

Decision No. 25410

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

TABLE MOUNTAIN IRRIGATION DISTRICT,  
Complainant,

vs.

PACIFIC GAS AND ELECTRIC COMPANY,  
a corporation,

Defendant.

Case No. 1998.

**ORIGINAL**

In the Matter of the joint Application of  
PACIFIC GAS AND ELECTRIC COMPANY, a cor-  
poration, and the THERMALITO IRRIGATION  
DISTRICT for an order of the Railroad Com-  
mission of the State of California au-  
thorizing the former to sell and convey  
and the latter to purchase and acquire the  
water properties herein described; and au-  
thorizing the execution of an agreement  
for the purchase and sale of water, etc.

Application No. 8140.

Raymond A. Leonard, for Table Mountain Irrigation  
District and Thermalito Irrigation District.

C.P. Cutten and W.R. Dunn, for Pacific Gas and  
Electric Company.

McCutchen, Olney, Mannon & Greene, by Carl I. Wheat,  
for California Water Service Company.

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION AND ORDER

On April 4, 1932, a petition was filed by the California  
Water Service Company, a corporation, asking for the reopening of the  
above entitled Case No. 1998 and the above entitled Application No. 8140

and further requesting the modification and/or setting aside of certain orders and portions of orders issued in connection therewith and for the granting of certain authority to said California Water Service Company in connection with the distribution of surplus waters for agricultural irrigation purposes. The Commission thereafter issued its order on the twenty-fifth day of April, 1932, reopening the said proceedings and directing a public hearing to be held therein for the purpose of receiving additional evidence to determine the reasonableness of the request for modification and/or revision as made herein.

Public hearings in connection with the reopened matters were held before Examiner Satterwhite in Oroville.

In Application No. 8140, the Commission by its Decision No. 11887, issued on the fourth day of April, 1923, authorized the Pacific Gas and Electric Company, a corporation, to sell certain water distribution properties to the Thermalito Irrigation District, a public corporation, and, among other things, authorized the above corporations to enter into certain agreements for the sale and distribution of water under established rates, embracing also the delivery of certain additional and surplus waters from time to time.

In Case No. 1998, the Commission by its Decision No. 14687, issued the twenty-third day of March, 1925, directed Pacific Gas and Electric Company to sell to complainant Table Mountain Irrigation District, a public corporation, such surplus waters as were not used by the Thermalito Irrigation District as provided for under the terms of the agreement submitted in connection with the above Application No. 8140, said surplus waters to be sold to the Table Mountain Irrigation District subject to the prior rights and actual use of the regular consumers served by the Pacific

Gas and Electric Company through the Miocene Ditch System.

On the seventh day of October, 1931, certain rules and regulations were filed by the California Water Service Company which became effective upon the expiration of a period of thirty (30) days from and after said October 7, 1931. These rules, among other things, included a Rule 21(B) governing the sale and distribution of surplus waters, which sale and distribution were to be made contingent upon the granting by the Commission of the modification in the orders above mentioned. In connection with a recent proceeding, Case No. 3218, being an investigation on the Commission's own motion into the reasonableness, etc., of the rules and regulations of California Water Service Company in Oroville which was decided by the Commission in its Decision No. 25337, dated the seventh day of November, 1932, it was agreed by stipulation entered into by and between all interested parties that any changes which should be made in the above mentioned Rule No. 21(B) governing surplus water should be determined in connection with the instant proceeding. During the adjourned hearing of the said reopened matters held on November 16, 1932, counsel for California Water Service Company requested that its petition for modification of the orders and portions of orders be dismissed. It is obvious, therefore, that Rule No. 21(B) above, governing the distribution of surplus water, having been based upon the granting of the modification requested by California Water Service Company and being now still effective, must necessarily be cancelled.

O R D E R

California Water Service Company, a corporation, having filed a petition asking for the reopening of the above entitled mat-

ters, the Commission having by order reopened the above proceedings and directed public hearings to be held therein for the purpose of taking additional evidence, said public hearings having been held at one of which petitioner requested the dismissal of the request made for the modification of said orders, the matters having been submitted and the Commission being now fully advised in the premises and other good cause appearing; now, therefore,

IT IS HEREBY ORDERED that the petition of California Water Service Company filed on April 4, 1932, asking for the reopening of the above entitled proceedings for the setting aside of certain orders and portions of orders and for the publication of an order modifying and revising the orders of the Commission heretofore issued in connection with each of the above matters be and it is hereby dismissed without prejudice.

IT IS HEREBY FURTHER ORDERED that the following Rule No. 21(B) filed by said California Water Service Company on the seventh day of October, 1931, be and it is hereby cancelled and rescinded as of this date:

Rule No. 21(B): In case of a surplus of water becoming at any time available for sale under this system over and above that required by the Company for the full supply of its regular and ordinary consumers, such water will be sold at the rates set forth herein under contracts specially entered into for periods not to exceed one year. The Company reserves the right, at its option, to cease delivery of all such surplus water at any time, without giving reasons for such action, and in case of a shortage of water such service of surplus water shall be discontinued before any proration of the Company's other consumers or other services is made.

IT IS HEREBY FURTHER ORDERED that Decision No. 11887, issued in connection with Application No. 8140, and Decision No. 14687,

issued in connection with Case No. 1998, shall remain in full force and effect.

The effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 5<sup>th</sup> day of ~~November~~ December, 1932.

C. J. Deaver  
Leon Whittell  
W. J. Lee  
M. B. Higgins  
Fred G. Stevenson  
Commissioners.