

Decision No. 48060**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Mountain Empire
Electric Cooperative Inc., to
operate electric service in
Southeastern San Diego County.

Application No. 33404

John Coker for Applicant; W. Burleigh Pattee and
Chickering & Gregory for San Diego Gas and Elec-
tric Co., protestant; G. C. Delvaille for Cali-
fornia Electric Power Co.; R. C. Wueste, for City
of San Diego; D. M. Aten, and William C. McCornick,
interested parties.

O P I N I O N

Applicant, organized in 1938, is a California nonprofit coopera-
tive corporation. Financed by loans under the federal Rural Electri-
fication Act, applicant constructed an electric distribution system
in a portion of San Diego County near the international boundary with
Mexico. It furnishes electrical energy to approximately 1050 cus-
tomers. This application was filed as a result of the decision in
Re 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 "elec-
trical corporation" within the meaning of the California Public
Utilities Code.

Applicant requests an order declaring that public convenience
and necessity require the construction and operation of an electric
plant within a specified portion of San Diego County, fixing the
boundaries of the territory within which applicant may operate as
a public utility, authorizing applicant to carry out the terms of

prior contracts, notes, and mortgages, and authorizing the execution of instruments in connection with a new loan of \$405,000.

A public hearing was held at Campo before Commissioner Huls and Examiner Cassidy.

Applicant purchases energy from San Diego Gas & Electric Company. It first received such energy at Potrero, in the southwest corner of the area for which it seeks a certificate. Applicant now receives such power at Glen Cliff Station, a point near the center of the western boundary of its proposed service area.

Before applicant was organized, inquiry was made of the San Diego Company concerning the possibility of extension of electric service to the community of Campo. There were several meetings, and San Diego Company concluded that the necessary ten-mile extension to Campo would not be made, because the Campo area was so sparsely settled that the company could not serve that area profitably.

At the time of the hearing the two utilities had not succeeded in their efforts to arrive at an agreement concerning their respective service area boundaries. The first of three "disputed areas" was a small area near the southwesterly corner of the territory in which applicant requested a certificate, being northeast of Potrero and south of Cottonwood Creek. The second area in dispute was north and west of Morona Lake. The third disputed area, in the northeast portion of the territory in which applicant requested a certificate, may be referred to as the Agua Caliente-Canebrook area, or the "northeast desert area". Applicant did not contemplate an immediate extension of service into the latter area.

The matter was submitted with the understanding that if agreement on service area boundaries was reached prior to decision a stipulation would be received as Exhibit 15. Thereafter applicant filed a petition for a further hearing for the purpose of presenting additional evidence. On December 9, 1952 the two utilities filed Exhibit 15, being a stipulation and a map depicting the revised

service area boundaries requested by applicant. Applicant withdrew its request for further hearing.

Under the stipulation the disputed area near Portola and the disputed area north and west of Morona Lake would be included within applicant's service area. However, the northern and northeastern boundaries of applicant's requested service area would be modified, and the Agua Caliente-Canebreak area, or "northeast desert area", would be excluded from applicant's requested service area.

Applicant requests authority to carry out the terms of several loan contracts, notes, and mortgages made with the United States through the Rural Electrification Administration prior to 1951. (1) Funds obtained under these loans were used for the construction of applicant's system. The original cost of such system, as of March 31, 1952, is reported as follows:

Organization-----	\$ 1,168.65
Land and Land Rights-----	12,684.76
Substation Equipment (Glencliff)-----	19,176.61
Distribution Lines-----	245,922.00
Services-----	20,257.95
Line Transformers-----	69,410.54
Meters-----	18,550.94
Office Furniture and Equipment-----	2,498.22
Transportation Equipment-----	7,394.90
Laboratory Equipment-----	892.07
Tools and Work Equipment-----	2,777.36
Unclassified Electric Plant in Service-----	4,672.88
Construction Work in Progress-----	<u>1,398.05</u>
Total-----	\$4,06,805.02

As of July 31, 1952 the balance of applicant's indebtedness was \$356,296.52.

Applicant will be authorized to carry out the terms of the various instruments heretofore mentioned. However, such authorization is not intended to be and is not to be construed as an approval or authorization to carry out the terms of any provision in a manner

(1) The instruments in question are loan contracts, notes, and mortgages in connection with the following transactions:

<u>Exhibit</u>		
D - First Loan	May 20, 1939	\$ 79,000
E - Second Loan	Feb. 5, 1940	35,000
F - Third Loan	Jan. 20, 1941	20,000
G - Fourth Loan	June 15, 1942	18,000
H - Fifth Loan	Aug. 25, 1945	75,000
I - Sixth Loan	May 20, 1948	190,000
J - Agreement of Dec. 6, 1948		
K - Agreement of June 29, 1950		

which may conflict with the regulatory jurisdiction of the Commission or the duties and obligations of a public utility under California law.

Applicant proposes to borrow from the United States of America, acting through the Rural Electrification Administration, the additional sum of \$405,000, 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 execute a mortgage note in that amount, a supplemental mortgage and an amendment to an amending loan contract.

The new loan covers various capital expenditures deemed necessary within the next ten years. Applicant reports its capital requirements as follows:

1.	CONSTRUCTION:--		<u>\$226,000</u>
	A. 28 miles 69-KV transmission line	<u>\$140,000</u>	
	B. 2 1500 kva 69-7.2/12.5 substations	<u>70,000</u>	
	C. 2 miles 3% tie line	<u>5,000</u>	
	D. 6 miles 10 to 3% tie line rephasing	<u>6,000</u>	
	E. Sectionalizing equipment	<u>5,000</u>	
2.	METERS		<u>1,900</u>
3.	A. C. RECLOSERS		
4.	LINE TRANSFORMERS:		<u>11,500</u>
	A. FOR ITEM I		
	B. FOR MEMBER SERVICE	<u>11,500</u>	
5.	LEGAL FEES		<u>1,065</u>
6.	MISCELLANEOUS LEGAL EXPENSE		<u>200</u>
7.	ENGINEERING \$10,700 transmission; \$150 sectionalizing		<u>13,650</u>
8.	PRE-LOAN EXPENSE study \$2,800 substation		<u>-</u>
9.	RIGHT-OF-WAY		<u>-</u>
10.	GENERAL OVERHEAD		<u>2,500</u>
11.	EQUIPMENT:		<u>13,000</u>
	A. OFFICE EQUIPMENT	<u>3,000</u>	
	B. TRANSPORTATION EQUIPMENT	<u>5,000</u>	
	C. TOOLS AND WORKING EQUIPMENT	<u>5,000</u>	
	D.		
12.	POWER AND TELEPHONE AGREEMENTS		
13.	MISCELLANEOUS CHARGES:		<u>5,200</u>
	A. POWER USE ACTIVITIES	<u>3,000</u>	
	B. COMMUNICATIONS EQUIPMENT	<u>2,200</u>	
	C.		
	D.		
	E.		
	F.		
14.	MEMBER SERVICE MATERIAL 36 miles, 121 members		<u>52,700</u>
15.	MEMBERS SERVICE LABOR AND OTHER EXPENSE		<u>67,000</u>
16.	CONTINGENCIES		<u>9,685</u>
	GRAND TOTAL		<u>\$405,000</u>

REMARKS:

	<u>Item 14</u>	<u>Item 15</u>
36 miles 121 members	\$32,100	\$42,000
Reimburse general funds for completed work order construction	15,800	22,400
Heavy-up services 50 members	4,800	3,200

Applicant reports its assets and liabilities, as of March 31, 1952, as follows:

<u>ASSETS</u>		
Cash on hand and in Banks		\$ 10,219.33
Accounts receivable	8,743.75	
Less Reserve	<u>815.06</u>	7,928.69
Materials and Supplies		17,737.03
Prepayments		<u>3,959.40</u>
Total current Assets		39,844.45
Electric Plant	393,242.47	
Less Depreciation	<u>74,036.16</u>	319,206.31
Office Furniture & Equipment	2,498.22	
Transportation Equipment	7,394.90	
Laboratory Equipment	892.07	
Tools and Work Equipment	<u>2,777.36</u>	
Total General Plant	13,562.55	
Less Depreciation	<u>7,699.53</u>	5,863.02
Other Debits		<u>1,304.45</u>
Total Assets and Other Debits		366,218.23
<u>LIABILITIES</u>		
Accounts payable		3,143.27
Accrued Taxes		1,705.61
Accrued Interest		483.26
Other Current & Accrued Liabilities		<u>133.60</u>
Total Current Liabilities		5,465.74
Long Term Debt to R.E.A.		346,959.65
Memberships & Consumers Deposits		6,663.00
Other Credits		2,030.20
Other Capital		1,281.69
Operating Margin		1,449.46
Non-operating Margin		413.43
Contributions in aid of Construction		<u>1,955.06</u>
Total Liabilities and Other Credits		366,218.23

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 applicant's present rates was filed as Exhibit C to its amendment to the application, and a copy of applicant's rules was admitted as Exhibit 10. Applicant will be directed to file its

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 may be helpful to applicant to refer briefly to certain of its rates and rules. It is noted that its rate schedules provide 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. As an inducement to the payment of accounts to reduce collection costs, an additional charge for non-payment may be preferable to a discount for prompt payment. (Fowler Ind. Tel. Co., 3 C.R.C. 1173, 1177.) However, it has heretofore been suggested that a utility can protect itself against delinquency in the payment of bills by the establishment of adequate rules covering this 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.)

Applicant's rules governing extensions to new customers provide in substance that extensions will be made under the provisions of applicant's line extension requirements, the obligation to extend being limited to the assumption of new investment to the extent warranted by the revenue anticipated from the business to be supplied. Further, that where the prospective business does not warrant the required expenditure, the utility will determine, from the circumstances of each case, what guarantee of revenue or financing shall be required of the customer. 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 should also file a

rule governing disputed bills.

Applicant's articles of incorporation provide that it "is not formed with a view to pecuniary gain or profit to its members and is not authorized to issue shares of stock" but shall issue membership certificates. Under its By-laws, any person, firm, or corporation may become a member by paying a membership fee of \$5.00, agreeing to purchase electric energy, and upon acceptance for membership by applicant's directors. No applicant has been refused membership. The membership fee is repaid on 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 San Diego Company urges that applicant not be issued a certificate until it has obtained a franchise from the County of San Diego. The amendment to the application sets forth that applicant is not now and does not contemplate in the future operating within any incorporated municipality or upon or along any public ways or lands of San Diego County and further, that all lines are upon private lands and erected under easements, no municipal or county franchise being necessary. The record shows that applicant's lines do not extend along or upon the highways. Where a particular installation requires a crossing of a county road or a specific installation therein, applicant procures a special permit from the county in each instance. The fact that the county may not require a franchise should not preclude the Commission from issuing a certificate of

public convenience and necessity.

O R D E R

Public hearing having been held in the above proceeding, the matter having been submitted, and now being ready for decision,

IT IS ORDERED AS FOLLOWS:

1. Finding that public convenience and necessity so require, a certificate is hereby granted to Mountain Empire Electric Cooperative, Inc., authorizing the construction and operation of a public utility electric plant in that portion of San Diego County delineated as the requested service area of applicant on Exhibit 15 in this proceeding, said exhibit being made a part of this order by reference.

2. Applicant is hereby authorized to carry out the terms of the various instruments attached as Exhibits D through K to the amendment to 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.

3. Applicant, on or before June 30, 1953, may enter into an Amendment to Amending Loan Contract in substantially the same form as Exhibit 6 herein, and may execute a supplemental mortgage of realty and chattels in substantially the same form as Exhibit 8 herein, and may issue its mortgage note, or notes, in the aggregate principal amount of not exceeding \$405,000 in substantially the same form as Exhibit 7 herein, provided that such authorization does not constitute approval or authorization to carry out the terms of any provision 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.

4. The authority hereinabove granted by ordering paragraph 3 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 \$405.

5. Applicant may issue membership certificates upon the payment of \$5.00 for each such membership certificate.

6. Applicant is directed to file, in quadruplicate, a tariff schedule of rates and rules, in accordance with the requirements of General Order No. 96.

7. Applicant shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

8. Applicant's petition for further hearing is hereby denied.

The effective date of this order shall be ten (10) days after the date hereof.

Dated, Los Angeles, California, this 16th day of December, 1952.

R. B. Johnson
President
James F. Garner
Harold P. Hula
Samuel P. Patton
Edward Mitchell
Commissioners

