

Decision No. 6502

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

J. A. BOYCE, et al.,)
 Complainants,)
 vs.)
 PACIFIC GAS AND ELECTRIC)
 COMPANY,)
 Defendant.)
)

Case No. 1293

W. H. Carlin for complainants.
 C. P. Catten and R. W. Duval for
 Pacific Gas and Electric Company.

BY THE COMMISSION.

O P I N I O N.

This complaint was filed by eleven farmers and fruit growers of Placer County against Pacific Gas and Electric Company for the purpose of obtaining adequate service of water for irrigation purposes from defendant.

A public hearing in this proceeding was held at Auburn on June 3, 1919, before Examiner Bancroft.

From the evidence, it appears that on December 24, 1915, by Decision No. 3005, Case No. 613, William Paxton Montague, et al., vs. Pacific Gas and Electric Company, (Vol. 8, Opinions and Orders of the Railroad Commission of the State of California, p.820) this Commission ordered defendant herein to supply water for irrigation of additional lands in the irrigable area in Eastern Placer County; that all the complainants herein were interested in, and many of

them were parties to, that proceeding; that prior and up to the time of the rendering of the formal decision, complainants had for several years been cultivating, raising and growing fruit trees in Placer County and irrigating the same with water received from the irrigation system of defendant; that since the date of said original order they have been clearing additional portions of their lands to increase their respective acreages requiring irrigation, and that they now need additional water for use in producing their crops.

It further appears that the defendants have been receiving their water for a number of years past from the irrigation conduit owned and operated by defendant and generally known as the Greeley pipe line; that said line is now and for a number of years past has been delivering water to complainants to its maximum capacity and that increased delivery from said conduit to complainants can not be made without the enlargement and reconstruction of the same. It further appears that in July 1916, in pursuance of the Commission's order, defendant authorized the construction of a new ditch and conduit for the purpose of giving an increased supply of water to the consumers in the territory involved in this complaint; that said canal and conduit was to extend from the Boardman Canal at or near Mile-post No. 69, in a general southeasterly direction, in the main paralleling the present Greeley pipe line, down to the Greeley Canal at Mile-post No. 4; that it was contemplated said proposed canal and conduit would take its supply of water from below defendant's Wise Power House and would provide an ample supply to all consumers in the territory in which the Greeley pipe line is located; that in 1916, the estimated cost of constructing said conduit was \$60,000, which estimate included an item of \$15,000 for rights of way;

that bids were received from numerous contractors and the successful bidder was notified of defendant's acceptance of its proposal; that before the work of constructing new canal and conduit could proceed, it was necessary that defendant secure rights of way for said proposed canal; that defendant expended more than \$18,000 in securing such rights of way but that after protracted negotiations with the owners of property through which it was proposed to construct said ditch, it was found that additional rights of way could not be purchased unless defendant would agree to pay the property owners excessive and exorbitant compensation for such rights through their respective properties.

Defendant alleged in its answer that the demands of these property owners for excessive and exorbitant prices resulted in making the economical construction of said conduit impossible and defendant was under the necessity of abandoning its plan of constructing the same until such time as it should be possible to secure the necessary rights of way at a reasonable cost; that defendant is now, and has at all times been desirous and willing to furnish and supply water to existing consumers and to the owners of property in the territory immediately adjacent to its Greeley pipe line for use by them in the proper irrigation of their respective lands.

After a thorough examination of this question, we are forced to conclude that while some of the land owners sold rights of way to defendant at reasonable prices, most of them demanded excessive prices from defendant, which we do not blame defendant for having refused to pay. In fact, if defendant had paid some of the prices demanded for rights of way through lands owned by some of the complainants in this proceeding, the Commission would certainly have refused to allow the defendant any such valuation

of such right of way for rate fixing purposes or otherwise. While defendant's original estimate of \$16,000 for its proposed right of way may have been somewhat low, nevertheless, the evidence shows that it actually spent almost \$19,000 in purchasing 18,600 feet of this right of way, while there are 28,600 feet of additional right of way to be acquired. From the testimony of Mr. J. J. Brennan, one of the complainants herein, it appears that so-called rough or uncleared land in this portion of Placer County, which can be irrigated, is worth between \$65.00 and \$80.00 per acre; that after it has been cleared and is ready to plant, it is worth approximately \$125.00 per acre, but that similar land which cannot be irrigated would not be worth clearing. When defendant wished to purchase a right of way, which would comprise a total of some five or six acres through the property of King and Brennan, Mr. Brennan apparently at first asked \$9,200 and then reduced his price to \$5,000. Finally, the company offered to install five bridges across the canal and to pay them \$1,000 or \$1,200, which King and Brennan refused to accept; most of this proposed right of way went through uncleared land. Two land owners, Mr. A. A. Hannish, owner of 160 acres, and Mr. C. J. O'Keefe, his neighbor, insisted on the defendant buying their entire acreage, Mr. Hannish asking \$5,000 for his. Mr. Hughes Madely testified that defendant had offered his mother \$4,250 for a right of way through her place, which would have comprised about two acres of orchard land, and that the company finally agreed to give her \$5000 for this, but that negotiations were dropped on account of the company having abandoned its plan. He stated that this sum was arrived at by valuing the land, which was part of a bearing orchard, at \$500.00 per acre, making a total of \$1000, while the additional damage on account of the ditch going through his mother's place was estimated at \$4,000

arrived at by capitalizing at 5 per cent the additional work that would be required in removing weeds, cultivating the two parts separately, etc.

From the evidence as a whole, we are forced to conclude that the land-owners reasoned that defendant would have to construct its irrigation system through their lands in pursuance of the order of the Commission, and that they would charge the company all they could hope to get from it and not make any allowance whatever for the benefit the land would receive from having the water brought to it.

If defendant herein is compelled to pay exorbitant prices by land-owners through whose land the proposed canal will extend, the payment of these prices would work a hardship upon the neighbors of those demanding the exorbitant prices, because this Commission would, and assuredly should, in the establishment of rates, include in the rate base the actual cost of these rights of way. Thus each consumer on the extension would be made to bear a part of the cost paid by defendant to those demanding excessive prices for rights of way.

This Commission will not permit utilities in the state to charge against their consumers reckless or extravagant expenditures, and neither will it force a utility, by an order, to pay exorbitant prices for rights of way, such as are here demanded.

Although we have no jurisdiction over the consumers in this respect, we suggest that all of the consumers who will receive water from this proposed canal, cooperate and secure for defendant the rights of way at reasonable prices. This community action will undoubtedly prevent anyone from demanding exorbitant prices and will avoid delaying or preventing the construction of this canal, which, it appears, will be of so great benefit to all concerned.

O R D E R

J. A. BOYCE, et al., having filed a complaint against PACIFIC GAS AND ELECTRIC COMPANY, a public hearing having been held and the matter being now before the Railroad Commission for determination,

IT IS HEREBY ORDERED that defendant, Pacific Gas and Electric Company construct its proposed canal or conduit from the Boardman Canal, at or near Mile-post No. 69, in a general southeasterly direction, in the main paralleling the present Greeley pipe line of defendant down to the Greeley Canal at Mile-post No. 4, and that it shall complete said conduit and render the same adequate for the purpose of serving complainants, on or before May 1, 1920: provided, that on or before November 1, 1919, all of the remaining land-owners through whose lands the proposed canal is run, will sell to defendant an adequate right of way for the same, at a price which shall be fair and reasonable to all parties concerned. the question of whether such offer is a fair and reasonable one to be determined, if necessary, by this Commission at a supplemental hearing.

Dated at San Francisco, California, this 16th day of July, 1919.

H. D. Loveland

H. B. ...

Irving Martin
Commissioners.