

Decision No. 37498

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of NORTHERN COUNTIES)
UTILITY COMPANY, a corporation, for (a) a certificate)
of public convenience and necessity; (b) the issuance) Application No. 26385
of shares of its capital stock; and (c) leave to file)
tariff of rates and charges.)

In the Matter of the Application of THE RED RIVER)
LUMBER COMPANY, a corporation, and NORTHERN COUNTIES)
UTILITY COMPANY, a corporation, for an order author-) Application No. 26386
izing the sale and transfer of certain properties.)

APPEARANCES:

McCUTCHEEN, THOMAS, MATTHEW, GRIFFITHS & GREENE and ALLEN P. MATTHEW,
by SCOTT ELDER and CAMPBELL, SMITH & CAMPBELL and DANA C. SMITH,
for Red River Lumber Company.

FARRAND & FARRAND, by ROSS C. FISHER, for Northern Counties Utility
Company.

ORRICK, DAHLQUIST, NEFF, BROWN & HERRINGTON, by HILLYER BROWN, for
California-Pacific Utilities Company and Public Utilities California
Corporation.

EARL MILLER, President, Local No. 2836 (A. F. of L.) Lumber Sawmill
Workers.

PRESENT FROM THE COMMISSION'S STAFF: W. C. FANKHAUSER, Financial
Expert, and C. T. MESS, WALTER B. WESSELS, and MURRAY MACKALL,
Engineers.

ROWELL, Commissioner

O P I N I O N

Hearings were held on these two applications both at San Francisco and
at Westwood. They may appropriately be consolidated for decision.

In Application 26385, Northern Counties Utility Company, a newly organ-
ized California corporation, seeks a certificate of public convenience and necessity
to conduct certain utility services within the town of Westwood and its environs,
in Lassen County. It also seeks authority to issue two hundred and fifty shares of
capital stock having a par value of \$25,000.

In Application 26386, the Red River Lumber Company and Northern Counties Utility Company join in seeking the Commission's authorization for the transfer of certain parts of the telephone, water, and electric power facilities which The Red River Lumber Company has installed in and about Westwood, and which, if conveyed to Northern Counties Utility Company, will be devoted by the latter to public utility service within the area described in its application for a certificate.

Northern Counties Utility Company has been organized by interests associated with the California Fruit Growers Exchange, a cooperative association which controls the marketing of a large proportion of the citrus fruits produced in this State. All of the capital stock which Northern Counties Utility Company proposes to issue will be held by Fruit Growers Supply Company, a corporation engaged in the manufacture and supply of fruit box materials to California Fruit Growers Exchange and its members.

For convenience, the three corporations just mentioned will hereinafter be referred to respectively as "Utility Company", "Exchange", and "Supply Company". The Red River Lumber Company will be referred to as "Red River".

Red River has for many years conducted extensive lumbering operations in the counties of Lassen, Plumas, Shasta and Modoc, California. The cutting of timber was at first confined to areas surrounding its mill site at Westwood, but as those forested areas were depleted its timbering operations have extended to others farther distant. It now is logging the Black's Mountain tract, which is more than seventy miles from its mill. Westwood is a community of approximately six thousand inhabitants, practically all its residents being economically dependent upon the continued operation of Red River's mill.

Supply Company also owns timber lands contiguous to the Black's Mountain tract of Red River, and it has a box shock mill at Susanville, about twelve miles east of Westwood. It has entered into an agreement with Red River under which it has the option to purchase approximately 100,000 acres of uncut timber lands and rights, together with the Westwood mill and all fee lands and structures within the

townsite. Although the option to purchase also covers those telephone, water and electric facilities above mentioned, it is agreed that title to such facilities may be taken by its new subsidiary corporation, the Utility Company.

A brief recital of the facts surrounding the so-called utility services now being rendered by Red River appears necessary to an understanding of the applications before us and of the somewhat unusual situation presented.

Red River has never acknowledged that it was conducting public utility operations of a kind falling within any utility definition set forth in our Public Utilities Act. It originally held title to all the lands within and surrounding the town of Westwood. It continues to hold all such property with the exception of the Schoolhouse sites and such rights of way as have been acquired by the two railroad companies. Nearly all residences and buildings are occupied by its employees or concessionaires and their families. It has supplied its tenants with water, electric, and telephone service, and has also given steam heat service to a limited number of customers. Some of such services probably are exempt from regulation under our statutes, they being limited to tenants only and furnished without charge. However, direct charges are now being made for certain classes of service. Long-distance telephone calls are routed over the facilities of Public Utilities California Corporation, which maintains a connection with the Westwood exchange, Red River retaining a portion of the net toll revenues of the last mentioned telephone utility. Direct charges have also been assessed against users of electric current, some on a flat basis and some on a metered basis. Such electric rates are doubtless less than might be considered reasonable had the service not been viewed by Red River as an accommodation service to its own employees and tenants.

It is the intention of Utility Company to continue the same telephone, water and electric service in Westwood as Red River supplies today, and has committed itself not to assess as of this time any other charges than are now applied by Red River. Supply Company covenants to meet any deficit incurred by Utility

Company in the operation and maintenance of the utility facilities until such time as this Commission shall approve for filing appropriate schedules of rates applicable to all its utility services. Although Utility Company will not acquire title to any of the steam heating facilities, nor does it assume any such utility obligation, the Supply Company declares its willingness to furnish steam heat without charge to all premises now receiving such service. In other words, it is covenanted by Utility Company and Supply Company jointly that all residences and commercial concessions in Westwood shall for an indefinite time be accorded exactly the same utility accommodations as they have enjoyed in the past.

When such intentions of Utility Company and Supply Company were made clear at the public hearing held in Westwood, the Commission was advised by a representative of the local labor organization that its members were satisfied and would not protest the granting of the applications. Nor did any objection come from those tenants of Red River who reside outside of Westwood, to whom Red River expects to continue water and electrical services as in the past and to maintain telephone connections with the Westwood exchange.

The sole protest to the granting of these applications came from another utility, the California-Pacific Utilities Company, which renders electric service in Susanville, Chester, and environs, and which obtains all of its electric power supply from Red River. Such protest has since been withdrawn, however, and the Commission is of the opinion that the applications may properly be granted in accordance with the stipulations now agreed upon by all parties to the proceedings. For the purpose of clarifying the proposals now made, it will not be necessary here to make more than a brief statement of the facts underlying the protest first made by California-Pacific Utilities Company.

Some time after 1920 Red River purchased the capital stock of the Lassen Electric Company, the utility then distributing electric energy at Susanville. A contract was then entered into whereby Red River agreed to sell up to 5000 h.p. of energy to the utility. Red River then had available three sources of power, namely,

(1) 7080 K.W. obtained from Pacific Gas and Electric Company and transmitted from the latter's Hat Creek hydro plant to Susanville via Westwood over Red River's own transmission line, (2) about 4800 K.W. of installed generating capacity at the Hamilton hydro plant built by Red River near Westwood, and (3) about 5500 K.W. steam generating capacity at its lumber mill in Westwood. The sources of power were not specifically mentioned in the contract of delivery to Lassen Electric Company, but it appears that Red River at all times has endeavored to furnish firm power service to Lassen Electric and its successor, California-Pacific Utilities Company, and has been willing to deliver electric energy from its steam generating plant at Westwood as a stand-by in the event its supply from hydro sources was interrupted. Today, Red River's combined hydro supply is greatly in excess of the peak demands both at Susanville and Westwood, exclusive of its mill load, but it cannot be said that the Hamilton hydro plant alone is sufficient to meet the load demands of California-Pacific Utilities Company and of the new Utility Company which will serve Westwood and vicinity. Hence, California-Pacific Utilities Company feared that unless the steam plant at Westwood will be continued as a stand-by source of power in case of an outage on the Hat Creek transmission line, disruptions or curtailments of its supply under its wholesale purchase contract may occur.

All the parties to these proceedings seem to concede that if electric energy from the steam plant at Westwood is no longer available to California-Pacific Utilities Company, an alternate source of stand-by power should be provided. Therefore, Red River, Supply Company, and Utility Company have agreed amongst themselves, and have filed written statements in these proceedings, respecting the future use of the steam-electric generating plant at the Westwood mill. This plant, as above noted, will become the property of Supply Company and will not be a public utility facility. However, Supply Company agrees that it will utilize this steam plant to supplement the existing hydro supply to September 30, 1945, and Red River agrees that prior to that date it will provide a new source of power either through a second connection at Lake Almanor with the system of Pacific Gas and Electric Company,

or so increase the capacity of its local hydro plant as to insure an alternative source of supply adequate to enable it to meet the demands of the two utilities which will be serving Westwood and Susanville should Hat Creek line be out of service.

Such offers were first expressed in writings introduced as Exhibits 3, 4 and 5, but these have been supplemented by instruments filed since the conclusion of the hearings.*

In the words of their amended stipulations, it is covenanted that "Fruit Growers Supply Company will use its best efforts to provide The Red River Lumber Company with stand-by electric power from said steam plant (as an accommodation and not as a public utility obligation) during temporary emergencies due to failure of The Red River Lumber Company's other sources of supply, curtailing its plant operations if necessary so to do in such periods of temporary emergency."

And the Red River, having expressed its intent, in Exhibit No. 4, that it will prior to September 30, 1945 obtain an additional source of hydro capacity as mentioned, now further stipulates as follows: "The Red River Lumber Company stipulates and agrees to comply with such further or other order as the Commission may make, either in the above proceeding or other proceedings relative to compliance by it with its stipulation and agreement made in Exhibit No. 4."

In view of these stipulations, the Commission must conclude that the granting of the applications by an order which directs compliance therewith would not place California-Pacific Utilities Company in the position where it might suffer an inadequate electric power supply in the future. On the contrary, should a tie-line connection be made to the system of Pacific Gas and Electric Company at Almanor Dam, as is now contemplated by Red River and to which Pacific Gas and Electric Company

* Letters received from The Red River Lumber Company and from Fruit Growers Supply Company dated November 4, 1944, and the letter of The Red River Lumber Company dated November 16, 1944, transmitting a further stipulation joined in by California-Pacific Utilities Company, will be deemed to be supplements to Exhibits Nos. 3, 4 and 5, and part of the record in these proceedings.

consents, the sources of stand-by power then made available at Westwood will be sufficient to meet the requirements of both the California-Pacific Utilities Company and the new Utility Company. Such a connection with the Pacific Gas and Electric Company system will permit the supply of stand-by power from its hydro plants at Big Bend, Buck's Creek and Caribou, and this power, to the extent of 2500 K.V.A., will be transmitted over the existing 44 K.V. loop by which electric service is now given to the towns of Keddie, Quincy, Greenville and Prattville. The Commission is of the opinion that if there is thus made available at Westwood an additional source of hydro power to supplement Red River's existing supply, the operation of the steam generating plant at Westwood will no longer be required as a stand-by source of electric energy.

It is our conclusion, therefore, that the granting of these applications would be consonant with the public interest. We need not now determine the extent to which all the facilities to be conveyed by Red River have in the past been devoted to public use, for this company is before us seeking authority to convey, and the new Utility Company seeks a declaration of its right and obligation to render utility services hereafter. Although a detailed description of all facilities essential to the conduct of utility service has not yet been completed, the Utility Company will be expected to acquire or control all such necessary facilities and to submit to the Commission a detailed inventory and cost appraisal of these properties.

Utility Company declares that if it is granted a certificate to operate as a public utility within the town of Westwood and its environs, it need not obtain a franchise permitting the occupancy of streets or highways, for Red River has reserved rights in all public ways, and it will convey such rights to Utility Company.

Utility Company is authorized under its Articles of Incorporation to issue 2500 shares of stock of a par value of \$100 per share. It seeks an order of the Commission permitting it to issue to Supply Company for cash 250 shares, the proceeds

to be used as working cash capital until such time as the Commission permits it to set up fixed capital accounts. Inasmuch as Supply Company offers to meet any operating deficit incurred by the utility pending such further action by the Commission, and has not yet filed an inventory and appraisal of its properties, we are of the opinion that the issuance of not more than twenty-five shares should be authorized at this time. Upon the submission of evidence as to the value of the properties which Utility Company proposes to acquire, the Commission will consider its request to issue additional stock.

The following form of order is recommended.

O R D E R

Hearings having been held upon the above entitled applications; the matters submitted and considered; and it being found by the Commission that the public convenience and necessity so require;

IT IS HEREBY ORDERED, as follows:

1. Red River Lumber Company is hereby authorized to convey to Northern Counties Utility Company, on or before December 31, 1944, and Northern Counties Utility Company is authorized to acquire, all those facilities and rights generally described in Application No. 26386 as necessary or useful in the rendering by Northern Counties Utility Company of public utility telephone, electric and water services within that area specifically described in said application, including the town of Westwood, Lassen County, California; and Red River Lumber Company is hereby further authorized, in so far as the Commission may have jurisdiction with respect thereto, to convey all other properties and rights described in its option agreements with Fruit Growers Supply Company attached to said Application No. 26386.

2. Northern Counties Utility Company is hereby granted a certificate of public convenience and necessity to engage in the business of and to operate as a "telephone corporation," an "electrical corporation," and a "water corporation,"

as such terms are defined in the Public Utilities Act, within that area, including the town of Westwood, Lassen County, California, specifically described in Application No. 26386.

3. Northern Counties Utility Company may, on or before December 31, 1944, issue and deliver to Fruit Growers Supply Company, in part payment for the properties referred to in this Order and the foregoing Opinion, not exceeding twenty-five (25) shares of its capital stock, said stock to be issued at its par value of One Hundred Dollars (\$100.00) per share. The Commission finds that the money, property or labor to be procured or paid for by such stock issue is reasonably required for the purpose stated and that the expenditures for such purpose are not, in whole or in part, reasonably chargeable to operating expenses or to income.

IT IS HEREBY FURTHER ORDERED, and it is made a condition of the authorizations or grants hereinabove given, that:

(a) Northern Counties Utility Company, if it acquires the facilities and rights which it is hereby authorized to acquire from Red River Lumber Company, shall on or before December 31, 1944, file with the Commission schedules of rates covering electric service, which schedules shall not be in excess of those heretofore applied by Red River Lumber Company as set forth in Exhibit No. 9, and shall file schedules covering telephone exchange service and water service, which schedules shall indicate that no charges will be made for such services pending application to and issuance by the Commission of a further order fixing rates or charges for such telephone and water services.

(b) Northern Counties Utility Company, if it acquires the facilities and rights which it is hereby authorized to acquire, shall on or before March 1, 1945, unless further time be given, file with the Commission a detailed inventory and cost appraisal of the facilities and rights so acquired, such inventory and appraisal to show separately the telephone, electric and water facilities and rights which are used and useful in rendering those public utility services.

(c) Red River Lumber Company and its successors shall abide by its under-

taking to supply electric power to Northern Counties Utility Company and to California-Pacific Utilities Company, and to obtain prior to September 30, 1945, an additional supply of hydro power as set forth in the stipulations or agreements introduced as Exhibits Nos. 3, 4 and 5, and as such exhibits were supplemented by the two letters written or joined in by Red River Lumber Company dated November 4, 1944, and by its letter and supplemental stipulation attached dated November 16, 1944; and, Red River Lumber Company, on or before January 31, 1945, shall file with the Commission for its approval a proposed plan for the acquisition or construction of facilities adequate to provide such additional power supply as set forth in said stipulations.

The Commission reserves jurisdiction, acting either upon its own motion or upon further application or petition, to make any further order necessary or proper to carry out the terms and conditions of this order.

The effective date of this order shall be 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 22nd day of November, 1944.

Richard L. Laska

Justus F. Quisenberry

Frank W. Quinn

Wm. H. Powell

Commissioners