

Decision No. 18933

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

D. H. Albertson, et al

Complainants,

vs.

Pacific Gas and Electric Company,
a corporation,

Defendant.

Case No. 2352.

L. H. Albertson, for the Complainants
C. P. Cutten and R. W. Du Val, by
R. W. Du Val, for Defendant.

BY THE COMMISSION:

O P I N I O N

The complaint in this matter reads as follows:

"The undersigned resident, citizens, voters, tax-payers and consumers of Gas in the town of Santa Clara, California, complain of the Pacific Gas & Electric Company of San Francisco, California, a utility corporation supplying the town of Santa Clara with gas for resale distribution within two years last past, and alleges -

THAT, on or about September 1st, 1924, said utility Corporation commenced the Service of supplying the town of Santa Clara with gas for re-sale distribution, and that at said date the public announcement was made that said service was to be of a short duration, during such a time while the municipal plant was under-going repairs; that less than two years has elapsed since the citizens became aware that the town Trustees intended to make this arrangement permanent.

THAT during said period and for more than two years the said utility corporation engaged in the business of selling gas to the town of Santa Clara without a permit from the railroad commission of the State of California as by law provided;

THAT, during said period said corporation charged the town of Santa Clara an exorbitant rate for the sale of said gas, wholesale, to-wit, at the rate of about 74¢ per 1000 cubic feet over the meter. We therefore complain of the said utility corporation and ask that a hearing be had to establish what would be a reasonable price for the sale of said gas to the town of Santa Clara."

This complaint is signed by L. H. Albertson and some sixty others.

A public hearing was held before Examiner Gannon at Santa Clara on September 1, 1927, evidence being introduced, the matter being duly submitted and being now ready for decision.

It appears from the record that complainants' position is somewhat changed from that indicated on the face of their complaint in that they now ask the Commission to institute a proceeding upon its own motion.

Defendant, during the course of the hearing, moved for a dismissal of the complaint on the ground that the Commission was without jurisdiction. While defendant's motion is perhaps not entirely without merit, the Commission feels that complainants were entitled to place such evidence as they had before the Commission. There appears to be no necessity for ruling upon defendant's motion to dismiss.

It appears that the City of Santa Clara has recently sold its municipal gas distribution system to defendant, that for substantially two years prior to such sale defendant supplied this distribution system with gas from its San Jose plant under a special wholesale rate, that prior to the institution of such wholesale deliveries by defendant, the system above referred to was supplied by its own gas generating plant.

Complainants allege that said defendant has, in the past, engaged in the business of selling gas to the town of Santa Clara without first having secured permission from this Commission so to

do. Decision No. 14094 on Application No. 10389, and the record in that matter have been considered as a part of the record in this case. The decision and record above referred to clearly indicate that wholesale gas service to the Santa Clara distribution system was contemplated and, therefore, covered by the certificate of public convenience and necessity granted by this Commission for the building of a gas transmission line through Santa Clara.

Complainants further allege that the special wholesale gas rate above referred to was exorbitant and that substantial reparations should be made to the City of Santa Clara.

The evidence indicates that the special rate in question was substantially lower than filed schedules for retail and wholesale deliveries of gas in the neighboring vicinities and substantially higher than the rate established by the Railroad Commission for resale service to the City of Palo Alto.

The municipal distribution system of the City of Palo Alto requires, and in the past has required, much larger quantities of gas than does the Santa Clara system, and service to Palo Alto is from defendant's San Francisco plant. It is therefore apparent that the Palo Alto rate cannot of itself be used as a criterion for Santa Clara conditions.

The Commission feels that the showing made is insufficient to justify a refund to the City of Santa Clara for the period in question, and that a proceeding instituted upon the Commission's own motion would be barren of results.

O R D E R

Complaint as above named and numbered, having been filed with this Commission, a public hearing having been held thereon, the matter having been duly submitted and being now ready for decision, and the Commission being fully advised and good cause ap-

pearing, therefore

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

Dated at San Francisco, California, this 18th day of October, 1927.

Edmund C. ...

Chas. ...

Leon ...

Thos. ...

M. J. ...
Commissioners.