

28 F.P.C. 375, 1962 WL 3782

SACRAMENTO MUNICIPAL UTILITY DISTRICT AND PACIFIC GAS & ELECTRIC COMPANY,

PROJECT NO. 2155
ORDER ISSUING JOINT LICENSE (MAJOR)
August 28, 1962

****1 *375** Before Commissioners: Joseph C. Swidler, Chairman; Howard Morgan, L. J. O'Connor, Jr., Charles R. Ross and Harold C. Woodward.

Joint application was filed on January 22, 1962, by Sacramento Municipal Utility District (District), of Sacramento, California, and Pacific Gas and Electric Company (PG&E), of San Francisco, California, for license under Section 4(e) of the Federal Power Act (Act) to authorize construction of the Chili Bar dam, reservoir and powerhouse on South Fork of the American River, in El Dorado County, California, and affecting lands of the United States. On March 5, 1962, the joint application was amended by the filing by District of revised Exhibits K and L.

The joint application was filed following the execution on January 5, 1962 of an agreement between District and PG&E, which provides for joint development of the stretch of the South Fork of the American River herein involved. In essence, the January 5, 1962 agreement provides for the filing of the subject joint application for license for the Chili Bar Project for a period coincident with that of District's license for Project No. 2101,¹ and, upon issuance of the license for construction of the Chili Bar Project by District except for transmission facilities, which would be constructed by PG&E. District would have the right to operate Chili Bar Project for its own benefit until construction or operation of District's Slab Creek Dam and Reservoir of Project No. 2101 deprived PG&E's licensed major Project No. 78 of its water supply, at which time (but not later than December 31, 1970) District would convey its interest in the Chili Bar Project, and the Commission license therefor, to PG&E. Thereupon, PG&E would surrender its Commission license for Project No. 78 and take possession of and operate and maintain the Chili Bar Project.

Commission staff raised questions concerning the manner in which PG&E would account for its proposed abandonment of Project No. 78 and its proposed acquisition of Chili Bar Project No. 2155. Following a conference on the matter between representatives of PG&E and the staff, PG&E submitted its proposed accounting entries in letter dated July 26, 1962. The net investment of the District in the Chili Bar project, consisting of its original cost less accumulated provisions for depreciation to the date of conveyance, will exceed the net investment of PG&E in Project No. 78, adjusted for transfer to non-utility property of Project No. 78 land and land rights retained by PG&E and for salvage and removal costs. PG&E proposes to record on its books the same amounts as District's net investment in the Chili Bar project and to remove from the books PG&E's net investment in Project No. 78, with the resulting net credit to Account 216, Unappropriated Earned Surplus. Our staff takes the position that the transaction is in substance an exchange of properties and should be accounted for as such. It proposes that the credit be made to Account 271, Contributions in Aid of Construction. It is our view that the method hereinafter prescribed in Article 35 represents an equitable and appropriate method of accounting for the abandonment of PG&E's Project No. 78 and its acquisition of Chili Bar Project No. 2155.

****2 *376** The Secretary of the Army and the Chief of Engineers, in reporting on the application, offered no objection to granting of a license for the project.

An Assistant Secretary of the Interior, in reporting on the application, has recommended for inclusion in any license for the project certain special conditions in the interests of fish and wildlife and archeological survey and salvage work in the area involved.

The Director of the Department of Fish and Game, State of California, has forwarded to us a copy of agreement between his Department and District executed on February 28, 1962 concerning water releases from the project for the maintenance of fish life.

The Commission finds:

(1) District is a political subdivision of the State of California and has submitted satisfactory evidence of compliance with the

requirements of all applicable State laws insofar as necessary to effect the purposes of a **license** for the proposed project.

(2) PG&E is a corporation organized under the laws of the State of California and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effect the purposes of a **license** for the proposed project.

(3) The proposed project will affect lands of the United States.

(4) The proposed project will consist of:

(a) All lands constituting the project area and enclosed by the project boundary or the limits of which are otherwise defined, and/or interest in such lands necessary or appropriate for the purposes of the project, whether such lands or interest therein are owned or held by the applicant or by the United States; the general location of such project area being shown and described by certain exhibits which formed part of the application for **license** and which are designated and described as follows:

Exhibit J: (FPC No. **2155-2**) entitled 'White Rock Division-Plan and Profile' insofar as it shows the general location of the Chili Bar Dam, Reservoir, and Powerhouse; and

Exhibit K-2: (FPC No. **2155-11**) entitled 'White Rock Division-Chili Bar Reservoir.'

(b) All project works consisting principally of:

A concrete gravity dam, designated Chili Bar Dam and located on the South Fork of American River, about 90 feet high and 387 feet long with an uncontrolled overflow spillway 180 feet long located near the center of the dam; a reservoir with gross storage capacity of about 4100 acre-feet at normal water surface elevation 1000 feet; and a powerhouse at the foot of the dam near the right river bank containing one generating unit consisting of a turbine rated at 9700 horsepower at an effective head of 57 feet direct connected to a generator rated at 7,800 kva (7,000 kw at 0.9 p.f.); a switchyard; a 69-kv transmission line extending about 4 miles from Chili Bar Power Plant to the existing 69-kv system of Pacific Gas and Electric Company; and appurtenant hydraulic, mechanical, and electrical facilities and miscellaneous project works-the location, nature, and character of which structures are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which formed part of the application for **license** and which are designated and described as follows:

****3** *Exhibit L-5:* (FPC No. **2155-12**) entitled 'Chili Bar Dam, General Arrangement, Plan';

Exhibit L-6: (FPC No. **2155-13**) entitled 'Chili Bar Dam, General Arrangement, Elevations & Sections'; and

***377** *Exhibit M:* Consisting of two typewritten pages entitled 'General Description of Equipment', filed March 21, 1960, insofar as it pertains to Chili Bar Project except for transmission facilities and spillway gates.

(c) All other structures, fixtures, equipment or facilities used or useful in the maintenance and operation of the project and located on the project area, including such portable property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property is approved or acquiesced in by the Commission; also, all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance and operation of the project.

(5) Public notice of the filing of the original application for Project No. **2155**, which included the Slab Creek and White Rock developments, as well as the Chili Bar Project, was given as required by the Act. There are no pending protests or petitions to intervene in Project No. **2155**.

(6) The issuance of a **license** as hereinafter provided will not affect a Government dam or the development of any water resources for public purposes which should be undertaken by the United States.

(7) The issuance of a **license** as hereinafter provided will not interfere or be inconsistent with any reservation or withdrawal

of public lands.

(8) The project is best adapted to a comprehensive plan for improving and developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development, and for other beneficial public uses, including recreational purposes, under the terms and conditions hereinafter imposed.

(9) The switchboard and 69-kv transmission line mentioned in finding (4)(b) above are parts of the project within the meaning of Section 3(11) of the Act and should be included in the **license** for the project.

(10) The installed horsepower capacity of the proposed project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charges is 9,360 horsepower.

(11) The amount of annual charges to be paid under the **license** for the purpose of reimbursing the United States for the costs of administration of Part I of the Act is reasonable as hereinafter fixed and specified, and the amount of annual charges to be paid under the **license** for the use, occupancy and enjoyment of its lands, including transmission line right-of-way, should be determined later as hereinafter provided.

(12) In accordance with Section 10(d) of the Act, the specified rate of return upon the net investment in the project, and the proportion of surplus earnings to be paid into and held in amortization reserves, are reasonable as hereinafter provided.

****4** (13) The energy to be generated by the proposed project would be utilized in the electric utility system of either of Joint Applicants.

(14) The exhibits designated and described in finding (4) above conform to the Commission's rules and regulations and should be approved as part of the **license** for the project to the extent indicated in said finding.

The Commission orders:

(A) This **license** is hereby issued jointly to Sacramento Municipal Utility District and Pacific Gas and Electric Company (Licensees) under Section 4(e) of the Federal Power Act for a period effective as of July 1, 1962 and terminating July 31, 2007, for the construction, operation and maintenance of Chili Bar Project No. **2155** to be located on South Fork of the American River in El Dorado County, California, and affecting lands of the United States, subject to the terms and conditions of the Federal Power Act, which is incorporated herein by reference as a part of this **license**, and subject to such rules and regulations as the ***378** Commission has issued or prescribed under the provisions of the Act; *provided, however*, that PG&E shall surrender its **license** for Project No. 78 upon taking possession of the project works to be constructed by District under this **license**.

(B) This **license** is also subject to the terms and conditions set forth in Form L-2, December 15, 1953, entitled 'Terms and Conditions of **License** for Unconstructed Major Project Affecting Lands of the United States,' (17 FPC 62), which terms and conditions are attached hereto and made a part hereof, except for Article 20 thereof; and subject to the following special conditions set forth herein as additional articles:

Article 25. The Licensees shall commence construction of the project works within one year of the effective date of this **license**, shall thereafter in good faith and with due diligence prosecute such construction, and shall complete construction of such project works within three years from the effective date of this **license**.

Article 26. The Licensees shall within one year from the date of completion of the project, file with the Commission revised Exhibits F and K to define the final project boundary including transmission line rights-of-way in accordance with the rules and regulations of the Commission.

Article 27. The Licensees shall operate the Chili Bar Diversion Dam and Power Plant so as to smooth the downstream discharge and maintain stream flow; change of controllable discharge shall be gradual and at no greater rate than will increase or decrease the stage of the river by one foot in elevation during any one hour period, such changes in the stage to be measured at a control point of representative width downstream from Chili Bar Dam by the stream gage installed under the

supervision of the U.S. Geological Survey pursuant to Article 6 of Form L-2 of FPC License 2101; provided that at no time shall the flow past the gaging station be less than 100 second feet.

****5 Article 28.** The Licensees shall construct, maintain, and operate such protective devices and shall comply with such reasonable modifications of the project structures and operation in the interest of fish and wildlife resources, provided that such modifications shall be reasonably consistent with the primary purpose of the project, as may be prescribed hereafter by the Commission upon its own motion or upon recommendation of the Secretary of the Interior or the California Department of Fish and Game after notice and opportunity for hearing and upon a finding that such modifications are necessary and desirable and consistent with the provisions of the Act: *Provided further*, That subsequent to approval of the final design drawings prior to commencement of construction no modifications of project structures in the interest of fish and wildlife resources which involve a change in the location, height, or main structure of a dam, or the addition of or changes in outlets at or through a dam, or a major change in generating units, or a rearrangement or relocation of a powerhouse, or major changes in a spillway structure shall be required.

Article 29. Whenever the United States shall desire, in connection with the project, to construct fish handling facilities or to improve the existing fish handling facilities at its expense, the Licensees shall permit the United States or its designated agency to use, free of cost, such of Licensees' lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such fish handling facilities or such improvements thereof. In addition, after notice and opportunity for hearing the Licensees shall modify the project operation as may be prescribed by the Commission, consistent with the primary purpose of the project, in order to permit the maintenance and operation of the fish handling facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted ***379** to place any obligation on the United States to construct or improve fish handling facilities or to relieve the Licensees of any obligation under this license.

Article 30. The Licensees shall, after notice and opportunity for hearing, coordinate the operation of the project, hydraulically and electrically, with such other power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, the benefits of which shall be shared equitably by the participants in such coordination.

Article 31. The Licensees shall install additional capacity and make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing.

Article 32. The Licensees shall notify the California Division of Beaches and Parks of the proposed construction of Chili Bar Dam and Reservoir in order that the Division may negotiate with the Licensees for the purpose of undertaking archeological survey and salvage excavations, to be financed by the Licensees in an amount not to exceed \$200, prior to construction or flooding.

****6 Article 33.** The Commission expressly reserves the right to determine at a later date what additional transmission lines and appurtenant facilities, if any, shall be covered in this license and included as part of the project works.

Article 34. The Licensees shall pay to the United States the following annual charges:

(i) For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, one (1) cent per horsepower on the installed capacity (9,360 horsepower) plus two and one-half (2 1/2) cents per 1,000 kilowatt-hours of energy generated by the project during the calendar year for which the charge is made; or such other amounts as may hereafter be determined as necessary to reimburse the United States for the costs of administration.

(ii) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands including those used for transmission line right-of-way purposes, an amount to be hereafter determined by the Commission.

Article 35.

(A) The actual legitimate original cost of the original project, and of any addition thereto or betterment thereof, shall be

determined by the Commission in accordance with the Act and the Commission's rules and regulations thereunder.

(B) At the time of the conveyance of the project (except transmission facilities) from Sacramento Municipal Utility District to Pacific Gas and Electric Company, Pacific Gas and Electric Company shall record such transfer by the following entries in its books of account:

Debits:

Account 121, Nonutility Property, for the original cost of the land and land rights of Project No. 78 that are retained by Pacific Gas and Electric Company;

Account 108, Accumulated Provision for Depreciation of Electric Plant in Service, for the amount applicable to Project No. 78 as adjusted for salvage and removal costs;

Account 271, Contributions in Aid of Construction, for the amount applicable to Project No. 78;

Account 264, Amortization Reserve-Federal, for the amount applicable to Project No. 78;

Account 101, Electric Plant in Service, for the original cost to Sacramento Municipal Utility District of Project No. 2155 (except transmission facilities);

Credits:

Account 101, Electric Plant in Service, for the original cost of Project No. 78;

*380 Account 108, Accumulated Provision for Depreciation of Electric Plant in Service, for the amount applicable to Project No. 2155 (except transmission facilities);

Account 271, contributions in Aid of Construction, for the net amount resulting from the debits and credits listed above.

(C) The exhibits designated and described in finding (4) above are hereby approved as part of this license to the extent indicated in said finding.

(D) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgment of the acceptance of this license, it shall be signed for the Licensees and returned to the Commission within 60 days from the date of issuance of this order.

FEDERAL POWER COMMISSION

Footnotes

¹ District's license for Project No. 2101 is for a period of 50 years, effective as of August 1, 1957, and terminating on July 31, 2007.