

**ORIGINAL**Decision No. 61445

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CALIFORNIA ELECTRIC )  
 POWER COMPANY under Section 1002 of )  
 the Public Utilities Code for a )  
 Certificate of Public Convenience )  
 and Necessity to Exercise Rights )  
 Under Franchise in the City of )  
 Rialto, California. )

Application No. 43013

(Electric)

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 Rialto, California, permitting the installation, maintenance and use of an electric distribution and transmission system upon the streets of said city.

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 per cent of the gross receipts arising from the use, operation, or possession of the franchise, but not less than  $\frac{1}{2}$  per cent of the gross annual receipts from sales of electricity within the limits of the city under said franchise.

The costs incurred by applicant in obtaining the franchise are stated to have been \$90.00, which amount does not include costs incident to this application.

Applicant has served electricity in the City of Rialto for many years. Southern California Edison Company also serves electricity in the city under a city-wide franchise from the City of Rialto, authority to exercise which was granted by the Commission in 1956 by Decision No. 52765, in Application No. 37648, on the condition that Southern California Edison Company should not, without further authorization from the Commission, exercise its Rialto franchise for the purpose of supplying electricity to the inhabitants of those portions of the city served by California Electric Power Company. Applicant here requests a similar though reverse limitation of its Rialto franchise right. Appended to the application (Exhibit "D") is a stipulation between applicant and the Edison Company to the effect that neither company will, without prior authority from the Commission, provide electric service to inhabitants of the service area of the other, within the City of Rialto; provided, however, that it is understood by both parties that the Edison Company is presently serving and, unless otherwise ordered by the Commission, may continue to serve the residence of Mr. Hugo Wilde at 1279 South Lilac Street, Rialto, in applicant's service area, until such time as the ownership of said Lilac Street premises changes hands; thereupon, applicant shall serve said premises unless otherwise ordered by the Commission. The limitation requested by applicant should and will be imposed on the certificate herein granted, subject to the foregoing stipulation.

As of December 31, 1959, applicant was serving approximately 5,125 customers within the City of Rialto and states that it had a gross revenue from such service of approximately \$636,581.00 for the calendar year 1959.

No objection to the granting of the requested certificate has been received. A public hearing is not necessary.

After consideration it is 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. 432, of the City of Rialto, California, subject to the limitation set forth in paragraph 2 of the order herein.

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, and the Commission being informed in the premises,

IT IS HEREBY ORDERED that:

1. A certificate of public convenience and necessity be and it is granted to California Electric Power Company to exercise the rights and privileges granted by the City of Rialto, California, by Ordinance No. 432, adopted January 18, 1960.

2. Applicant shall not, without further authorization from the Commission, exercise said franchise for the purpose of supplying electricity to the inhabitants of those portions of the City of Rialto served by Southern California Edison Company pursuant to the latter's franchise from the City of Rialto and the authority granted by the Commission by Decision No. 52765, in Application No. 37648, except to the extent provided by the stipulation between applicant and Southern California Edison Company, Exhibit "D" annexed to the application herein.

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

Dated at San Francisco, California, this 2<sup>th</sup> day of February, 1961.

*Charles H. ...*  
President  
*John S. ...*  
*S. ...*  
*George H. ...*  
*Friedrich B. ...*  
Commissioners