

Decision No. 18545

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ROSE T. MCKENNA,

Complainant

vs.

PACIFIC GAS AND ELECTRIC COMPANY,
a corporation,

Defendant

Case No. 2273

George K. Whitworth and Paul O'Neil
for Complainant.

Charles P. Cutten for Defendant.

LOUTTIT, Commissioner:

OPINION

By this Complaint the Defendant Company is alleged to have violated Section 42 of the Public Utilities Act and General Order No. 50 of this Commission, and certain other sections of the Public Utilities Act, in carrying on certain construction work in connection with the completion of an extension to a dam situated at Lake Fordyce, California. The prayer and object of the Complaint is for an order of this Commission subjecting the Defendant Company to penalties for the violation of the above referred to sections of the Public Utilities Act and the said General Order 50.

A hearing was had before me and, after the filing of briefs, was duly submitted, and is now ready for decision.

The facts as developed at the hearing are that on or about the year 1873 the South Yuba Company, a predecessor in interest of the Defendant, commenced the construction of a dam for the impounding of water at Lake Fordyce, California, known as "Lake Fordyce Dam" which was completed in the year 1874. In the year 1925, the Company commenced work on the raising of and making of a 47 foot addition to the said dam for the purpose of increasing the storage capacity of the Lake. The plans and specifications for this addition were not filed with the Railroad Commission of the State of California, nor did defendant secure from the Railroad Commission its approval for the raising of said dam or for the work commenced thereon.

The alleged violation, consists in the failure of the Defendant to submit to the Railroad Commission the said plans and specifications in order that the Commission might inquire into the safety of the contemplated addition to said dam, and for the failure of the Company to receive from the Commission its approval of such plans and specifications as to safety, as is alleged to be required under General Order 50, which provides that:

"No public utility shall begin the construction of any dam without first having submitted to the Railroad Commission the plans and specifications thereof in order that the Railroad Commission may inquire into the safety of the contemplated structure, and shall have received from the Railroad Commission its approval of such plans and specifications as to safety."

As noted, this order states that no public utility shall begin the construction of any dam, etc., and I do not believe that it is applicable to a case such as here, where the construction is in connection with an extension of a dam as distinguished from original construction. It is my opinion, therefore, that this complaint should be dismissed for the reason that General Order 50 does not apply to the situation here involved, and I recommend the following form of order:

O R D E R

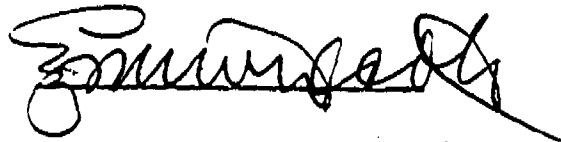
Complaint having been filed as above entitled,
hearing having been had, briefs having been filed and the matter
having been duly submitted, and being now ready for decision,
and it appearing that the Complaint should be dismissed,



IT IS HEREBY ORDERED that the above named Complaint
be and the same is hereby dismissed.

The foregoing Opinion and Order are hereby approved
and ordered filed as the Opinion and Order of the Railroad Commis-
sion of the State of California.

Dated at San Francisco, California, this 27th day of

June
~~May~~ 1927.





Commissioners