

Decision No. 39231

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of  
CALIFORNIA ELECTRIC POWER COMPANY,  
a corporation; for an order modify-  
ing Decision No. 36623 limiting or  
defining Petitioner's service area  
pursuant to Chapter 552, Statutes  
1943 of the State of California.

Application No. 27323

ORIGINAL

HENRY W. COIL, for Applicant;  
STEWART, SHAW, AND MURPHEY, by Frank E.  
Jenney, for Palo Verde Irrigation District,  
interested party.

HULS; Commissioner

O P I N I O N

Petitioner seeks to enlarge its electric service area and to procure a certificate of convenience and necessity to sell and distribute electric energy in a portion of Imperial County. It also applies for an order approving agreements supplemental to an agreement between the petitioner and Imperial Irrigation District, dated October 15, 1943, and for an order amending the order defining petitioner's electric utility service area pursuant to the provisions of Chapter 552, Statutes 1943 of the State of California, which order was entered in Decision No. 36623, dated September 22, 1943, upon Application No. 25755. That order provided that petitioner should not, for and during the period of twenty-five years from and after October 15, 1943; directly or indirectly sell or distribute electric energy in certain areas, among others, in "(1) the County of Imperial, State of California."

Hearing was held in Los Angeles on May 27, 1946, after notice published in newspapers in Blythe and El Centro and actual notice to Imperial Irrigation District and Palo Verde Irrigation District.

The petition avers and the hearing disclosed that the southerly portion of Palo Verde Irrigation District, located principally in Riverside County and served by petitioner, extends into said Imperial County, but at the time of said agreement of October 15, 1943, was supposed by said parties to be undeveloped and unoccupied. The evidence includes a petition signed by twenty-three persons, denominating themselves as permanent citizens of Palo Verde Township in Imperial County, stating that many new houses were being built and other improvements being made in the community and that lack of electricity was a serious inconvenience and requesting service to the community consisting of more than forty people. The Rate Engineer and Executive Assistant to the President of petitioner testified that at the time of the hearing there were thirty-seven people who had applied for service from petitioner, that many new homes were under construction in the area involved embracing about twenty-two square miles, that no other electric utility service was available to the thirty-seven prospective customers, and that the area was one of petitioner's most profitable looking rural extensions for agricultural, domestic, and some commercial use. Petitioner's Riverside County distribution lines now extend to within five miles of the area in question. The nearest line of the Imperial Irrigation District is more than fifty miles from said area, and it is wholly impractical and uneconomical for said district to undertake to render service therein.

Petitioner and said district, on the eighth day of March, 1946, entered into an agreement supplemental to the agreement of October 15, 1943, a copy of which supplemental agreement is attached to the application herein, the effect of which is to allow petitioner to serve in the area in question, Township 9 South, Range 22 East and the East Half of Township 9 South, Range 21 East, S.B.B.M., subject to the provision that the District may, upon purchasing petitioner's facilities in said last described area, terminate said Supplemental Agreement. This area includes all of that portion of Palo Verde Irrigation District in said Imperial County, plus some surrounding rough arid land and river bottom land, the whole being in the extreme northeast corner of said Imperial County adjoining the Colorado River.

Request was made at the hearing by counsel for petitioner for authority to amend another agreement between petitioner and Imperial Irrigation District, known as "Agreement for the Exchange, Sale, and Purchase of Electric Energy" dated October 15, 1943, which was Exhibit B attached to Application No. 25761 in Decision No. 36622, rendered September 22, 1943, whereby the petitioner was authorized to sell certain electric properties, rights, and business to Imperial Irrigation District and to withdraw some public utility service within certain specified areas. In Articles 2 and 3 of said agreement there are certain provisions for delivery by the Imperial Irrigation District of power to the petitioner for the service of Palo Verde Valley in Riverside County. To comport with the change in the supplemental agreement of the eighth day of March, 1946, it became necessary also for petitioner to amend the said "Agreement for the Exchange, Sale, and Purchase of Electric Energy." Petitioner placed in evidence an additional supplemental agreement dated May 24, 1946, between petitioner and the said Imperial Irrigation District, referring to the March 8, 1946 supplemental agreement, whereby subarticle (a) of Article 2 and subarticle (a) of Article 3 of the "Agreement for the Exchange, Sale, and Purchase of Electric Energy," dated October 15, 1943, are amended by adding to and including in the territory described in each of said articles the following described area and by inserting after the words "Gila and Salt River Base Line" in the eighth line of each subarticle the following: "and in that portion of Imperial County, California, contained in Township 9 South, Range 22 East and the East Half of Township 9 South, Range 21 East, S.B.3.M.," and whereby subarticle (d) of Article 3 of said "Agreement for the Exchange, Sale, and Purchase of Electric Energy" is amended by inserting after the word and figure "Article 3" in the sixth line of said subarticle the following: "as amended."

Each of the supplemental agreements of March 8, 1946 and May 24, 1946 provides that it shall not become effective unless or until approved as to company and district, respectively, by the Railroad Commission of the State of California and California Districts Securities Commission, in accordance with the provisions of applicable law.

Petitioner introduced in evidence the resolution and petition of the Board of Directors of the Imperial Irrigation District, dated March 19, 1946, petitioning the California Districts Securities Commission for an order approving supplemental agreements between Imperial Irrigation District and California Electric Power Company.

On August 13, 1943, by its Order No. 84, the California Districts Securities Commission approved the original agreements of October 15, 1943 and limited petitioner's service area. By its orders Nos. 94 and 97 made on April 25, 1946 and July 19, 1946, respectively, the said California Districts Securities Commission approved the supplemental agreements dated March 8, 1946 and May 24, 1946 and further limited the area of petitioner in accordance with such supplemental agreements.

On July 22, 1946 this Commission received from counsel for petitioner the original of a letter addressed to said counsel from the Clerk of the Board of Supervisors of Imperial County stating that on July 15, 1946 said Clerk was directed to advise him that the County of Imperial has no objections to the California Electric Power Company's application to the Railroad Commission for a permit to install power lines in the Palo Verde Irrigation District. At the hearing, counsel for said district stipulated that said district had no objection to the extension of the service by petitioner to the area involved.

In view of the foregoing facts it is my opinion that public convenience and necessity require petitioner to sell and distribute electric energy in the area involved in this application and that the said supplemental agreements and the previous order limiting the service area of petitioner be approved and amended, respectively, as contained in the following order.

#### O R D E R

A public hearing having been held in the above numbered proceeding, the matter having been submitted for decision, and the Commission being fully advised in the premises, IT IS HEREBY ORDERED that

I. Petitioner be and it hereby is granted a certificate of public convenience and necessity to sell and distribute electric energy in Township 9 South, Range 22 East and the East Half of Township 9 South, Range 21 East, S.B.B.M.

II. The supplemental agreements dated March 8, 1946 and May 24, 1946 be, and they hereby are authorized and approved.

III. The order in Decision No. 36623 is hereby amended by amending subparagraph (i) of paragraph (a) thereof to read as follows:

"(i) County of Imperial, State of California, except the portion thereof contained within Township 9 South, Range 22 East and the East Half of Township 9 South, Range 21 East, S.B.B.M."

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.

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

Dated at ~~San Francisco~~ California, this 30 day of July, 1946.

David C. Anderson

Justin F. Carver  
Francis D. Clark

Hugh L. Duggan

Harriet H. Hule

Commissioners