

Decision No. 14084

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of  
WESTERN STATES GAS AND ELECTRIC COM-  
PANY, a corporation, and EMMA ROSE  
and HOBART ESTATE COMPANY, for the  
approval of a power contract.

Application No. 10380

Chickering & Gregory, by W. C. Fox, for  
Western States Gas and Electric Company,  
applicant;  
McCutchen, Olney, Mannon & Greene, by  
Allen P. Matthew, for Utica Mining Com-  
pany, applicant;  
C. P. Cutten, for Pacific Gas and Electric  
Company, protestant.

MARTIN, COMMISSIONER:

O P I N I O N

In this application Western States Gas and Electric Com-  
pany joins with Emma Rose and Hobart Estate Company, operating  
under the name of Utica Mining Company, in requesting that the Com-  
mission approve a contract recently entered into between them. A  
public hearing was held in San Francisco on September 3, 1924, at  
which Pacific Gas and Electric Company appeared to protest the ap-  
proval of the contract in question.

While it is in the mining business, the Utica Mining Com-  
pany appears in this proceeding as a public utility, producing and  
distributing electricity to the general public in the vicinity of  
Angels Camp, as well as supplying power used in its own operations.  
For some time its lines were connected with those of Sierra and San  
Francisco Power Company operated under lease by Pacific Gas and  
Electric Company, and power was transferred in both directions be-

tween the systems under contract. This contract was terminated February 1, 1924, upon the failure of negotiations for its renewal, the parties being unable to agree upon the interpretation of certain rate schedules and Pacific Gas and Electric Company refusing to continue the purchase of surplus power. Utica Mining Company thereupon entered into negotiations with Western States Gas and Electric Company for the purchase and sale of power and the results of these negotiations as embodied in the present contract are submitted to this Commission for its approval.

Pacific Gas and Electric Company protests the approval of this contract on the grounds that its lines now connect with those of the Utica Company and that the construction of the proposed transmission line by Western States Company is an economic waste.

The evidence <sup>indicates</sup> that the Pacific Gas and Electric Company and the Utica Mining Company disagreed on the interpretation of certain schedules established by this Commission which involved the application of one of those schedules to conditions and to a class of business to which it had never before been applied. Neither party appealed to the Railroad Commission for an interpretation of the schedules. The Pacific Gas & Electric Company refused to purchase and make useful the surplus water power available on the Utica System, and upon the refusal of the Utica Mining Company to accept the conditions laid down by the Pacific Gas & Electric Company it dropped negotiations. In maintaining its position in these ne-

gotiations, the Pacific Gas & Electric Company permitted water power to run to waste and generated steam power in its stead. The attitude here displayed is not such as to entitle a utility to protection against competition, and the protest cannot be considered as furnishing good grounds for not approving the contract.

The territory through which the proposed line will pass is largely undeveloped and it is to be expected that with its development the demand for electric power will increase. As a result of such increased demand, it is not at all unlikely that the capacity of the proposed line, as well as of the present lines of Pacific Gas and Electric Company in the general vicinity will eventually be fully utilized.

From the evidence before it, the Commission is of the opinion that no detriment to the public interest, nor any economic waste will result from the execution of this contract. The question of the legal right of Western States Gas and Electric Company to serve the territory into which the proposed line is to be built is not properly before the Commission on this record and the Commission, therefore, is not to be understood as determining that question in this opinion.

I recommend the approval of the contract and submit the following form of order:

O R D E R

Emma Rose and Hobart Estate Company, operating under the name of Utica Mining Company, and Western States Gas and Electric Company, having applied to the Railroad Commission

