

Decision No. 23966.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of The Southern Sierras Power Company for a certificate that the present and future public convenience and necessity require and will require the construction of electrical transmission and distribution lines to serve the unincorporated Town of Bridgeport, Mono County, California, and adjacent territory and the exercise of its rights and privileges in said territory under that certain franchise granted to applicant by Ordinance No. 134 of the Board of Supervisors of said County.

Application No. 17522.

Amasa S. Bryant,
Complainant.

vs.

Case No. 3090.

The Southern Sierras Power Co.,
Defendant.

H. M. Hammack and A. G. Cage, for
Southern Sierras Power Company.

A. Boyer, for Complainant, Amasa S. Bryant.

Harry Encell, for Prospective Consumers.

Arthur A. De Chambeau, District Attorney,
for Board of Supervisors of Mono County.

WEITSELL, COMMISSIONER:

O P I N I O N

The above matters, relative to granting a Certificate

of Public Convenience and Necessity to Southern Sierras Power Company to supply electric energy to the Town of Bridgeport and vicinity, were set for hearing at Bridgeport July 15, 1931, at which time they were ordered consolidated.

Evidence presented indicated that Public Convenience and Necessity require Southern Sierras Power Company to supply the Town of Bridgeport and adjacent territory with alternating current electric energy and render a twenty-four (24) hour service and that the present utility, owned and operated by Amasa S. Bryant, supplying 110 volt direct current electric energy and rendering service from sunset till twelve o'clock midnight, with daylight service Mondays and Wednesdays, was limited in its ability to meet the demands of the community.

Public hearings were held at Bridgeport July 15th and 16th on the above application and case.

Southern Sierras Power Company presented evidence showing that at present approximately twenty-nine (29) consumers were being supplied by them in the town of Leevining, located in Mono County, and that they were now in the process of constructing a 15,000 volt transmission line from Mill Creek Power House to Bridgeport, a distance of approximately twenty (20) miles, to supply electric energy to the town of Bridgeport and adjacent territory. The cost of this line, including a distribution system in Bridgeport and vicinity, is estimated to be about Thirty-five Thousand (35,000) Dollars.

Further, Southern Sierras Power Company made a survey in March, 1931, of the territory to be supplied from this line

and it appears that there are approximately sixty-eight (68) prospective consumers whose use should yield an estimated revenue of Six Thousand, Three Hundred and Sixty (6,360) Dollars per year at rates now in effect for similar territory supplied by Southern Sierras Power Company.

Southern Sierras Power Company brought out that alternating current service was preferable to direct current service for the type of load to be obtained in this territory in that it was more economical to serve and more flexible to handle; also, that they intended to render a twenty-four (24) hour service.

Mr. Amasa S. Bryant is now supplying the town of Bridgeport with direct current electric energy, 110 volts generated by two 1½ K.W. and one 5 K.W. Kohler gasoline engine driven units, serving some eleven (11) consumers, service being supplied from sunset till twelve o'clock midnight, with daylight service Mondays and Wednesdays.

This service is being rendered under a Certificate of Public Convenience and Necessity granted by this Commission September 17, 1930, Decision No. 22885, Application No. 16561. In granting this certificate the Commission questioned the feasibility of this venture, the opinion containing the following statement:

"There is room for doubt as to whether a plant of the size and character of that proposed can operate at any profit or render the character of service that under more favorable conditions would be considered satisfactory. However, as Bridgeport does not now have electric service nor any prospect of service from any other source and as the certificate is not exclusive, it appears that the public may be benefited and cannot be harmed by the granting of this application."

Mr. Bryant testified that, prior to making application

to serve Bridgeport, he had applied to the Southern Sierras Power Company to supply electric service to this territory but they refused on the grounds that the prospective revenue would not warrant the extension.

Numerous witnesses testified that the present facilities of Mr. Bryant were inadequate to render the kind of service they required and expressed a desire that the Commission permit the Southern Sierras Power Company to supply this territory. Some of the residents of Bridgeport testified that they required a twenty-four (24) hour service and, for this reason, had installed individual Kohler units.

The testimony shows that the people of Bridgeport desire alternating current service in preference to direct current service, due to the fact that the standard makes of appliances, such as washing machines, radios, fans, etc., in general, are designed for alternating current. Further, the public authorities are contemplating a number of improvements in Bridgeport requiring considerable amount of power, among which are the installation of a motor on the fire pump, replacing the present gasoline engine, thereby rendering a more adequate fire protection; the constructing of a sewerage system, which no one can doubt is in the interest of public health, and the installation of a street lighting system.

Southern Sierras Power Company, in its Exhibit No. 3, introduced rates proposed for lighting, heating and cooking service applicable to this territory and, through testimony, designated certain filed schedules proposed for power service. These rates are considerably lower than the metered rates now charged by Mr. Bryant.

It was the contention of Southern Sierras Power Company

that Mr. Bryant did not have a legal franchise to operate in this territory in view of the fact that he had not complied with the condition set forth in the franchise requiring the posting of a bond in the sum of Five Hundred (500) Dollars as a guarantee for the faithful performance of the terms and conditions recited in the franchise and that the Board of Supervisors of Mono County had passed a resolution July 7, 1931, cancelling the franchise granted to Mr. Bryant by Ordinance No. 136.

Mr. Bryant contended that the Board of Supervisors of Mono County did not have the legal authority to cancel this franchise.

Southern Sierras Power Company offered in evidence the resolution passed by the Board of Supervisors on the 7th day of July, 1931, purporting to rescind its previous action granting to Protestant Bryant, in Application No. 17522, a franchise. The resolution was received in evidence, subject to a ruling by the Commission upon the motion made by the protestant to strike the same from the record on the ground that it was immaterial to the issue. Upon consideration, I am of the opinion that the motion should be granted. It is not within the jurisdiction of this Commission to pass upon the legality of any action taken by the Supervisors purporting to rescind the franchise previously granted.

It is my opinion that public convenience and necessity require and will require the construction by applicant of electrical transmission and distribution lines to serve the

unincorporated town of Bridgeport and adjacent territory and the exercise by it of the rights and privileges under franchise granted to applicant under Ordinance No. 134 of Mono County.

It is also my opinion that although the electric service that has been and is now being rendered by Amasa S. Bryant in said community is inadequate and unsatisfactory, nevertheless the latter pioneered electric service in said community when no other electric service was offered or available and that Southern Sierras Power Company should, in all fairness, purchase from him at a reasonable price any equipment or supplies that he may care to sell and that applicant can use.

O R D E R

Southern Sierras Power Company having asked the Railroad Commission of the State of California for an order declaring that public convenience and necessity require and will require the exercise by applicant of the rights and privileges under the franchise granted by Ordinance No. 134 of Board of Supervisors of Mono County and its further order authorizing applicant to construct electrical transmission and distribution lines to serve the unincorporated town of Bridgeport, Mono County, California, and adjacent territory and Amasa S. Bryant having filed a complaint that he is now serving the town of Bridgeport with electric energy under a franchise granted by Ordinance No. 136 of Board of Supervisors of Mono County and a certificate of Public Convenience and Necessity granted by this Commission in its Decision No. 22835, both matters being consolidated for hearing and public hearings having been held, the matters being submitted and now ready for decision,

The Railroad Commission of the State of California

hereby orders and declares that public convenience and necessity require and will require the exercise by Southern Sierras Power Company of the rights and privileges granted to it by franchise under Ordinance No. 134 of the Board of Supervisors of Mono County, State of California, in so far as the exercise of such franchise is necessary for the specific project outlined in the application and the construction by applicant of the electrical transmission and distribution lines necessary to serve the unincorporated town of Bridgeport and vicinity, provided that the Railroad Commission may hereafter, by appropriate proceedings and orders, revoke or limit, as to territory not then served by Southern Sierras Power Company, the authority herein granted.

The above certification and authorization is granted subject to the following conditions and not otherwise:

1. That Southern Sierras Power Company file with this Commission on or before October 1, 1931, a stipulation duly executed upon authority of its Board of Directors agreeing that applicant, its successors or assigns will never claim before the Commission or any other court or body a value for said franchise in excess of the actual cost thereof.
2. Upon the filing of the stipulation mentioned in (1) above this Commission will issue its supplemental order granting the certificate applied for.

IT IS HEREBY FURTHER ORDERED that Case No. 3090 be and the same is hereby dismissed.

The effective date of this Order, except as otherwise specifically provided, shall be from and after the date hereof.

For all other purposes, the effective date of this

Order shall be twenty (20) days from and after the date hereof.

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

Dated at San Francisco, California, this 17th day of August, 1931.

W. J. Seaver
Leon Whitwell

M. B. Harris
Frederic G. Stebbins
Commissioners.