

Decision No. 36622

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of California Electric Power Company for an order authorizing it to sell certain electric transmission and distribution lines, systems and other electric properties and rights to Imperial Irrigation District and approving contracts relative thereto.

ORIGINAL

Application No. 25761

Henry W. Coil for Applicant, California Electric Power Company.

Harry W. Horton, Attorney, Evan T. Hughes, President of the Board of Directors, and Lester S. Ready, Consulting Engineer, for Imperial Irrigation District.

C. G. Halliday, District Attorney of Imperial County, for the Board of Supervisors of Imperial County.

Arvin B. Shaw, Jr., Attorney, and Joseph H. Snyder, Chief Engineer, for Coachella Valley County Water District.

L. M. Klauber for San Diego Gas and Electric Company.

SACHSE, COMMISSIONER:

O P I N I O N

In this application, California Electric Power Company, hereinafter sometimes referred to as Applicant, asks the Railroad Commission to make and enter its order authorizing Applicant to sell and convey to the Imperial Irrigation District, hereinafter sometimes referred to as the District, its electric properties, rights and business referred to in the preliminary agreement and described more particularly in the agreement of sale and purchase

filed respectively as Exhibit 1 and Exhibit A in this application. Applicant further asks permission to abandon service in the area described in Exhibit A and to enter into an agreement for the exchange, sale and purchase of electric energy between Applicant and the District, a copy of which agreement is filed in this application as Exhibit B.

A public hearing was held on this matter on September 2, 1943, at which time evidence was taken and the matter submitted for decision.

In Application No. 25755, also heard on September 2, 1943, California Electric Power Company asks the Railroad Commission for an order limiting or defining Applicant's service area pursuant to the provisions of Chapter 552, Statutes of 1943 of the State of California. This matter is covered by our decision in said Application No. 25755.

Applicant is, among other things, engaged as a public utility in the generation, transmission, sale and distribution of electric power and energy to the public generally in the Counties of Mono, Inyo, Kern, San Bernardino, Riverside and Imperial of the State of California, the Counties of Nye and Esmeralda of the State of Nevada, in the County of Yuma of the State of Arizona, and also, indirectly, through a subsidiary in the State of Sonora and Territory of Baja California, Mexico.

Applicant and its predecessors have operated electric properties in Imperial County since 1905. In 1936 the Imperial Irrigation District entered the field of generating, transmitting and selling electric energy to the public in the County of Imperial. Since 1936 Applicant and the District have been in direct and keen competition. Such competition has resulted, among

other things, in the duplication of electric distribution facilities, increased costs of operation, a division in the load, a substantial loss in business and revenue to Applicant in Imperial County, and poor and unsatisfactory earnings to both Applicant and the District in Imperial County. It is of record that the Imperial Irrigation District has long had plans to extend its electric system into the Coachella Valley in Riverside County. If this were done on a competitive basis duplication of plant facilities and the competitive struggle now confined to Imperial County would be extended to the Coachella Valley. With this background in mind, it is apparent why the Imperial Irrigation District desires to purchase and California Electric Power Company to sell its electric properties in the present and potential competitive areas.

The properties, franchises, rights and business which Applicant has agreed to sell to the District are specifically described in Exhibit A and in the proposed grant deeds filed in this application as Exhibits C, D, and E.

Generally speaking, the properties consist of all of Applicant's electric properties in Imperial County and within the area referred to as the service area of the All American Canal in Riverside County, (referred to in Exhibit A as District Coachella Service Area) excepting from such electrical properties the transmission line running from Calipatria to Blythe and short lines leading from Calexico to Mexicali, and from the north side of the Colorado River to Arizona and into Lower California. Included in the properties to be sold is a certain transmission line running from Rincon to El Centro, part of which is in San Diego County. The sale includes Applicant's franchises, rights, leases and contracts related to its business in Imperial County

and said District Coachella Service Area. The agreement of sale and purchase does not cover Applicant's ice properties in Imperial County or in said District Coachella Service Area nor Applicant's electric properties in the Palm Springs and Cathedral City area or in the Palo Verde Valley area or in Riverside county east of the District Coachella Service Area.

The District has agreed to pay Applicant for said electrical properties, franchises, rights, leases, contracts and business \$4,900,000, subject to adjustment on account of personal and movable properties and bills and accounts receivable. The sale and purchase agreement provides for the limitation of both Applicant's and the District's service areas. The agreement for the exchange, sale and purchase of electric energy (Exhibit B) between Applicant and the District is likewise an integral part of the consideration.

Exhibit 1, filed at the hearing, shows that if the sale had been made as of June 30, 1943, Applicant's electric plant accounts would have been reduced by the amount of \$5,130,507.31. In said Exhibit 1 Applicant allocates \$1,153,368 of its reserve for depreciation to the electric plant which it proposes to sell to the District, leaving a net cost for said electric plant of \$4,027,139.31. Had the properties been sold on June 30, 1942, Applicant in said Exhibit 1 shows that for the twelve months ending June 30, 1943 its electric operating revenues would have been reduced from \$5,425,668 to \$4,472,524, or by the amount of \$955,922. Its net income would have been reduced by \$121,813, or from \$945,457 to \$823,644. The testimony shows that the sale of the properties will put Applicant in a position to refund its outstanding 5% bonds and that the savings accomplished through such refunding should more than offset said loss in net income.

The testimony further shows that through the sale of the properties there will be released to Applicant at its source of production about 80,000,000 k.w.h. of electric energy. This electric energy will become available to other customers of Applicant or to customers of Southern California Edison Company Ltd. or to the City of Los Angeles.

We are, by this decision, making no finding as to the original cost of the properties which Applicant proposes to sell to the District nor of the amount of the reserve for depreciation applicable to such properties.

The agreement for the exchange, sale and purchase of electric energy (Exhibit B) requires the District to supply to Applicant all electric energy required by Applicant, up to the capacity of the transmission line, for service of Applicant's business in the Palo Verde Valley. Applicant, on the other hand, is required to compensate the District for that electric energy by delivering an equivalent amount of electric energy to the District for service in the District Coachella Service Area. The provisions for the interchange of power are in effect for ten years. Thereafter Applicant has the option to purchase power from the District for an additional ten-year period at the price named in the agreement. The agreement also contains provisions for the interchange of electric energy to meet Applicant's Mexican requirements. The District will deliver for the first five-year period succeeding the execution of the contract such electric energy as Applicant's Mexican business calls for, and Applicant will supply the District with an equivalent amount of electric energy in Coachella Valley. At the end of five years and for a period of twenty years thereafter Applicant agrees to purchase

from the District the electric energy it needs for the service of its Mexican load. The agreement also makes provisions for stand-by service by Applicant to the District and by the District to Applicant for its Arizona business. The agreement further contains a provision covering the charges by the District for electric energy used by Applicant in the operation of its ice plants in Imperial County and in the District Coachella Service Area. Reference is made to said agreement for its specific provisions.

At the hearing Mr. A. B. West, President of California Electric Power Company, and Mr. Wester S. Ready, Consulting Engineer for the Imperial Irrigation District, both testified in support of the granting of this application.(1)

In my opinion the public interest will be served if the arrangements agreed upon between Applicant and the District are approved by the Commission. The Commission, in its regulation of Applicant's utility business, has, of course, observed the results to Applicant of the competitive operations during the last four years, during which time the District has been engaged in rendering electric service in the Imperial Valley. While the District is not under this Commission's control, both parties have on numerous occasions brought their disagreements before the Commission. It is my view that the purchase of Applicant's plant and the taking over by the District of the electric business in the

(1)

Arvin B. Shaw, Jr., Attorney for Coachella Valley County Water District, favored the granting of the application but requested that the boundary of the District Coachella Service Area be extended. This is a matter that should in the first instance be agreed upon by Applicant and the District and then submitted to the Commission for approval.

areas in question will, over the years to come, result in a better and more stable public service at lower rates than if the two agencies continued competitively in this area. It likewise appears from the record that the severing of this portion of Applicant's system will not result in any additional burden to its customers left on its remaining system. In fact, there is a probability that the earnings of the remaining system will be more favorable inasmuch as the less profitable operations in Imperial County will no longer be present.

Another matter to which the Commission's attention is directed is the area in which the District may not for a period of twenty-five years sell or distribute electric energy and the area in which Applicant may not for a period of twenty-five years sell or distribute electric energy or power. The respective areas are set forth in Articles 15 and 16 of the sale and purchase agreement. These articles are said to conform to Chapters 552 and 553 of the 1943 Statutes of the State of California. These statutes may be viewed as a declaration of the State's policy to induce utilities and irrigation districts rendering electric service to adjust their service areas so as to remove uneconomical competition. (2) The Commission has no

(2) . Assembly Bill No. 1853 (Amended in Assembly April 13, 1943)

"An act to provide for the limiting OR DEFINING OF ELECTRIC service areas by the Railroad Commission OF THE STATE OF CALIFORNIA BETWEEN utilities and irrigation districts engaged in the sale OR DISTRIBUTION of electric power, declaring the urgency of this act, to take effect immediately.

The people of the State of California do enact as follows:

Section 1. It is hereby declared that under certain conditions the sale and distribution of electric power and energy in the same geographical area both by an electrical utility and by an irrigation district, results in duplication of service, waste of materials, increase in costs, waste of manpower and economic loss, and is detrimental to the efficiency and best interests of such districts. It is hereby declared to be the policy of this State to induce such utilities and irrigation districts to prevent or remove such economic waste and to adopt more efficient and economic methods of distributions of electric power and energy and to that end encourage the definition of areas to be served or not to be served by each."

jurisdiction over the District and, therefore, can not define the area in which it may not enter into competition with Applicant. This authority is vested in the District Securities Commission.

I recommend the following form of order:

O R D E R

A public hearing having been held on the above-numbered application; the matter having been submitted for decision and the Commission being fully advised in the premises; it being found that the authorization sought by the California Electric Power Company is in the public interest, therefore,

IT IS HEREBY ORDERED that California Electric Power Company may, on or before December 31, 1943, assign, sell, grant and convey to the Imperial Irrigation District the properties, rights and business described in Exhibit 1 and Exhibit A attached to Applicant's petition, said sale and conveyance to be made in accordance with the terms and provisions of said Exhibits 1 and A, and may for the purpose of carrying into effect said sale and conveyance, execute and carry out the provisions of the agreements contained in said Exhibit 1, Exhibit A and Exhibit B.

IT IS HEREBY FURTHER ORDERED that California Electric Power Company, on the effective date of the sale and conveyance of said properties to the Imperial Irrigation District, shall abandon and withdraw from rendering public utility electric service within those areas set forth in said Exhibit A.

IT IS HEREBY FURTHER ORDERED that within ninety (90) days after the sale and conveyance of said properties to the Imperial Irrigation District, California Electric Power Company shall file with the Railroad Commission a true and correct copy of each journal entry recorded, or to be recorded, on its books, to



reflect the sale and conveyance of said properties.

IT IS HEREBY FURTHER ORDERED that within thirty (30) days after the sale and conveyance of said properties California Electric Power Company shall file with the Railroad Commission two certified copies of the agreement of sale and purchase, two certified copies of the agreement for the exchange, sale and purchase of electric energy and two certified copies of each grant deed delivered to the Imperial Irrigation District, executed by said California Electric Power Company under the authority herein granted.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective upon the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 22<sup>nd</sup> day of September, 1943.

Francis A. Havenue  
H. Baker

Richard K. Ketchum

Stanley Dewey  
Commissioners

Signed last. SD →