the license granted by the Federal Power Commission is expressly conditioned upon certain consents being first obtained from the State of California, as heretofore pointed out, it is respectfully requested that your Honorable Commission defer action on the pending application No. 24102 until this Department and the Department of Finance have acted.

Very sincerely yours,

(SGD.) Frank W. Clark
Director of Public Works.

In view of the express conditions set forth in the license granted by the Federal Power Commission to Sacramento Valley Utility Company, it is obvious that the instant order cannot become effective until the State of California approves participation by the Pacific Gas and Electric Company in the use of the waters of the Yuba River jointly with the Sacramento Valley Utility Company. The instant order of the Commission would therefore appear to be premature and will be an idle act if the state refuses the necessary approval. Aside from this fact, I believe that the ordinary rules of courtesy which should govern the relationships between responsible departments of the state government ought to prevail in this matter, and that the respectful request of the Director of the Department of Public Works that the Railroad Commission defer action on the instant application until his Department and the Department of Finance have acted should be granted.

Franck R. Havener

FRANCK R. HAVENER

COMMISSIONER