

ORIGINALDecision No. 48818

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 CALIFORNIA ELECTRIC POWER COMPANY, a
 corporation, for Certificate that Pub-
 lic Convenience and Necessity require
 the exercise by Applicant of the rights
 and privileges granted by Ordinance No.
 27 of the City of Fontana, County of
 San Bernardino, State of California,
 in accordance with Franchise Ordinance
 No. 27 of said City.

Application No. 34261

Kenneth M. Lemon, for applicant; Harry W. Sturges, Jr.,
 for Southern California Edison Company, interested
 party; Leonard S. Patterson, for Commission Staff.

O P I N I O N

California Electric Power Company in this proceeding asks for a certificate of public convenience and necessity to exercise the rights and privileges of a franchise granted by the City of Fontana, County of San Bernardino, permitting the installation, maintenance, and use of an electric distribution and transmission system upon the streets of said City. A public hearing was held before Commissioner Kenneth Potter and Examiner C. E. Crenshaw on June 2, 1953, at Los Angeles.

The franchise referred to, a copy of which is attached to the application and designated as Exhibit "A", was granted by the City in accordance with the Franchise Act of 1937, and is of indeterminate duration. A fee is payable annually to the City equivalent to 2% of the gross receipts arising from the use, operation or possession of the franchise, but not less than 1% of the gross annual receipts from sales of electricity within the limits of such City under said franchise.

The costs incurred by applicant in obtaining the franchise are stated to have been \$54.75, which amount does not include the \$50.00 filing fee and \$3.92 expense of publication of Notice of Hearing. The total cost of the franchise and certificate was stated to have been \$108.67.

No objection to the granting of the certificate has been entered. Furthermore, applicant has for many years served electricity in a portion of the City of Fontana, the other portion being served by the Southern California Edison Company.

According to the record the City of Fontana was incorporated June 25, 1952. Prior to that time, applicant and Southern California Edison Company had been operating under an agreement which segregated the territory between the two utilities in order to preclude duplication of facilities.

It was brought out at the hearing that it was not the intention of applicant to compete with the Southern California Edison Company in the business of furnishing or supplying electric energy and service to the City of Fontana.

Applicant presented in Exhibit No. 2 a description and map setting forth a division of territory between it and the Southern California Edison Company in the City of Fontana. The record shows that this division of territory was agreed to after discussions between representatives of applicant and Southern California Edison Company. In some instances the facilities of Southern California Edison Company and applicant are very close together and therefore there is a need for a division of territory between the two utilities in order to avoid duplication of facilities to render service.

According to the evidence presented in this proceeding there are other portions of the City of Fontana in which neither utility has facilities to render service. However, in the future, as these portions of the City of Fontana develop and extensions are

made by each of the utilities in the normal course of business, it is possible that the proposed line dividing the territory may have to be changed so as to provide electric service to customers in the most economical manner.

In this proceeding applicant has requested a certificate to exercise the rights and privileges set forth in Ordinance No. 27 of the City of Fontana to be applicable to the entire City for the construction, operation, and maintenance of electric facilities used to transmit electric energy for other than distribution purposes and, further, that the certificate be applicable to the construction, operation and maintenance of all electric facilities, including transmission and distribution lines and appurtenances in the territory served by California Electric Power Company as set forth in Exhibit No. 2 and as agreed upon by both utilities.

The application and the evidence introduced by applicant indicate that, while possessing valid franchise rights under which to continue this service, applicant had obtained the franchise primarily for the purpose of extending its franchise rights for a period commensurate with the life of its mortgage bonds, thus affording a greater marketability of its bonds.

The Commission is of the opinion that the requested authority should be granted, with appropriate limitations concerning the territories of Southern California Edison Company and applicant.

The certificate of public convenience and necessity herein granted is subject to the following provisions of law:

1. 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.

2. 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

The above-entitled application having been filed, a public hearing having been held, the matter having been submitted and now being ready for decision,

IT IS HEREBY FOUND AS A FACT that public convenience and necessity require the exercise by applicant of the right, privilege and franchise granted to applicant by Ordinance No. 27 of the City of Fontana.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity is granted to California Electric Power Company to exercise the rights and privileges granted by the City of Fontana by Ordinance No. 27 adopted December 2, 1952, subject, however, to the following limitations:

1. That California Electric Power Company shall not exercise said franchise for the purpose of supplying electricity to those parts or portions of the City of Fontana not now served by it except through extensions of its existing system made in the ordinary course of business as contemplated by Section 1001 of the Public Utilities Code.
2. That except upon further certificate of this Commission first obtained, California Electric Power Company shall not exercise said franchise for the purpose of supplying electricity in those parts or portions of said City which are to be served by Southern California Edison Company as shown in applicant's Exhibit No. 2.

3. That the Commission hereafter by appropriate proceeding and order may limit the authority herein granted to California Electric Power Company concerning any territory within said City of Fontana not then being served by it.

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

Dated at San Francisco, California, this 14th day of July, 1953.

Commissioner Kenneth Potton, being necessarily absent, did not participate in the disposition of this proceeding.

A. J. [Signature]
President
JUSTUS F. CALVERT
Harold P. Hale
[Signature]

Commissioners