

the obligation to supply power to Modesto Irrigation District, Permanente Cement Company and Permanente Metals Corporation, and provide for the leasing of certain transmission facilities to enable City to render such service. The last mentioned power customers are signatories to several of the contracts before us.

At the hearing, Mr. Dion Holm, Assistant City Attorney, described the development of the City's hydro electric project and explained the occasion for its execution of these contracts. He reviewed the legislation passed by Congress in 1913, known as the Raker Act, which gave the City the right to develop a water and power supply within the boundaries of Yosemite National Park. That Act, among other provisions, contained a requirement that the City should within twenty years develop at least 60 thousand horse power electric energy. The City has met that requirement by the construction of two hydro electric power plants which now produce approximately 500 million kilowatt hours annually at a rate of about 76 thousand kilowatts. It has also constructed a high voltage transmission system from the Hetch Hetchy development to Newark, Alameda County, which is approximately thirty-five miles from San Francisco. A contract was entered into between the City and Company on July 1, 1925, whereby the Company received all of the power generated at the City's plant and delivered to the Company at Newark. From July 1, 1925 to April 28, 1943, the output of said plants was distributed by Company under and pursuant to the terms of a contract between City and Company. On April 22, 1940, the Supreme Court of the United States affirmed the judgment of the United States District Court for the Northern District of California which had held that said contract was violative of the Raker Act and had enjoined further performance under said contract. The effective date of said injunction has been extended from time to time, the latest extension being to July 2, 1945, to allow time for the City to work out a plan for disposal of its Hetch Hetchy power in compliance with the Raker Act.

It was declared by the Attorney for the City that it has used every effort to work out plans and means for the distribution of its electric output from the Hetch Hetchy project in conformity with the requirements of the Act of Congress.

Since the defeat by the electorate of a series of proposed bond issues to provide for the purchase of an electric distribution system, several plans have been submitted to the Secretary of the Interior which would provide for the disposition of the City's electric power output to purchasers other than the Company. He stated that the plan now incorporated in the contracts submitted in this application was initiated by the City, and that it is his belief that the agreement will be approved as not violative of the Act of Congress.

The Company is a party to each of the five contracts presented, and it is the only party before us over which regulatory authority may be exercised by this Commission. Although it is necessary to understand the circumstances giving rise to those agreements between the City and the Company, the Commission has no authority to determine whether the agreements consummated are consistent with the requirements of the Raker Act. The only jurisdiction possessed by the Commission is that given by those sections of the Public Utilities Act requiring a public utility to obtain its approval before it leases or otherwise disposes of its facilities or enters into rate or service agreements deviating from its regularly filed schedules and service regulations.

The five agreements which Company asks the Commission to authorize are summarized in the application as follows:

EXHIBIT "A" - Agreement between City and Company, dated March 14, 1945, relating to the furnishing by Company of facilities to transmit energy for City, and to furnish supplementary energy, standby service and other services therein provided.

EXHIBIT "B" - Agreement between Company and Modesto Irrigation District, dated March 19, 1945, modifying an existing electric sale and purchase agreement between said parties dated August 15, 1940.

EXHIBIT "C" - Agreement between Company and City, dated April 18, 1945, effecting assignment and transfer to City by Company of all its interest in and to an electric service contract entered into under date of November 11, 1944, by and between Company and Permanente Cement Company.

EXHIBIT "D" - Agreement between Company, City, and The Permanente Metals Corporation, dated April 18, 1945, effecting, among other things, amend-

ment of agreement between Company and Todd-California Shipbuilding Corporation (subsequently renamed The Permanente Metals Corporation) dated July 2, 1941, and the assignment by Company to City of its interests in said Permanente contract.

EXHIBIT "E" - Agreement between Company and City, dated April 18, 1945, providing for the lease by Company to the City of certain electric transmission lines, substation, and related switching and metering facilities; and the sale by Company to City of supplementary power and energy to enable the latter to meet its obligations to Permanente and Cement Company under the aforementioned assigned contracts.

It appears from the testimony presented that the City's generating plants at Hetch Hetchy have a capacity of approximately 76,000 K.W. and an output of about 500 million K.W.H. annually. Its current needs for municipal uses are estimated at approximately 55,000 K.W. and 250 million K.W.H. annually, leaving a considerable amount of power available for sale to outside parties. Accordingly, three large users of power who are now customers of Company have agreed to purchase all their requirements from City, their use during the year 1944 having been as follows:

	<u>Maximum Demand Kilowatts</u>	<u>Energy Thousands of Kilowatt Hours Annually</u>
Modesto Irrigation District	8,500	30,000
Permanente Cement Co.	7,000 (daytime)	70,000
Permanente Metals Corp.	52,000	222,000

Although the future use of energy by the above named customers cannot be predicted with certainty, it will be seen that even without growth in load the City's production capacity will not normally be sufficient to supply the annual needs of these customers as well as the City's own municipal requirements. Considerable additional power will ordinarily be purchased from the Company. The contracts make provision for such purchases as needed. Likewise, because of the

impossibility of fully coordinating the output of a hydro electric plant with the variable needs of a limited number of power customers, it is obvious that the possibility exists that at times the City's generating capacity may exceed the actual requirements of itself and its customers. To make provision for this contingency, the contracts provide that Company will utilize any such excess energy in order that it be put to beneficial use, and this will be a credit to City against charges for power which it will normally purchase from Company.

The rates at which Company will supply extra power to City, as provided for in the contracts, may be summarized as follows.

The energy that Company undertakes to supply to make up such deficiencies as City may experience in supplying Modesto District is at a rate predicated upon Company's present resale schedule adjusted to reflect the difference in point of supply. The rate at which Company will make up deficiencies the City may have in meeting the needs of Permanente Cement Co. is predicated upon the terminal blocks of the presently effective P-30 Primary Industrial Power schedule adjusted to reflect delivery at Newark rather than at the cement plant. Similarly, the rate for supplying deficiencies to the Permanente Metals Corp. is predicated upon the "follow on block" of the contract rate being charged by Company, and likewise is adjusted to reflect delivery at Newark.

Charges for the use of Company's Permanente transmission line and sub-station facilities are based upon an estimate of the appropriate annual costs associated with those facilities, including maintenance, operation, taxes, depreciation, and return. The services which the Company will hereafter perform for City in transmitting the City's power from Newark to San Francisco for municipal uses includes its conversion, regulation, distribution, and metering. The charges for such services, as set forth in Exhibit "A", were arrived at by the elimination of the Company's power costs at Newark from the charges made for the service presently rendered to City in accordance with applicable rate schedules, the difference being accepted as the fair cost of transmitting and distributing the City's

power for its several municipal uses. Energy loss ratios as set forth in Exhibit "A" have been established to reflect the losses experienced for the various classes of use.

While the fundamental change in Company's position from that of a firm supplier to that of a "standby" supplier is recognized in the contracts, no specific rates for that service have been formulated. However, the manner in which the rates have been set up is such that, for this change in characteristic, Company will at least be partially compensated. City may have incidental excesses of energy at certain times when the total instantaneous load of City, Modesto and the industrial plants is less than City's available supply. So that this "dump" energy may not be entirely wasted, Company will accept such energy and credit it to City's account at the basic incremental energy rate used in establishing the rates City will pay Company.

The result to the Company in entering into these agreements cannot be accurately estimated. It is relinquishing substantial customer loads that might reasonably be expected to grow in volume in the future. To this extent, it is suffering a curtailment in the scope of its utility service and presumably in its earnings as well. However, for the immediate future, the revenue received through the sales of power to the City and from rental of facilities at the rates provided for in the agreements, will not be so materially altered as to justify the conclusion that the result will be unreasonably prejudicial to its other electric power customers. The consummation of these contracts, if they shall become effective, will serve as a solution to a long standing controversy. It is the Commission's judgment that the application should be granted.

A hearing having been had, the matter is submitted for decision, and the Commission being fully advised, it is found that insofar as such agreements affect the public utility character of the business of the Company, the agreements are not unreasonable, and that the Company should be authorized to consummate

said agreements with the City and County of San Francisco as submitted with the application as Exhibits "A" to "E", inclusive. We recommend the following Order.

O R D E R

IT IS HEREBY ORDERED that the Pacific Gas and Electric Company be and hereby is authorized to consummate the agreements submitted in this application as Exhibits "A", "B", "C", "D", and "E", in accordance with the terms and conditions therein set forth, and that Pacific Gas and Electric Company is hereby authorized to carry out the terms of said agreements and to render the service contemplated and to charge the rates and collect revenues therefrom for such service, all in accordance with the rates and charges set forth therein.

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

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

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

Harold Coulson

Justin J. Casper

Richard Kachee

James J. Don

Irving F. Lawrence

Commissioners.