

Decision No. ✓

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 1315

C. C. Woodworth et al.,
 Complainants,
 vs.
 Western States Gas & Electric
 Company, a corporation,
 Defendant.

Case No. 497

L. S. Channell and C. C. Woodworth for complainants
 Chickering and Gregory and Nutter & Orr for defendant

EDGERTON, Commissioner.

OPINION

In this case C. C. Woodworth and thirty-three other farmers and ranchers residing in the vicinity of Lodi in San Joaquin County, complain of discrimination alleged to have been practiced by the Western States Gas and Electric Company in connection with the supplying of electric energy for power purposes in that territory.

The complaint alleges that the charges made and received by defendant company for supplying electricity are discriminatory, unjust and unreasonable and asks that reasonable rates be established by this Commission to apply to all consumers upon like terms and conditions. While the complaint alleges unjust and unreasonable rates, this allegation was withdrawn at the hearing, and the only question now before the Commission is whether discrimination exists in the application of defendant's rates for agricultural service.

The facts in the case appear to be as follows:

On April 25, 1912, in compliance with the Commission's General Order No. 15, defendant filed a schedule of rates for electric service supplied throughout the Stockton division, the power rates therein specified being as follows:

4	cents	per	KWH	for	1st	500	KWH
3 $\frac{1}{2}$	"	"	"	"	2nd	"	"
3	"	"	"	"	3rd	"	"
2 $\frac{1}{2}$	"	"	"	"	all	over.	

For less than 5 H.P. add one cent to each of above rates.

Thereafter, on April 29, 1913, a schedule for power rates for agricultural purposes was filed with the Commission.

This schedule is as follows:

1st	1000	KWH	.....	5	cents
2nd	"	"	.....	2 $\frac{1}{2}$	"
All in excess of	2000	KWH	....	2	"
Motors 50 H.P. capacity or larger, per	KWH	.....	1 $\frac{1}{2}$	"	
Minimum per H.P. per year	.....			\$6.00	

The following rule applicable to the above agricultural rates, appears in defendant's rate schedules filed on April 29, 1913:

"In other words, if customer agrees to take 50 H.P. or more, same will be delivered at the rate of 1 $\frac{1}{2}$ cents per KWH, but delivery will be made at one point only. There is no objection, however, to customer having delivery made to one central point and at his own expense completing laterals or extensions to supply small plants, provided they aggregate a total of 50 H.P. or more. This applies to irrigation on any part of the system of the Stockton Division".

On March 22, 1913, the Earl Fruit Company of Lodi entered into a contract with defendant company for electric energy to supply three 20 H.P. electric motors located on what are known as the Crump, Hazen and Bellows ranches in San Joaquin County. These ranches with their separate installations are distinct properties and the maximum distance between any two of the motors is some

three miles. This rate is $1\frac{1}{2}$ cents per KWH and in order to make this rate applicable in said contract the capacities of the three separate plants were combined and the contract made for 60 H.P. The Crump, Hazen and Bellows ranches are each leased to separate Japanese tenants. The contract between Earl Fruit Company and Western States Gas and Electric Company, above referred to, was accepted by the latter on March 31, 1913.

On March 22, 1913, defendant company accepted a contract with Clark Snyder for electric power to be supplied to 50 H.P. or more at $1\frac{1}{2}$ cents per KWH. Power is supplied under this contract to three separate plants, the greatest distance between any two being about one and one-half miles. The rated capacity of the individual plants being 20 H. P., 15 H. P., and $7\frac{1}{2}$ H.P. respectively.

On February 4, 1913, defendant company accepted a contract for electric service to be supplied to T. E. Beckman. This contract provided for 50 H.P. at a rate of $1\frac{1}{2}$ cents per KWH. Four distinct plants are included in this contract and these plants are located on three separate and distinct properties, separated by a distance of about one-quarter of a mile. The pumping plants comprising this group being as follows:

T. E. Beckman	25 H.P.
D. E. Doepke	10 "
E. C. Beckman	10 "
Harry Bailey	<u>3 "</u>
Total	48 H.P.

On May 5, 1913, defendant company accepted a contract with D. D. Mettler for electric service supplied to $57\frac{1}{2}$ H.P. at a rate of $1\frac{1}{2}$ cents per KWH. This contract covers service to six separate plants, the maximum distance between any two being some two miles.

A contract similar to those above referred to was entered into between defendant company and Walter Jahant for power supplied on three separate properties owned by Walter Jahant.

Victor Jahant and Charles Newton and in connection with electric service supplied to each individual installation under the above mentioned contracts, the lines, transformers, service wires and other facilities necessary for such service were furnished by and at the expense of defendant company.

In Case No. 293, the Commission directed that the public utilities of this State, other than common carriers, should file all their deviations and indicate those which they requested to be allowed to continue. It does not appear from the records and files of this Commission, that defendant company has ever filed with the Commission as deviations, the contracts with the Earl Fruit Company, D. D. Mettler, Clark Snyder, T. H. Beckman or Walter Jahant.

The testimony further shows that defendant now insists upon charging the rates set out in its agricultural schedule filed with this Commission on April 29, 1913, and refuses to permit any aggregation of small plants so as to come within the 50 H.P. provision therein, notwithstanding that it is now serving such small plants aggregated as aforesaid under the contracts hereinbefore set out.)

From the foregoing it appears that from and after April 25, 1912, the general power rate set out in the schedules of defendant filed on that date was the legal rate up to the time when the lower agricultural rate went into effect as set out in the schedule filed on April 29, 1913, and that the last named schedule is the one now in effect.

However, it is also evident that defendant has in the instances set out herein, departed from these schedules, and unlawfully permitted in several instances the aggregation of small plants so as to constitute at least 50 H.P. capacity, and thereupon charged the lower rate, and at the same time has refused permission to other consumers with small plants to aggregate under the same conditions.

It is evident that there has not only been discrimination practiced by defendant as between its consumers , but that defendant has unlawfully departed from its schedules and rules on file with this Commission.

The Commission in this proceeding is limited to ordering defendant to remove discrimination and to charge the lawful rates as shown in the schedules on file with this Commission, which would result in an increase of the rates to those now receiving electricity under the contracts herein set out. But in view of the fact that defendant has voluntarily and in a number of instances as shown herein, accorded a lower rate for power for agricultural purposes than is shown in the schedule, I think that this should be held as some indication of the reasonableness of such lower rate, at least to the extent of warranting an investigation on the Commission's own initiative of all of the rates for electric service furnished by defendant in the territory under the jurisdiction of this Commission.

I recommend that defendant be ordered to at once remove discrimination heretofore referred to, and unless defendant within two weeks from the date of this order voluntarily files with this Commission a schedule of rates as low as the rates accorded to the parties under contract heretofore referred to in detail, that the Commission call into question all of the rates, rules and regulations, practices and service of the Western States Gas and Electric Company for the furnishing of electric service in the territory under the jurisdiction of this Commission, such investigation to include a consideration of the conduct of defendant in departing from the legally established rates.

I submit herewith the following form of order:

O R D E R

Complaint having been made by C. C. Woodworth, et al. against the Western States Gas and Electric Company, in which com-

plaint it is alleged that said defendant company discriminates as between its consumers in its rates and charges for electricity furnished such consumers, and a public hearing having been had, and the Commission being fully apprised in the premises,

IT IS HEREBY FOUND AS A FACT that defendant, Western States Gas and Electric Company, now discriminates as between its consumers in the charges made for the service of electricity for agricultural purposes as more fully set out in the opinion preceding this order; and

IT IS HEREBY ORDERED BY the Railroad Commission of the State of California that said Western States Gas and Electric Company at once remove such discriminatory charges, and

IT IS HEREBY FURTHER ORDERED that unless said company within two weeks from the date of this order voluntarily files with this Commission a schedule of rates as low as the rates heretofore voluntarily charged under the contracts mentioned in the foregoing opinion, the Commission call into question, upon its own initiative, all of the rates, charges, rules and regulations, practices and service for the supply of electricity by Western States Gas and Electric Company to its consumers in all of the territory within the jurisdiction of this Commission, such investigation to include a consideration of the conduct of defendant in departing from the legally established rates and schedules on file with this Commission.

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, this *2nd* day of March, 1914.

John M. Feshler
H. P. Loveland
E. O. Edgerly