

Decision No. 37950

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
 THE CALIFORNIA OREGON POWER COMPANY, a
 corporation, for an order granting to it
 a certificate of public convenience and
 necessity to exercise the right, privi-
 lege and franchise granted to it by the
 City of Crescent City, Del Norte County,
 California:

Application No. 26626

Brobeck, Phleger and Harrison by
 James S. Moore, Jr., for Applicant

BY THE COMMISSION:

O P I N I O N

In this application The California Oregon Power Company seeks authority to exercise a franchise granted by the City of Crescent City permitting the installation and maintenance of electric facilities upon the streets of that City.

The franchise referred to, a copy of which is attached to the application and marked Exhibit "A," was granted by the City in accordance with the Franchise Act of 1937 and it is provided therein that it shall be of indeterminate duration. A fee is payable annually to the City equivalent to two per cent of the gross receipts arising from the use of the franchise but not less than one-half of one per cent of all sales of electricity by Applicant within the City. The direct cost to Applicant in obtaining this franchise is stated to have been \$35.60.

A public hearing on this application was held by Examiner Daly, at which no one appeared to oppose or protest the granting of the requested authority.

Applicant has practically completed the details of acquiring and preparing to operate the electric public utility business of the Public Utilities California Corporation in Del Norte County under authority granted by Decision No. 37780 in Application No. 26567. However, in connection with the transfer

thus authorized, Applicant obtained no franchise other than a constitutional franchise to operate within the City and if operations are to be conducted lawfully it is evident that its request for a certificate of public convenience and necessity to exercise its newly acquired franchise should be granted. The certificate of public convenience and necessity authorized herein is subject to the following provisions of law:

- (a) That the Commission shall have no power to authorize the capitalization of the franchise involved herein or this certificate of public convenience and necessity or the right to own, operate or enjoy such franchise or certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, certificate of public convenience and necessity or right,
- (b) That the franchise involved herein shall never be given any value before any court or other public authority in any proceeding of any character in excess of the cost to the grantee of the necessary publication and any other sum paid by it to the municipality therefor at the time of the acquisition thereof.

O R D E R

A public hearing having been held upon the application of The California Oregon Power Company, the matter considered, it appearing to the Commission and it being found as a fact that public convenience and necessity so require, therefore,

IT IS HEREBY ORDERED the The California Oregon Power Company be, and hereby is authorized to exercise the right and privilege granted by the City of Crescent City by Ordinance No. 324, adopted April 9, 1945.

The effective date of this Order shall be the date hereof.

Dated at San Francisco, California, this 29th day of May, 1945.

David Anderson
James J. Cooney
Arthur B. Baker
Arthur Oliver
James D. Howell
Commissioners