

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Application of CALIFORNIA ELECTRIC POWER COMPANY, a corporation, for an order authorizing it to mortgage and otherwise hypothecate property and to issue \$16,000,000 First Mortgage 3-3/4% Bonds and \$4,000,000 Convertible Prior Preferred Stock, and shares of Common Stock upon the conversion thereof.

Application No. 25821

ORIGINAL

BY THE COMMISSION:

O P I N I O N

In this application, as amended on October 8, 1943, California Electric Power Company, hereinafter sometimes referred to as applicant, asks permission to issue and sell at not less than 101% of their face value and accrued interest \$16,000,000 of its First Mortgage Bonds, 3 3/4% Series due 1968, and to execute and deliver a first mortgage indenture and a first supplemental indenture to secure the payment of said \$16,000,000 of bonds and such additional bonds as applicant may, from time to time, be authorized to issue pursuant to the terms of said first mortgage indenture. Applicant further asks permission to issue and sell at not less than par, less a commission of 4%, \$4,000,000 par value of 5-1/4% convertible cumulative prior preferred stock, and from time to time issue shares of common stock necessary to comply with the conversion rights which may be exercised by the holders of said preferred stock.

Applicant is a corporation organized under the laws of Delaware on December 12, 1914 as The Nevada-California Electric Corporation. Its name was changed to California Electric Power Company in 1941. It is engaged principally in the generation, purchase, transmission, distribution and sale of electric energy in the Counties of Mono, Inyo, Kern, San Bernardino, Riverside and Imperial in the State of California; in the Counties of Nye and Esmeralda in the State of Nevada, and in

the County of Yuma in the State of Arizona. Through a wholly owned subsidiary it sells electric energy in the State of Sonora and Territory of Baja California, United States of Mexico. It owns all of the outstanding stock and bonds of the Interstate Telegraph Company which supplies telephone and telegraph service in California and Nevada. Applicant and its subsidiary, the Pure Ice Company, also manufactures and sells ice in portions of Imperial and Riverside Counties, California. For the year ending March 31, 1943 applicant's consolidated operating revenues were \$6,328,999, segregated as follows:

Electric	81.05%
Ice	11.25
Telephone and Telegraph ...	<u>7.70</u>
Total	100.00%

Applicant will amend its Articles of Incorporation to provide for an authorized stock issue of 1,450,000 shares, divided as follows:

Common	1,200,000 shares - Par value	\$1.00 per share.
\$3.00 Cumulative Preferred..	150,000 shares - Par value	\$50 per share.
Cumulative Prior Preferred..	100,000 shares - Par value	\$100 per share.

On March 31, 1943 applicant had outstanding 714,821 shares of common stock of the par value of \$10.00 per share and 104,919-8/10 shares of \$3.00 cumulative preferred stock of the par value of \$50.00 per share. As stated, it asks permission to issue 40,000 shares of 5% cumulative convertible prior preferred stock. In view of the fact that applicant is a foreign corporation, the Railroad Commission has no jurisdiction over the issue of applicant's stock. (1)

As of June 30, 1943 applicant had issued \$24,424,000 face value of 5% First Lien Gold Bonds, due April 1, 1956. Of these bonds applicant owns \$647,300 and Pure Ice Company, a subsidiary of applicant, \$134,000, leaving \$23,642,700 in the hands of the public.

Applicant proposes to call for redemption as of April 1, 1944, all of its 5% First Lien Gold Bonds, due April 1, 1956, at the redemption price of 102% of the principal amount thereof, together with interest accrued to April 1, 1944. The

(1) 205 Calif. Reports 479.

bonds are redeemable, after the required notice, only on interest payment dates which are April 1 and October 1. It has outstanding \$360,000 of 3% installment notes due Bank of America National Trust & Savings Association. To redeem its bonds and to pay its installment notes applicant is in need of \$24,593,768, segregated as follows:

Bonds issued	\$24,424,000
Less bonds in treasury and owned by subsidiary	<u>781,300</u>
Leaving bonds actually outstanding	23,642,700
Bond redemption premium	591,068
Installment notes	<u>360,000</u>
Total	\$24,593,768
Less proceeds from sale of properties to Imperial Irrigation District	<u>4,900,000</u>
Amount to be financed	<u>\$19,693,768</u>

Applicant proposes to obtain the \$19,693,768 through the issue of said \$16,000,000 of 3½% bonds and \$4,000,000 of 5% cumulative convertible prior preferred stock.

There was filed on October 7, 1943 in this application a copy of applicant's proposed first mortgage indenture securing the payment of its First Mortgage Bonds and a copy of its first supplemental indenture defining the terms of the initial series of bonds under said first mortgage indenture. Both instruments are dated October 1, 1943 and will be executed to The International Trust Company of Denver, Colorado and Leo A. Steinhardt, Vice President of The International Trust Company, as trustees. The bonds which applicant desires to issue will be known as First Mortgage Bonds, 3½% Series due 1968. They will mature October 1, 1968. The interest is payable semi-annually on the first day of April and the first day of October of each year. Applicant has not yet entered into a definite agreement covering the sale of the bonds. It asks permission to sell them for not less than 101% of their face value and accrued interest and reports that they will be offered to the public at a price of not more than 2½% above the price received by applicant. The bonds, if redeemed through sinking fund payments provided in the supplemental indenture, are redeemable at the price at which they are offered to the public. If the bonds are redeemed through use of other funds they are redeemable at a price starting three

points above the initial offering price. The redemption price will decline proportionately over the life of the bonds.

The first mortgage indenture expressly excepts and excludes from the lien and operation thereof the following described property, whether now owned by applicant or hereafter acquired by it:

"(a) All bills, notes and accounts receivable, commercial paper, cash on hand or in bank, contracts, operating agreements and choses in action, not specifically assigned to or deposited or pledged with the Trustees or required to be;

(b) All shares of stock, and all bonds, notes and other evidences of indebtedness or certificates of interest therein and other securities now owned or hereafter acquired or possessed by the Company, except securities pledged or required to be pledged by the terms of this Indenture or any indenture supplemental hereto;

(c) All materials, merchandise, appliances and supplies acquired for the purposes of resale or leasing to its customers in the ordinary course and conduct of the business of the Company, and all materials and supplies held for consumption in operation or held in advance of installation or use thereof for fixed capital purposes;

(d) All electric energy, ice, gas, water, and other materials or products generated, manufactured, produced or purchased by the Company for sale, distribution or use in the ordinary course and conduct of its business;

(e) All motor vehicles and trailers and parts, tires, appliances and supplies therefor; and

(f) Office supplies and office equipment."

provided, however, that if upon the occurrence of an event of default under the indenture, the Trustees, or either of them, or any receiver or trustee appointed under the indenture, shall enter upon and take possession of the mortgaged property, such Trustees or such receiver or trustee may, to the extent permitted by law, at the same time likewise take possession of any and all of the excepted property mentioned in clauses (a) and (b) above. We believe that the indenture should be modified by substituting for clauses (a) and (b), clauses (a), (b), (c), (d), (e) and (f) above. Clauses (c), (d), (e) and (f) as well as clauses (a) and (b) cover property needed in the ordinary conduct of the business of applicant by those who in the event of a default will be charged with the duty of rendering public utility service.

California Electric Power Company, as stated, through stock ownership controls Interstate Telegraph Company. As a matter of fact, it owns all of that company's outstanding stock and bonds. Such stock and bonds will be deposited with The International Trust Company, Trustee, as security for the payment of California Electric Power Company bonds. The lien of the first mortgage indenture of California Electric Power Company does not cover the properties of Interstate Telegraph Company. However, such first mortgage indenture sets up a procedure under which the properties of Interstate Telegraph Company may be used as a basis of authentication of bonds of California Electric Power Company. The proceeds realized by applicant from the sale of such bonds may be expended for the purpose of acquiring properties owned by applicant. It is urged that this provision is equitable in that applicant finances the properties of Interstate Telegraph Company. We have no objection to the provision remaining in the first mortgage indenture but we will in subsequent proceedings in which applicant proposes to use Interstate Telegraph Company properties as a basis for the issue of additional bonds, determine whether Interstate Telegraph Company properties should be used for that purpose. The authority herein granted to execute a first mortgage indenture should not be construed as granting applicant permission to issue bonds.

The record in this proceeding shows that it is the intention of California Electric Power Company to charge to surplus the unamortized discount and expense applicable to its 5% First Lien Gold Bonds as well as the premium which it has to pay upon the redemption of such bonds. It further appears that it will charge to surplus some preferred stock discount which arose in connection with the issue of stock which is no longer outstanding. We commend applicant for eliminating these deferred charges from its financial statements.

Through the sale of property to the Imperial Irrigation District for \$4,900,000 and for other considerations, and the refinancing mentioned herein applicant is effecting a major change in its liabilities. Five per cent bonds in the amount of \$23,642,700 and 3% installment notes in the amount of \$360,000 will be

paid. In place thereof applicant proposes to issue \$16,000,000 of 3 $\frac{1}{2}$ % bonds and \$4,000,000 of 5 $\frac{1}{2}$ % cumulative convertible prior preferred stock. It is redeemable at the option of applicant and convertible into common stock at the option of the holders thereof. If applicant's plans are consummated, its indebtedness will be reduced by \$8,002,700, the interest rate on its bonded indebtedness reduced from 5% to 3 $\frac{1}{2}$ % and a basis for stock financing established.

Nothing contained in this decision should be regarded as passing upon any issues related to the determination of the original cost of applicant's properties or to any accounting adjustments incident thereto.

O R D E R

The Commission having considered California Electric Power Company's requests and it being of the opinion that this is not a matter on which a hearing is necessary; that the money, property or labor to be procured or paid for through the issue of said \$16,000,000 of bonds is reasonably required by applicant for the purposes herein stated and that the expenditures for said purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income; that the issue of said bonds should be authorized, and that California Electric Power Company's request for permission to issue stock should be dismissed for want of jurisdiction, therefore,

IT IS HEREBY ORDERED as follows:

1. California Electric Power Company may, after the effective date hereof and on or before December 31, 1943, execute and deliver a first mortgage indenture and a first supplemental indenture in substantially the same form as the first mortgage indenture and first supplemental indenture filed in this application on October 7, 1943, modified as indicated in the foregoing Opinion, and provided further that the authority herein granted is for the purpose of this proceeding only and is granted insofar as this Commission has jurisdiction under the terms

of the Public Utilities Act and is not intended as an approval of said first mortgage indenture and said first supplemental mortgage as to such other legal requirements to which said first mortgage indenture and said first supplemental indenture may be subject, and provided further that the authority herein granted to execute said first mortgage indenture and said first supplemental indenture does not confer upon California Electric Power Company permission to issue any bonds.

2. California Electric Power Company may, after the effective date hereof and on or before December 31, 1943, issue and sell at not less than 101% of their face value and accrued interest \$16,000,000 face value of First Mortgage Bonds, 3 $\frac{1}{2}$ % Series due 1968, and use the proceeds, other than accrued interest, to pay in part its outstanding 5% First Lien Gold Bonds and/or 3% installment notes. The accrued interest may be used for general corporate purposes.

3. The authority herein granted will become effective when applicant has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is Seven Thousand (\$7,000.00) Dollars.

4. Within thirty (30) days after the issue and sale of said \$16,000,000 of bonds, California Electric Power Company shall file with the Railroad Commission a complete copy of the registration statement filed with the Securities and Exchange Commission, including all exhibits referred to therein.

5. Within thirty (30) days after the issue and sale of said \$16,000,000 of bonds California Electric Power Company shall file with the Railroad Commission in addition to the documents referred to in paragraph four of this Order, two certified copies of said first mortgage indenture, two certified copies of said first supplemental indenture, two certified copies of California Electric Power Company's amended Articles of Incorporation, two copies of the bond and two copies of the preferred stock prospectus, and two copies of the underwriting agreement covering the sale of said 3 $\frac{1}{2}$ % bonds and the 5 $\frac{1}{2}$ % preferred stock.

6. California Electric Power Company shall file a report, or reports, required by the Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this Order.

7. Within ninety (90) days after the date hereof California Electric Power Company shall file with the Railroad Commission a statement showing in detail the expenses incurred by it because of the issue and sale of said 3 $\frac{1}{2}$ % bonds and the 5 $\frac{1}{2}$ % preferred stock.

Dated at San Francisco, California, this 13th day of October, 1943.

Francis C. Havenner

Richard L. Lusk
Francis C. Havenner
Commissioners

