

**ORIGINAL**

Decision No. 47987

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

\_\_\_\_\_ )  
 In the Matter of the Application of the )  
 Surprise Valley Electrification Corpora- )  
 tion, a California corporation; for a )  
 certificate of public necessity and con- )  
 venience; for a ratification of loans )  
 and issuance of evidence of indebtedness )  
 and mortgages; for a ratification of pre- )  
 sent membership and authority to accept )  
 future members; for approval of construc- )  
 tion; for approval of existing rates. )  
 \_\_\_\_\_ )

Application No. 33522

\_\_\_\_\_ )  
 In the Matter of the Application of The )  
 California Oregon Power Company for an )  
 order issuing to applicant a certificate )  
 of Public Convenience and Necessity to )  
 exercise the right, privilege and fran- )  
 chise granted to applicant by Ordinance )  
 No. 88 of the Board of Supervisors of the )  
 County of Modoc, California. )  
 \_\_\_\_\_ )

Application No. 33569

Brebeck, Phleger & Harrison, by George D. Rives and Joseph J. Fillockus, for California Oregon Power Company; Paul D. Baker for Surprise Valley Electrification Corp.

O P I N I O N

Applicant Surprise Valley Electrification Corp. is a California nonprofit cooperative corporation, organized in 1937. Financed by loans under the federal Rural Electrification Act, applicant Surprise Valley constructed transmission and distribution lines in Modoc and Lassen counties, California, and in a portion of southern Oregon.

Application No. 33522 was filed as a result of the decision in Plumas-Sierra Rural Elec. Cooperative, 50 C.P.U.C. 301. Writ of review was denied by the Supreme Court in Plumas-Sierra v. Public Utilities Commission, S.F. No. 18353. That decision held that the

cooperative there involved was operating as a public utility "electrical corporation" within the meaning of the California Public Utilities Code.

Surprise Valley requests authorization to exercise franchise rights, approval of past and proposed construction of facilities, authorization to carry out the terms and provisions of prior contracts, notes, and mortgages, authorization to borrow an additional \$330,000 from the United States of America, and ratification of the acceptance of past members of applicant and authorization to accept future members.

The California Oregon Power Company, by Application No. 33569, requests authorization to exercise franchise rights granted by the County of Modoc.

Public hearing was held at Alturas before Commissioner Huls and Examiner Cassidy. The matters were consolidated for hearing and decision.

Surprise Valley was organized in 1937 following unsuccessful efforts of ranchers to obtain power. Its first lines were energized in 1938, in Oregon and in a portion of Modoc County, California. In 1939 lines were extended into Lassen County, California. Electrical energy is purchased from California Oregon, with delivery at Adin, Alturas, and Cedarville in Modoc County, and at Lakeview in Oregon. Surprise Valley presently serves 1,832 customers, 1,310 being in California and 522 in Oregon. It has approximately 450 miles of distribution line in Modoc and Lassen counties and approximately 425 miles of distribution line in Oregon, being a total of 875 miles. It also has approximately 35 miles of 66 KV transmission line in Modoc County. Customer density per mile of distribution line is 2.08. Investment per member is approximately \$1,130, and investment per mile approximately \$2,270. Applicant's main office is at Alturas, California.

California Oregon requests authorization to exercise franchise rights granted by the County of Modoc. It has operated in portions of

that county since 1929. However, it does not request a certificate in respect of territory in Modoc County now being served by Surprise Valley.

Assuming that the Commission finds the existence of public convenience and necessity, both utilities are in agreement that a practical solution would be the issuance of certificates to each utility, covering the portions of Modoc County now served by each, subject to certain restrictions governing future extensions. In view of past amicable relationships between the two utilities, it is their belief that any future differences that may arise will be readily adjustable by agreement of the parties. Appropriate certificates will issue to each applicant in Modoc County.

Surprise Valley's application contains a memorandum of the boundary between the service areas of Surprise Valley and of Pacific Gas and Electric Company in Lassen County. By stipulation filed herein, these two utilities have agreed upon minor modification of such boundary line, and the application was amended at the hearing. Appropriate certificate will issue to applicant Surprise Valley covering operations in Lassen County.

Surprise Valley requests authority to carry out the terms and provisions of a number of prior construction loan contracts, mortgages, and notes. These prior instruments are attached as Exhibits O through PP to the application herein.

Applicant Surprise Valley also proposes to borrow from the United States of America, acting through the Rural Electrification Administration, the additional sum of \$330,000, such loan to bear interest at the rate of 2% per annum and to be payable over a period of 35 years. It requests authority to issue a mortgage note in that amount, a supplemental mortgage and an amendment to an amending loan contract.

The cost of the Surprise Valley system, as of May 31, 1952, is reported as follows:

Organization and Franchises \$ 1,135.74

Land and Land Rights

Headquarters Building Site, Alturas	\$ 398.50	
Cedarville Substation Site	150.00	
Adin Substation Site	17.00	
Easements, Legal and Other Expense	<u>185.50</u>	751.00

Substation Equipment

Adin	\$ 2,713.99	
Cedarville	12,613.73	
Overhead and Other Costs	12,274.48	\$ 27,602.20
Transmission Lines		194,729.57
Distribution Lines		1,182,595.47
Line Transformers		180,968.49
Services		45,806.71
Meters		33,057.10
Headquarters Building		85,583.87
Office Furniture and Equipment		9,052.82
Transportation Equipment		23,115.94
Store and Miscellaneous Equipment		778.33
Laboratory Equipment		1,075.68
Tools and Work Equipment		6,326.50
Radio Communication (Installation not completed)		<u>778.37</u>
Total Cost of System		<u>\$1,793,357.79</u>

The proposed capital expenditures are reported as follows:

Construction of Ravendale-Red Rock extension	\$ 89,000.00
Construction of Likely Transmission 66 KV Line	88,000.00
Construction of Likely Substation	30,000.00
Meters	1,125.00
Line Transformers	10,000.00
Legal Fees	1,150.00
Engineering	16,500.00
Rights of Ways	1,605.00
General Overhead	1,300.00
Equipment	6,000.00
System Improvement	50,000.00
Member Extensions	25,525.00
Contingencies	9,795.00
Total	<u>\$330,000.00</u>

Applicant Surprise Valley reports its assets and liabilities, as of December 31, 1951, as follows:

ASSETS

Cash on Hand and in Bank		\$ 27,630.56
Accounts Receivable	\$ 26,845.95	
Less Reserves	<u>362.69</u>	26,483.26
Materials and supplies		46,486.70
Prepayments		2,159.42
Total Current Assets		<u>\$ 102,759.94</u>

ASSETS (cont'd)

Electric Plant	\$1,785,964.53	
Loss Depreciation	290,772.63	\$1,495,191.90
Land and Structures	<u>85,982.37</u>	
Office Furniture and Equipment	8,657.91	
Transportation Equipment	24,658.55	
Other Equipment	1,854.01	
Tools and Work Equipment	6,160.25	
Total General Plant	\$ 127,313.09	
Loss Depreciation	30,397.29	\$ 96,915.80
Other Debits		1,731.57
Total Assets and Other Debits		<u>\$1,696,599.21</u>

LIABILITIES

Accounts Payable		\$ 4,456.07
Accrued Taxes		1,261.83
Accrued Insurance		514.45
Accrued Interest		981.57
Total Current Liabilities		<u>7,213.92</u>
Long Term Debt to Rural Electrification Administration		\$1,849,228.65
Memberships and Consumers' Deposits		20,029.76
Consumers' Advances for Construction		3,936.86
Contributions in Aid of Construction		19,315.13
Other Credits		332.92
Other Capital		(24,690.32)
Operating Margin		(179,595.31)
Non-Operating Margin		827.60
Total Liabilities and Other Credits		<u>\$1,696,599.21</u>

( ) - indicates red figures.

It is hereby found that the money, property, or labor to be procured or paid for by the issue of the new note is reasonably required for the purposes specified in the application and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

A schedule of Surprise Valley's present rates was filed as Exhibit F to its application. Applicant will be directed to file rates and rules, as required by the Public Utilities Code. It may be noted that under the statute a utility may neither make changes in its tariff schedules which result in an increase nor deviate therefrom, without first obtaining authorization.

Although this is not a rate or service proceeding, it is noted that one of Surprise Valley's rate schedules provides that the rates stated therein are net, the gross rates being 5% higher, and that

the gross rates shall apply if the current monthly bill is not paid within 15 days from the date of the bill. The record shows that gross and net rates are no longer used and that such provision should have been deleted. A utility can protect itself against delinquency in the payment of bills by the establishment of adequate rules covering that phase of its operation. (Pasadena Cons. W. Co., 18 C.R.C. 994, 996; Ocean View L. & W. Co., 19 C.R.C. 112, 114.)

Surprise Valley is prepared to formulate and file an appropriate extension rule. Because of the nature of a cooperative organization and the declared general policy of area coverage, the extension practices of such a utility may well differ somewhat from the general type of extension rule filed by utilities engaged in business for profit. However, applicant's extension rule should set forth a specific general formula to be applied uniformly to all applicants for service extensions. Applicant is also prepared to file a disputed bill rule.

Surprise Valley's articles of incorporation provide that it "is a membership corporation which is not formed with a view to pecuniary gain or profit to its members, and shall not be authorized to issue shares of stock." Under its by-laws, any person, firm, or corporation may become a member by paying a membership fee of \$5.00, agreeing to purchase electricity, and upon acceptance for membership by applicant's directors. No applicant has been refused membership. The membership fee is repaid upon withdrawal or termination of membership. For practical purposes, such \$5.00 membership fee is similar to a customer deposit, refundable upon cessation of service. Yet, because of the nature of the corporation, a membership certificate is also an "evidence of interest or ownership" within the meaning of Sections 816-828 of the Public Utilities Code.

Authorization to issue membership certificates will be granted, it being found that the money, property, or labor to be procured or

paid for by the issue of such certificates is reasonably required for the purposes specified and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The certificates of public convenience and necessity hereinafter granted are subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of the franchises involved herein or such certificates of public convenience and necessity or the right to own, operate or enjoy such franchises or certificates in excess of the amounts (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 franchises, certificates or rights.

#### O R D E R

Public hearing having been hold, the above proceedings having been consolidated, and the matters having been submitted for decision,

IT IS ORDERED as follows:

1. Finding that public convenience and necessity so require, and subject to the restrictions hereinafter set forth in ordering paragraphs 3 through 7, a certificate is hereby granted to Surprise Valley Electrification Corp., authorizing the exercise of the rights and privileges granted by Ordinance No. 97 of the County of Modoc, and the construction and operation of a public utility electric plant in said county.

2. Finding that public convenience and necessity so require, and subject to the restrictions set forth in ordering paragraphs 3 through 7, a certificate is hereby granted to The California Oregon Power Company, authorizing the exercise of the rights and privileges granted by Ordinance No. 88 of the County of Modoc.

3. As to each utility, the certificates hereinabove granted may be exercised within such portions of Modoc County as are now served by it or may hereafter be served by it through extensions of its existing system made in the ordinary course of business as contemplated by Section 1001 of the Public Utilities Code.

4. Extensions of distribution lines may be made only in accordance with such extension rules as may be on file with the Commission and effective and applicable at the time to such extensions or in accordance with any general or special authority granted by the Commission.

5. Except under further certificate first obtained from the Commission, neither utility shall supply electricity to customers served by the other utility on the date of this order, nor to customers whose point of service is within two hundred feet of power lines of the other utility as they now exist or as they may exist at the time application is made for such service. Service to future customers located within two hundred feet of power lines of both utilities as they now exist or as they may exist at the time application is made for such service shall be made on the basis of customer preference.

6. Except upon prior written notice to the other utility, neither utility shall extend its present or future distribution lines more than one mile to provide either an additional or a new service when such proposed extension or extensions will reach within three miles of present or then existing distribution lines of the other utility.

7. If, upon written notice by either utility to the other utility of such proposed extension of present or future distribution lines, the utility so notified objects in writing to such extension within five days after receipt of such notice, and the utilities cannot agree within ten days thereafter whether such extension is proper, the question of whether and by whom such extension shall be made shall be submitted to the Commission.

8. Finding that public convenience and necessity so require, a certificate is hereby granted to Surprise Valley Electrification Corp., authorizing the exercise of the rights and privileges granted by Ordinance No. 191 of the County of Lassen, and the construction



and operation of a public utility electric plant in that portion of said county indicated on Exhibits A and M to the application herein as applicant's requested service area, as modified by the stipulation filed herein on September 17, 1952, by Surprise Valley Electrification Corp. and Pacific Gas and Electric Company.

9. Surprise Valley Electrification Corp. is directed to prepare, with the cooperation of Pacific Gas and Electric Company, an "Agreed Statement of the Area in Lassen County for which Certificate was granted Surprise Valley Electrification Corp. by Decision No. \_\_\_\_\_." Such agreed statement shall consist of a definitive map, together with such descriptive material as may be appropriate, and shall set forth the areas to be served by the named utilities in Lassen County. Such agreed statement shall be filed by Surprise Valley Electrification Corp. on or before January 31, 1953, unless otherwise hereafter ordered.

10. Surprise Valley Electrification Corp. is hereby authorized to carry out the terms of the various instruments attached as Exhibits O through PP to the application herein, provided that such authorization neither approves nor authorizes the carrying out of the terms of any provision in any of such instruments in any manner which may conflict with the regulatory jurisdiction of this Commission or the duties and obligations of a public utility under California law.

11. Surprise Valley Electrification Corp., on or before June 30, 1953, may enter into an Amendment to Amending Loan Contract in substantially the same form as Exhibit K to the application herein, may execute a supplemental mortgage of realty and chattels in substantially the same form as Exhibit J to the application herein, and may issue its mortgage note, or notes, in the aggregate principal amount of not exceeding \$330,000, in substantially the same form as Exhibit I to the application herein, provided that such authorization does not constitute approval or authorization to carry out the terms of any provision in any of such instruments in any manner which may conflict

with the regulatory jurisdiction of this Commission or the duties and obligations of a public utility under California law. Applicant shall use the proceeds to be received through the issue of said note, or notes, for the purposes set forth in the application.

12. The authority hereinabove granted by ordering paragraph 11 shall become effective upon the effective date of this order or upon the payment of the fee prescribed by Section 1904(b) of the Public Utilities Code, whichever date is later. The amount of said fee is \$330.

13. Surprise Valley Electrification Corp. may issue membership certificates upon the payment of \$5.00 for each such membership certificate.

14. Surprise Valley Electrification Corp. shall file with the Commission monthly reports as required by General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

15. Surprise Valley Electrification Corp. is directed to file, in quadruplicate, a tariff schedule of rates and rules, in accordance with the requirements of General Order No. 96.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated, San Francisco, California, this 2nd day of December, 1952.

A. J. [Signature]  
President  
Justice F. [Signature]  
Harold P. [Signature]  
[Signature]  
[Signature]  
Commissioners

