

**ORIGINAL**Decision No. 59301

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
The California Oregon Power Company	)	
for a certificate of public conven-	)	Application No. 41419
ience and necessity authorizing the	)	
construction of the initial stage	)	
of the Iron Gate Development.	)	

OPINION AND ORDER

The California Oregon Power Company seeks a certificate of public convenience and necessity under Section 1001 of the Public Utilities Code, authorizing the construction and operation of a reregulating dam as the first stage of a project known as the Iron Gate Development.

According to applicant the proposed first stage of the Iron Gate Development would cost an estimated \$1,981,490, and would consist of a 65-foot high reinforced concrete arch dam with valve controlled discharge, across Klamath River, approximately seven miles downstream from Copco No. 2 plant and eight miles east of Hornbrook. This first stage would be used only as a reregulating dam to reduce to a satisfactory level the fluctuations in river flow which now occur below applicant's Klamath River hydroelectric plants, Copco No. 1 and Copco No. 2, as a result of their operation. The second stage of the Iron Gate Development would be a 25,000 kilowatt power generating project to be constructed later and to be operated by utilizing the water impounded by the reregulating dam as improved for this purpose.

Fluctuations in the flow of Klamath River, resulting from variations in the rate of discharge from applicant's plants, have given rise to public and official demands that applicant take steps

to mitigate the effects of these variations below the plants. One result of concern over this matter was the preparation by the Commission staff of its Study No. S-605, dated December 10, 1947, entitled "Report on Investigation Conducted by Public Utilities Commission, State of California, Pursuant to House Resolution No. 162, Reduction of Klamath River Fluctuations at the Copco Plants". One of the conclusions reached by the staff was that:

"Based upon the present study, it appears reasonable to conclude that the most practical method of reducing fluctuations in the flow of the Klamath River is by the erection of a dam below Copco No. 2 hydro plant and development of potential power in the flow of the reregulated stream."

In 1950, the State of California, through the Department of Fish and Game, brought action against applicant in the Superior Court of Siskiyou County, alleging that fluctuations in the flow of Klamath River resulting from operation of applicant's plants constitute a public nuisance. As a result of the undertaking by applicant to construct the proposed reregulating dam, together with certain fish trapping and egg collecting facilities, the State, through the Department of Fish and Game and the Fish and Game Commission, agreed to stipulate to the dismissal with prejudice of these court proceedings, as well as to the withdrawal of all protests and interventions before the Federal Power Commission and the Water Rights Board.

Applicant asserts that the only feasible alternative to construction of the proposed reregulating dam would be to operate manually its Klamath River plants in such a way as to meet the demands of the Department of Fish and Game for reducing fluctuations. Meeting these requirements would reduce the capability of applicant's plants by approximately 24,000 kilowatts. According to applicant,

the cost of substitute capacity to replace that lost through manual operation would be in excess of \$5,000,000.

It is the position of applicant that the proposed construction is in the public interest (1) as a means of concluding the litigation between applicant and the Department of Fish and Game regarding the discharge of water through its Klamath River plants; (2) as the most economical means of assuring the continued availability of the full capability of its plants for peaking purposes; and (3) as the first stage of an ultimate development of a 25,000 kilowatt generating facility at the Iron Gate site.

No protests regarding this matter have been received by the Commission.

The certificate granted hereinafter shall be subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate, or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

The authorization herein granted shall not be construed to the effect that the amounts referred to will be accepted as proper bases for an order authorizing the issue of securities, nor as indicative of amounts to be included in a future rate base.

The Commission has given consideration to this matter and is of the opinion that a public hearing is not necessary. The Commission finds that the public convenience and necessity require the construction and operation by applicant of the first stage of the Iron Gate Development; therefore,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and it hereby is, granted to The California Oregon Power Company to construct, maintain and operate the reregulating dam described in the application and exhibits attached thereto.

IT IS HEREBY FURTHER ORDERED as follows:

1. Applicant shall file with this Commission a detailed statement of capital costs of the project within six months following date of completion.

2. The authorization herein granted will expire if not exercised by December 31, 1961.

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

Dated at San Francisco, California, this 24<sup>th</sup> day of November 1959.

*Ernest R. Rago*  
 President

*[Signature]*

*[Signature]*

*[Signature]*

*Theodore Jenner*  
 Commissioners