

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA

FREDERICK M. MUNGER,

Complainant

-VS-

PACIFIC GAS AND ELECTRIC COMPANY,

Defendant

CASE 1130

APPEARANCES:

CHARLES A. GRAY

For Complainant

CHARLES P. CUTTEN

For Defendant

BY THE COMMISSION

OPINION

The issue in this proceeding is as to whether the defendant company shall be required to extend its distribution lines a distance of between eight and nine hundred feet across complainant's private property in Santa Clara County near Los Altos, in order that it may serve complainant with electric energy for residence

lighting and for the operation of a pumping motor.

Complainant alleges that the defendant company has refused to make such extension unless its cost, estimated at \$167.40, be advanced by complainant, although prior to November, 1913, a similar extension was made by the company at its own expense for a distance of approximately 2000 feet along a private road to serve a pumping plant on the Burke Estate. This line is adjacent to the property of the complainant. Complainant further alleges that he is willing to guarantee any reasonable minimum revenue which the Commission may find to be necessary in order that the company's investment in the proposed line may be justified and asks for an order requiring the removal of the alleged discrimination against complainant by reason of the granting of a similar line, without charge, to the Burke Estate, and also asks that the required service be granted to complainant at regular rates and upon no other condition than the guarantee of a reasonable minimum.

Defendant's answer admits its refusal to serve the complainant as requested unless the cost of the necessary facilities, less that of transformers and meters and the first 100 feet of line, be paid by the complainant. The answer alleges that the estimated revenue which would be obtained through this extension is not sufficient to result in a fair net return on the entire cost of the extension and asks that the complaint be dismissed.

A public hearing was held in this matter at San Francisco on October 8, 1917 before Examiner Encell, at which time the case was submitted and is now ready for decision.

In opposing complainant's application for service the company relies upon the Commission's decision Number 2879 in Case 683, Volume 3, page 372, Opinions and Orders of the Railroad Commission of the State of California, in which the following rule regarding service connections is established.

RULE 13.

"A water, gas, electric or telephone utility which operates upon, under or along any public street, highway, alley, lane or road shall at its own expense install a service connection of normal size to the property line or curb line of property abutting upon said public street, highway, alley, lane or road or to such point on the consumer's premises as the utility may agree upon. The term 'service connection', as herein used, shall include water and gas pipes, electric and telephone wires, water, gas and electric motors, electric transformers, gas regulators, telephone instruments and appurtenances. Subject to review by the Railroad Commission, a water, gas, electric or telephone utility may refuse to make a service connection if it believes that the service will not be used in the reasonably immediate future."

The defendant apparently makes the assumption that inasmuch as the Commission has ordered that the utility shall extend its service at least to the boundary line of property with which is contiguous

to its existing lines, the converse is true, namely, that in no case may the utility be required to extend its lines across such private property. This conclusion in this regard does not logically follow from the premises.

There are, however, certain circumstances in connection with lines on private property which in some instances might warrant the utility in refusing to construct them at its own expense. The ownership of the poles insofar as they may be considered to be permanently attached to the real estate, unless protected by a right-of-way contract or other agreement, might be adjudged to pass to the owner of the property.

There is, however, no essential difference between a line constructed on a private right of way and which may be extended for the service of the public and a line which is constructed upon a public highway. In either case the principal consideration is as to whether the prospective revenue will warrant the necessary investment.

The evidence herein indicates that the complainant is ready and willing to grant a right of way along the line of his property to the point where service is required and from there to a point on the county road known as "Rob-

leda Avenue, from whence further extensions may be made for the service of prospective consumers located along this road. It is also shown that there are no other cross roads in this vicinity and that if in the future business is developed along said county road this is a natural route for the company to follow. It is admitted that there are no immediate prospects for the development of business in this particular locality. This, however, has no material bearing on the present proceeding inasmuch as the complainant has expressed his willingness to guarantee any annual revenue which the Commission may find to be reasonable, thereby insuring that this extension, if constructed, will be self supporting.

In answering the complainant's charge of discrimination in connection with the Burke extension, defendant claims that the same was made during a period in which the company's policy was extremely liberal as to extensions, which policy has since been modified. In testifying in this regard, Mr. Kuster, manager of the defendant's San Jose district, said: "It (the company's present policy) has been to be generous for extensions on the highway, but to require the property owner to pay for extensions on private property, if they were more than 100 feet distant". Since, for the reasons hereinbefore noted, it appears that the company will be fully justified in granting the extension as herein requested, it will not be necessary for

the Commission at the present time to pass upon the question of discrimination here raised.

It is estimated that the total cost of this extension, including transformers and meters, is \$293.05. Taking into account the fixed charges and operation and maintenance of this investment, together with consumer costs, taxes, and the cost of delivering the required energy to the line, we find that \$72.00 per annum is the sufficient revenue to amply justify the company's investment in this case.

After careful consideration of the evidence ~~submitted~~ submitted herein, this Commission finds that the complainant is entitled to receive service and that the defendant should construct, at its own expense, the necessary line, under conditions specified in the following order.

O R D E R

A public hearing having been held in the above entitled proceeding and the case having been submitted and being now ready for decision, and the Commission finding as a fact that the Pacific Gas and Electric Company should extend its lines to serve complainant under the conditions as outlined in this order,

IT IS HEREBY ORDERED that Pacific Gas and Electric Company, within twenty days after a receipt of a right-of-way

from Frederick M. Munger, shall construct and extend its electric lines and furnish said complainant with electric energy for lighting and power purposes as requested, provided that said Frederick M. Munger shall agree to furnish satisfactory guarantee to the Pacific Gas and Electric Company that it will receive a minimum annual revenue of \$72.00 from said extension for a period of five years or until such less time as the rates or regulations covering this matter are changed by this Commission.

DATED at San Francisco, California, this 6th day
of December, 1917.

Max Thelen

H. H. K. K. K.

Edwin O. Edgerton

Max R. K. K. K.