

**ORIGINAL**Decision No. 61126

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 CALIFORNIA-PACIFIC UTILITIES COMPANY,  
 a California corporation, for a  
 certificate of public convenience and  
 necessity authorizing Applicant to  
 furnish public utility electric service  
 to the California Conservation Center,  
 Lassen County, California.

Application No. 42437

Orrick, Dahlquist, Herrington & Sutcliffe, by  
Warren A. Palmer, and Pardee & Cady, by  
Donald P. Cady, for applicant.  
 McDonough & Wahrhaftig, by Martin McDonough,  
 and Young & Young, by Stanley C. Young, Sr.,  
 for Plumas-Sierra Rural Electric Cooperative,  
 protestant.  
Kenneth J. Kindblad, for the Commission staff.

OPINION AND ORDER

California-Pacific Utilities Company, a California corporation providing public utility gas, electric, water and telephone systems in various communities in California, including an electric system serving portions of Lassen County, seeks an order of this Commission granting a certificate of public convenience and necessity to furnish public utility electric service to the California Conservation Center, located in the Leavitt-Eagle Lake area of Lassen County.

Public hearing in the matter was held before Commissioner Peter E. Mitchell and Examiner F. Everett Emerson on October 6 and 7, 1960, at Susanville. The matter is ready for decision.

The California Conservation Center is to be a minimum-security prison for about 2,000 inmates and is under the jurisdiction

of the California Department of Corrections. It is estimated that its electric load will be about 1,200 Kw by December 1961.

Upon the opening of the public hearing in this matter, Plumas-Sierra Rural Electric Cooperative moved that the application herein be dismissed. Such motion, having to do with the ultimate disposition of the matter, was not ruled upon but taken under advisement and the evidence presented by applicant and protestant was received.

The Center lies within an area for which Plumas-Sierra Rural Electric Cooperative holds an "exclusive certificate" from this Commission, granted by Decision No. 47989 issued December 2, 1952. Such area is delineated by a blue-lined cross-hatched boundary line on "Map No. 2" of the "Agreed Statement of Areas for which Certificate was granted Applicant by Decision No. 47989" and as "Sub-Area (4)" on Exhibit No. 18 in the instant proceeding.

It is clearly-established policy that one public utility will not be authorized to enter the territory of another utility when it appears that the existing utility is properly discharging its duty and obligation to the public. The law provides that a showing that present or future public convenience and necessity require or will require its proposed construction must be made by an applicant for a certificate. Where, as here, the applicant seeks to render service within another utility's territory, it devolves upon the applicant not only to show that it is able to and desirous of serving the public but to show that the intended intrusion is constructive to the public interest and that the existing utility is not meeting or will not meet the interests of the public.

The evidence in this proceeding is convincing that the Cooperative is in fact ready, willing and able to supply electric service within the area certificated to it. In particular, it is ready, willing and able to supply the Center with the desired amounts of power at the time required. The Cooperative is capable of financing and constructing the electric facilities to serve the Center. The Cooperative now has, and for some time has had, distribution facilities passing the site of the Center and, in fact, is about to supply construction power to the Center therefrom.

There is no convincing evidence that the Cooperative cannot or will not render adequate service to the Center. There is no evidence that it has failed, or is about to fail, to proceed to the rendering of service in the area in accordance with its rules and regulations on file with this Commission or that it has departed, or in any way intends to depart therefrom or from its filed tariffs. There is no showing that the Cooperative is falling short, or is about to fall short, of meeting its duties or obligations to the public; nor is there any showing that its rates are unreasonable for the service rendered or to be rendered.

The evidence in this proceeding is in no way convincing that California-Pacific Utilities Company should be authorized to render electric service in the exclusively certificated territory of the Cooperative.

In view of the evidence, the Commission cannot find as a fact that public convenience and necessity require or will require that applicant be granted a certificate to serve the California Conservation Center. It follows, therefore, that the application should be denied. Accordingly,

IT IS ORDERED that the application herein, of California-Pacific Utilities Company, be and it is hereby denied.

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

Dated at San Francisco, California, this 23rd day of November, 1960.

*Robert O. W. Pease*  
 President

*John E. Mitchell*

*William J. ...*

*C. ...*

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 Commissioners

Commissioner Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.