

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Decision No. 1393

In the matter of the application of
NAPA VALLEY ELECTRIC COMPANY for a
certificate of public convenience
and necessity authorizing said company
to construct an extension of its
electric distribution system into
the town of Calistoga and the
vicinity thereof in Napa county,
California.

Application No. 1020.

Milton U'Ren for applicant.
Raymond Benjamin for Calistoga Electric Company.

THELEN, Commissioner.

O P I N I O N.

This is an application for a certificate of public convenience and necessity under the provisions of Section 50 of the Public Utilities Act, authorizing applicant to extend its electric distribution system to the town of Calistoga and the vicinity thereof, in Napa county, California.

The petition herein alleges that the applicant supplies electric energy to that portion of Napa county which lies north of an east and west line, four miles south of the station of the Southern Pacific Company at Yountville, in Napa county; that the Calistoga Electric Company supplies electric energy in Calistoga and vicinity as applicant's distributing agent, under the provisions of a certain contract, a copy whereof is attached to the petition and marked "Exhibit A"; that the Calistoga Electric Company has offered in violation of the terms of said contract to sell its electric distribution system to persons other than applicant herein; that the Calistoga Electric Company is an unnecessary intermediary in the distribution of electric power to the territory served by that company; that the service of the Calistoga Electric Company is inadequate, that its rates are higher than those which applicant is prepared to place in effect if the application is granted and that the granting of the

application would dispense with the Calistoga Electric Company's overhead charges; that applicant pays less for its electric power than the Calistoga Electric Company pays, and consequently is able to serve the customers of the Calistoga Electric Company at a rate less than that charged by said company; that applicant is ready, willing and able to serve the territory with electric energy at a rate lower than that which the Calistoga Electric Company is now collecting from its customers; and that the present and future public convenience and necessity require the construction by applicant of an extension of its electric distribution system into the territory now being served by the Calistoga Electric Company.

The Calistoga Electric Company appeared at the hearing and protested against the granting of the application.

The evidence shows that on May 13, 1911, the Napa Valley Electric Company entered into a contract with E. L. Armstrong of Calistoga, under which contract Armstrong agreed to form a corporation, to be known as the Calistoga Electric Company, for the purpose of retailing electric current in the incorporated town of Calistoga and the unincorporated territory lying in Napa county north of an east and west line crossing the southerly line of the intersection of the county road to Bale Station with the right of way of the Southern Pacific Company, north of St. Helena, in Napa county, and that he would assign the contract to this corporation when formed. The Napa Valley Electric Company agreed to supply Armstrong and his assigns such electric energy as should be required in said territory. The parties agreed that the current so delivered should be a 3-phase alternating current of approximately 6,000 volts and that the current should be paid for at the rate of 5¢ per K.W.H. for the first 10,000 K.W.H. used during any one month, provided that if the current used during any one month for lighting should exceed 10,000 K.W.H., the rate should be for such month $4\frac{1}{4}$ ¢ for all current consumed for lighting purposes, and that when the amount consumed should have reached the total of 15,000 K.W.H., during any one month, the rate

for such month should be 3 1/2¢ per K.W.H. for current used for lighting purposes. The contract also specifies the rates for current used for power purposes. The contract contains other provisions which it is not necessary at this time to consider.

Under this agreement, Armstrong incorporated the Calistoga Electric Company and assigned to it his contract with the Napa Valley Electric Company. The Napa Valley Electric Company, or persons acting in its behalf, secured the right to set poles from St. Helena northerly through Bale Station to the town of Calistoga. The Calistoga Electric Company received delivery of current from the Napa Valley Electric Company at Bale Station and constructed the poles and wires conveying said current thence to the town of Calistoga. The company constructed a distribution system in the town of Calistoga and is the only company supplying electric energy within the limits of the town. Outside of the town the company supplies electric energy to only three or four customers, of whom three are located between Bale Station and the southerly limits of the town of Calistoga.

In considering this application, I shall first consider the situation in the town of Calistoga and then the situation in the unincorporated territory between Bale Station and the northerly limits of Napa county.

No one appeared to enter a complaint concerning the service of the Calistoga Electric Company within the town of Calistoga. One of the applicant's own witnesses testified that there is very little additional business which might be secured in the town. The testimony shows that it would cost some \$8,000 to duplicate the distribution system of the Calistoga Electric Company and that very few, if any, additional customers would secure service as the result of the expenditure of this money. The only evidence in any way justifying the proposed admission of the Napa Valley Electric Company into the town of Calistoga is the fact that the rate at present being charged for electric energy ^{for lighting purposes} is 10¢ per K.W.H., whereas the Napa Valley Electric Company offers to put into effect the same rate which it accords to

for lighting purposes, the consumers which it now serves in other territory/ being a sliding scale starting with a rate of 9¢ per K.W.H. The Calistoga Electric Company claims that the reason why it has not been able to establish a lower rate for lighting in the town of Calistoga is that it purchases its electric energy from the Napa Valley Electric Company and that the latter company's rate for this energy, -being at present 4 1/4¢ per K.W.H. for lighting purposes, -is so high that the Calistoga Company has been unable to make any money or to reduce the rate for lighting in the town of Calistoga. As/ ^{the} Napa Valley Electric Company has itself established the rate which it charges the Calistoga Company, it hardly lies within the mouth of that company to claim that the rate which the Calistoga Company charges for electric current consumed for lighting purposes within the town of Calistoga is too high. This Commission has now under consideration in another proceeding the question of the reasonableness of the rate charged by the Napa Valley Electric Company to the Calistoga Electric Company. The Calistoga Electric Company has offered, in case this rate is found to be too high and a reduction is made, to give the benefit of the reduction to its customers in Calistoga.

Upon a careful consideration of all the evidence bearing on the situation in the town of Calistoga, I find no justification whatsoever for the duplication by the Napa Valley Electric Company of the present lighting system within the town. I accordingly recommend that this portion of the application be denied.

I shall now direct my attention to that portion of the territory between Bale Station and the northern boundary of Napa county which lies outside of the corporate limits of the town of Calistoga. A portion of this territory lies south of Calistoga, between the town and Bale Station, and another portion lies north of the town, between the town limits and the northerly boundary of the county. The evidence shows that while there are quite a number of customers in this territory who desire electric energy, only three are being served by the Calistoga Electric Company south of the town.

A map of this territory submitted at the hearing by Mr. Kinney, acting on behalf of the Calistoga Electric Company, shows a possibility of at least 30 prospects in the unincorporated territory. While some of these prospects probably will not materialize, the testimony nevertheless shows that quite a number of people residing in this territory have demanded service from the Calistoga Electric Company, but that they have failed to secure such service. The Calistoga Electric Company claims that at the rate which it is now paying for its electric energy, it will be financially impossible to serve the territory, and this contention seems to have considerable merit.

On the other hand, however, Mr. D. L. Beard, President of the Napa Valley Electric Company, stated that if his company were authorized to enter this territory, even if it be denied the right to enter the town of Calistoga, his company would, at its own cost, construct extensions to all persons in this territory asking for service, and that it would serve these people at its regular rates. That some of these extensions would for a considerable time be unprofitable seems clear. The Calistoga Electric Company is only a small company and seems less able to bear the burden of these extensions than the larger and more prosperous Napa Valley Electric Company. Whatever the reason for the failure of the Calistoga Electric Company to extend may have been, the fact remains that the company has not extended to persons demanding electric energy in the territory outside of the town of Calistoga, with three or four exceptions, and that the Napa Valley Electric Company offers to serve all of these people without cost for extensions. Under these circumstances, I am of the opinion that the interests of the people residing in this territory will be subserved by authorizing the Napa Valley Electric Company to enter the territory and to distribute electric energy on the terms agreed to by the company at the hearing.

While this Commission has no power to compel the Calistoga Electric

Company to sell to the Napa Valley Electric Company the former company's transmission line and poles between Bale Station and the southerly limits of the town of Calistoga, it occurs to me that such an arrangement would be mutually advantageous. It would result in returning to the Calistoga Electric Company the amount of money which it has invested in this line and of relieving it of any obligation which it may have to serve any portion of the unincorporated territory south of Calistoga, and would also relieve that company of the burden of the line losses which it at present sustains between Bale Station and the southerly limits of the town of Calistoga. The arrangement would be advantageous to the Napa Valley Electric Company because it would enable that company to use its existing right of way and to serve intending customers promptly from the existing line. It would be advantageous from the public point of view because it would prevent the unnecessary duplication of the transmission line between Bale Station and the southerly limits of the town of Calistoga.

The fact that the Napa Valley Electric Company has been authorized to serve the unincorporated territory outside of the town of Calistoga is not to be construed as depriving the Calistoga Electric Company of the right to serve the same territory if the company desires so to do.

While recommending that the Napa Valley Electric Company be authorized to serve the unincorporated territory outside of the town of Calistoga, I also recommend that a time limit be set to the time within which the Napa Valley Electric Company may avail itself of the right thus conferred, and that unless the company avails itself of the authority so granted within a reasonable time, this Commission's authorization should thereupon, without further proceedings, terminate.

In Case No. 555, Downs vs. Calistoga Electric Company, also decided to-day, attention is drawn to the demand of Downs and two of his neighbors for electric service. In the decision in that case, the Commission draws attention to the ~~fact~~ promise of the Napa Valley

Electric Company, and suggests that Downs confer with that company to secure an extension to his property. I do not believe it reasonable to have Mr. Downs look to the Napa Valley Electric Company for service unless his right to such service is to be determined within a reasonable time. I accordingly recommend that the Commission's authority in this case to serve the unincorporated territory shall be conditioned upon the construction of an extension to serve Downs, if he desires the service from Napa Valley Electric Company, and his two neighbors, if they also desire such service, within two months from the date of this order.

I submit herewith the following form of order:

O R D E R.

NAPA VALLEY ELECTRIC COMPANY having applied to this Commission for a certificate that the present and future public convenience and necessity require or will require the construction by said company of its electric distribution system into that portion of Napa county which lies in the valley north of Bale Station, including the town of Calistoga, and the CALISTOGA ELECTRIC COMPANY having filed its protest against the granting of said application, and a public hearing having been held, and the Commission finding that the present or future public convenience and necessity do not require and will not require such construction within the town of Calistoga, but that the present and future public convenience and necessity do require and will require such construction in the unincorporated territory outside of the town of Calistoga, but only on the conditions hereinafter specified:

IT IS HEREBY ORDERED AS FOLLOWS:

1. The application of the Napa Valley Electric Company, in so far as it refers to the territory within the town of Calistoga, is hereby dismissed.
2. The Commission hereby declares that the present and future public convenience and necessity require and will require the extension of the distribution system of the Napa Valley Electric Company

into the valley north of Bale Station to the northerly limits of the county of Napa, except the territory within the town of Calistoga, but only on the following conditions and not otherwise, to-wit:

(a) Napa Valley Electric Company shall, at its own expense, construct the necessary extensions and shall, at its regular rates, serve persons within said territory desiring the service of electric energy from said company.

(b) If written demand for the service of electric energy is made upon the Napa Valley Electric Company by Downs, Davis or Tucker, residing near the Southern Pacific Company's station of Dunnaweal, and if the extension as so requested is not made within two months from the date of such demand, the authority herein given shall without further proceeding cease, and the Napa Valley Electric Company shall have no right until the further order of this Commission to make any further extensions in said territory or to exercise any of the rights and privileges hereby conferred.

3. The authority hereby conferred is subject to such further order or orders as this Commission may from time to time consider reasonable in the premises.

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 31st day of March, 1914.

H. J. Steward
Wm. J. Anderson
Wm. Shelton
Edwin O. Edgerston
Commissioners.