

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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PACIFIC GAS & ELECTRIC COMPANY,  
Complainant,

vs.

GREAT WESTERN POWER COMPANY,  
Defendant.

No. 269.

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Application of PHILLIP DUFFY  
for interpretation of order as  
affecting NAPA VALLEY ELECTRIC  
COMPANY.

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D. M. Duffy for applicant.  
Percy S. King for Napa Valley Electric Company.  
Chaffee Hall for Great Western Power Company.

THELEN and GORDON, Commissioners.

O P I N I O N .

This is an application of Phillip Duffy on behalf of himself and certain of his neighbors residing east and north of Oak Knoll station, on the line of the Southern Pacific Company, north of Napa, for an interpretation of this Commission's order in the above entitled case, in so far as it affects the district served by the Napa Valley Electric Company. In its order in the case entitled as above, dated June 18, 1912, this Commission granted the application of Great Western Power Company for permission to transmit and distribute electrical energy in the city of Napa and in all other "sections of Napa county outside of incorporated cities and towns other than the district now served by the Napa Valley Electric Company." A dispute has arisen with reference to the district which was served by Napa Valley Electric Company on the date of the order. It appears from the testimony in this case that Napa Valley Electric Company is distributing electricity in a considerable portion of what is known-

as the Napa Valley. On June 18, 1912, the most southerly point at which the company was actually delivering electricity was the farm of J. Peres, which is located on the west side of the Southern Pacific Company's right-of-way, about one mile and a half north of the station of Oak Knoll. The Napa Valley Electric Company, however, had for sometime prior to said date constructed their transmission line to a point along the right-of-way of the Southern Pacific Company, a few hundred yards north of Oak Knoll station. This line was a live line but there had been no delivery of electricity therefrom south of the farm of Mr. Peres. The Napa Valley Electric Company had made efforts to secure the patronage of the farmers living to the east of the line running from the farm of Peres southerly to Oak Knoll, but had been unsuccessful in their efforts. It appeared at the hearing that these farmers are unwilling to take service from the Napa Valley Electric Company for the reason that this company expects the farmers to pay for the line and the transformers in the first instance, the cost thereof to be returned ultimately to the farmers in the shape of deductions from their monthly bills. These farmers are all desirous that the Great Western Power Company be permitted to serve them.

The question at issue is the proper definition to be given to the words "district now served by the Napa Valley Electric Company" as those words are used in this Commission's order of June 18, 1912. We are convinced that the southerly limit of this district is the farm furthest south which the Napa Valley Electric Company was actually serving on June 18, 1912. There is a fundamental distinction between serving a territory and being willing or ready to serve it. While it is true that the Nappa Valley Electric Company had built a transmission line south of the farm of Peres, they had not succeeded in inducing any person south of that farm to take service from them and the farmers were all holding off because they did not like the terms on which the Napa Valley Electric Company was willing to serve them.

If this position is not the correct one, there will be nothing to prevent an electric company from running a few lines into territory theretofore ~~unserved~~ unserved and then claim, even though

it had no customers there, that it was serving this territory, and that another company would consequently be compelled to apply to this Commission for a certificate of public convenience and necessity before it could build into such territory. We are convinced that such an interpretation would be contrary to the spirit of the Public Utilities Act.

In defining the language used in this Commission's order of June 18, 1912, the Commission is not to be understood as limiting the district served by the Napa Valley Electric Company to the actual consumers of electricity from its lines on June 18, 1912. A person who on that date was not taking electricity might nevertheless be living in the general district which was served by said company. This district consists of the Napa Valley, with certain limits to the north and to the south.

The effect of this decision will be to permit both the Napa Valley Electric Company and the Great Western Power Company to serve the disputed territory between Oak Knoll and the southerly line of the district herein defined.

At the hearing representatives of the Veteran's Home at Yountville, lying several miles to the north of the farm of Peres, appeared and asked that the Great Western Power Company be given permission to sell electrical energy to them. This Commission pointed out that at the hearing on the application of the Great Western Power Company held in Napa for the purpose of enabling residents of the vicinity to appear, no one whatsoever appeared to complain of the rates or the service of the Napa Valley Electric Company, and that as the Great Western Power Company did not make out its case with reference to the district or territory served by the Napa Valley Electric Company, this Commission denied its application, without prejudice to the right of the Great Western Power Company at any subsequent time to again apply for permission to enter such district or territory. } Great Western Power Company has the right at any time to make such application. If Great Western Power Company desires to serve this territory and the inhabitants thereof wish to have the company enter the field, it should be an easy matter for the Great Western Power Company to file an application for permission to enter the territory.

We submit herewith the following form of order:

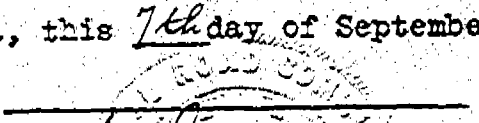
O R D E R.

PHILLIP DUFFY having applied to this Commission for an interpretation of that portion of its order in Case No. 269, PACIFIC GAS & ELECTRIC COMPANY VS. GREAT WESTERN POWER COMPANY, which grants to Great Western Power Company permission to transmit and distribute electrical energy in the city of Napa and in all other sections of Napa County outside of incorporated cities and towns other than the "district now served by the Napa Valley Electric Company," and a public hearing having been held on said application, and this Commission finding as a fact that on June 18, 1912, the southerly limit of the district then served by said Napa Valley Electric Company was as hereinafter indicated,

IT IS HEREBY ORDERED, that the southerly limit of the district on June 18, 1912, served by the Napa Valley Electric Company be declared to be bounded by two lines of which one is an extension of the southerly boundary line of the farm of J. Peres, commencing at the center line of the right-of-way of the Southern Pacific Company and thence running westerly to the westerly boundary of the Napa Valley, and the other being an extension of the southerly boundary line of the farm now or formerly belonging to Annie Boyce and Johanna Pinchert, and running from said point in the center line of the right-of-way of the Southern Pacific Company easterly or north-easterly to the easterly boundary of said Napa Valley.

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 7<sup>th</sup> day of September, 1912.

  
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*W. A. Loveland*  
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*Max Shellen*  
Commissioners.