

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

Application No. 734.

In the Matter of the Application of PACIFIC GAS AND ELECTRIC COMPANY, a corporation, for an order approving its charge and rates for electric energy to be furnished to ORO ELECTRIC CORPORATION, under an agreement dated August 30, 1913.

- C. P. Cutten for Pacific Gas & Electric Company.
- Samuel Knight for Oro Electric Corporation.
- E. V. D. Johnson and Edward Whaley for Northern California Power Company, Consolidated.
- Chickering & Gregory and Allen Chickering for Western States Gas & Electric Company.

WHEELER, Commissioner.

OPINION.

This is an application on the part of the Pacific Gas and Electric Company for an order of this Commission authorizing the applicant to charge a uniform rate of .7 of 1 cent per K.W.H. for electric energy to be delivered to Oro Electric Corporation for distribution by that corporation in the counties of Calaveras, Butte and San Joaquin. This rate is contained in a certain contract dated August 30, 1913, between Pacific Gas and Electric Company and Oro Electric Corporation, a copy whereof is attached to the petition herein and marked "Exhibit C." This contract will hereinafter be considered in greater detail. The authority of this Commission for the establishment of the proposed rate is necessary by reason of the fact that with reference to Calaveras county, and possibly with reference to Butte county, the proposed rate is an increase over the rate which is at the present time being paid by the Oro Corporation to Pacific Gas and Electric Company for service in those counties under existing contracts between these companies. Section 63(a) of the Public Utilities Act provides in part that no public utility shall raise any rate or charge except upon a showing before the Commission and a finding by the Commission that such increase is justified.

The Pacific Gas and Electric Company and the Oro Electric Corporation appeared in support of the application. The Northern California Power Company, Consolidated, appeared in opposition thereto. The Western States Gas and Electric Company appeared to draw the attention of this Commission to the fact that under a contract of that company with the Pacific Gas and Electric Company for electric energy distributed by the latter in certain portions of San Joaquin county, the Western States Gas and Electric Company is paying .9 of 1 cent per K.W.H., while the price named in the proposed contract between the Pacific Gas and Electric Company and the Oro Electric Corporation for electric energy to be distributed in the same territory is only .7 of 1 cent per K.W.H. The Pacific Gas and Electric Company contends that the load factor in the two cases is different and that this difference accounts for the difference in the rate.

The Oro Electric Corporation now has outstanding four contracts which it becomes necessary to consider in this application.

A contract dated March 7, 1912, with the Pacific Gas and Electric Company provides for the supply by Pacific Gas and Electric Company to Oro Electric Corporation of electric energy to be used by the latter company to operate its dredgers near Camanche, in Calaveras county. The price specified is .6 of 1 cent per K.W.H. The contract is to continue for two years after the date on which energy is first used thereunder, which date was sometime in March of this year. This contract, accordingly, would continue to run until March, 1915.

A contract dated March 7, 1912, with Pacific Gas and Electric Company provides for the supply by that company to Oro Electric Corporation of electric energy to be distributed by the Oro Corporation in the city of Oroville and vicinity. The Oro Corporation is to pay .7 of 1 cent per K.W.H. if the amount of electric energy delivered is less than 3,571,400 K.W.H. per year. If the amount of

electric energy delivered is in excess of this amount, the rate to be paid for all the energy delivered shall be .65 of 1 cent per K.W.H. This contract provides for a minimum payment of \$12,000 per year. The life of the contract is two years from the date thereof.

A contract dated October 5, 1912, provides for the delivery by Northern California Power Company, Consolidated, of not to exceed 3000 K.W. of electric energy to be distributed in the counties of Butte, Yuba, Sutter and Yolo, excepting Croville and vicinity, from the date thereof until the Oro Corporation's Yellow Creek development shall have been placed in commercial operation. The rate specified in the contract is .6 of 1 cent per K.W.H. The Oro Corporation is obligated to build at its own expense a line from near Biggs, in Butte county, to Princeton, in Colusa county, to receive electric energy under this contract. The line has been built and is now in operation.

A contract dated December 12, 1912, provides for the delivery by Northern California Power Company, Consolidated, to Oro Electric Corporation of not to exceed 15,000 K.W. at .5 of 1 cent per K.W.H., until the Oro Corporation's Yellow Creek development is in operation. The contract provides for a minimum payment of \$4,000 per month from December 1, 1913 to July 1, 1914, and \$12,500 per month thereafter. The contract also provides that the Oro Corporation shall advance or loan to the Northern California Power Company, Consolidated, for expense involved in the preparing for service under the contract, the sum of \$250,000, at 6 per cent interest, this sum to be repaid to the Oro Corporation at the rate of 75 per cent of the amount of the bills each month. The electric energy is to be delivered by the Northern California Power Company, Consolidated, at a point on its line xx about four miles north of Colusa. The contract provides in part that the Oro Corporation agrees to purchase from the Northern California Power Company, Consolidated, exclusively all the electric power which is to be

distributed by it within the State of California, with certain exceptions, including Oroville and vicinity and territory contiguous to the lines of the Northern California Power Company, Consolidated, or the lines of the Oro Electric Corporation and territory in which the existing contracts of the Oro Corporation prevent the use of power/^{to be}taken under the contract with the Northern California Power Company, Consolidated, and excepting also such power as may be developed by the Oro Corporation in its own plants.

Each of the foregoing four contracts purport to provide for exclusive rights in the territories therein respectively named.

The contract dated August 30, 1913, under which it is now proposed by the Pacific Gas and Electric Company to supply electric energy to the Oro Corporation provides for the sale and delivery by Pacific Gas and Electric Company and the purchase by Oro Electric Corporation of electric energy as follows, at the rate of .7 of 1 cent per K. W. H.:

1. All of the electric energy over and above the amount of electric energy generated by the Consumer, which shall be required for the operation of the electrical machinery and apparatus and in the conduct of the Consumer's business upon the Consumer's premises situate in the City of Oroville and vicinity, in the county of Butte, state aforesaid, and for the sale by the Consumer to the latter's consumers of electric energy for use by them in the said county of Butte, except the cities and towns of Chico, Biggs and Gridley.

2. All of the electric energy, not exceeding 2,000 kilowatts, which shall be required by the Consumer for sale to the latter's consumers of electric energy for use by them within that portion of the county of San Joaquin, state of California, in which the Consumer obtained from the Railroad Commission of the state of California, on or about the 3rd day of July, 1912, permission to supply electricity.

3. All of the electrical energy, which shall be required for the operation by electricity of the Consumer's own gold dredger situate at Camanche, in the county of Calaveras, state of California, and for sale by the Consumer to the Isabel Gold Dredging Company for the operation of the latter's gold dredger, situate at Jenny Lind, in the said county of Calaveras.

The energy is to be delivered at 4,000 volts for Butte county, at 11,000 volts for San Joaquin county and at 60,000 volts for Calaveras county. No minimum payment is provided. The term of the contract is to be one year after the date when electric energy shall first be

delivered, and thereafter until terminated by thirty days' written notice by either party.

The immediate occasion for the entry into this contract on the part of the Oro Corporation is its need for electric energy to serve certain portions of San Joaquin county lying outside of the city of Stockton. The Oro Corporation's steam plant which is situated partly within and partly outside of the city of Stockton is operating only during a portion of each twenty-four hour period. The Oro Corporation needs current during the entire twenty-four hour period, so that it may make delivery in the country districts lying outside the city of Stockton. The Pacific Gas and Electric Company testified that because of certain additional sub-station equipment and other property which it will be necessary for that company to procure, to supply the desired electric energy to the Oro Corporation in the city of Stockton, it would not be willing to make a contract to supply this electric energy in Stockton at the rate of .7 of 1 cent per K.W.H. The company is willing, however, to supply the energy at this rate if it also receives the same rate for the energy supplied in Calaveras and Butte counties.

I shall now consider somewhat more in detail the bearing of the proposed contract on service by the Oro Corporation in each of the three counties affected.

In San Joaquin county, the Pacific Gas and Electric Company has not heretofore sold electric energy to the Oro Corporation. In other words, in so far as this county is concerned, the proposed rate is an entirely new rate. Delivery will be made by the Pacific Gas and Electric Company at its sub-station in Stockton. The Oro Corporation will then transmit the energy over a transmission line which it has constructed under the Commission's authority, solely for this purpose, to the Oro Corporation's steam plant, located partly within and partly outside the city of Stockton, whence it will be distributed by the Oro Corporation in portions of San Joaquin county outside of the city of Stockton. None of the electric energy so delivered will be used

within the city of Stockton.

In Butte county, the Oro Corporation took sufficient current from the Pacific Gas and Electric Company during the year ending February 28, 1913, to entitle the Oro Corporation to the rate of .65 of 1 cent per K.W.H. The witness for the Pacific Gas and Electric Company testified that in his opinion this would not be the case during the present year. In that event, the rate of .7 of 1 cent per K. W. H. would be charged even under the existing contract, so that the rate specified in the proposed contract would not be an increase. The proposed contract, however, extends the territory for which the Oro Corporation is at present taking current from the Pacific Gas and Electric Company in Butte county in such a way that the Northern California Power Company, Consolidated, claims a breach of its alleged exclusive contract with the Oro Corporation providing for a rate of .6 of 1 cent per K.W.H. for this same territory.

In Calaveras county, the Oro Corporation is at present taking power from the Pacific Gas and Electric Company for the Oro Corporation's own dredgers near Camanche at the rate of .6 of 1 cent per K.W.H. It is now proposed to increase this rate to .7¢ and to sell additional electric energy at the same rate, to be supplied by Oro Corporation to the Isabel Cold Dredging Company. While an increase in the rate will result in this county, the Oro Corporation testified that it was satisfied with the increase for the reason that it would thereby secure a rate of .7 of 1 cent for the current to be distributed by it in San Joaquin County.

The Northern California Power Company, Consolidated, protested against the grant of the application on the ground that if the Oro Corporation takes its electric energy from the Pacific Gas and Electric Company under the terms of its proposed contract, it will thereby break its contract for exclusive service from the Northern California Power Company, Consolidated. While the latter company cannot at present deliver electric energy for distribution by the

Oro Corporation in San Joaquin and Calaveras counties, for the reason that the Oro Corporation has not as yet constructed its proposed transmission line from the point of connection with the lines of the Northern California Power Company, Consolidated, in Colusa county to San Joaquin and Calaveras counties, the Northern California Power Company, Consolidated, does claim to be willing and able to deliver the amount of electric energy needed by the Oro Corporation for Butte county, outside of Oroville and vicinity, in accordance with the contract dated October 5, 1912, between these two companies. Whether or not the delivery of electric energy by the Pacific Gas and Electric Company to the Oro Corporation under the proposed contract would amount to a breach of the contract between the Northern California Power Company, Consolidated, and the Oro Electric Corporation is a matter to be determined by the courts and not by this Commission.

At the same time, this Commission will not take any action which may have the effect of prejudicing the Northern California Power Company, Consolidated, in any action which that company may believe that it has or may have against the Oro Corporation for breach of contract. It must be clearly understood that this Commission does not approve the exclusive feature of the proposed contract or anything else connected therewith other than the rate. This Commission's consent is not necessary to the execution of the contract, but only to the effectiveness of the rate therein specified and its authority hereby given is confined thereto.

While the matter is not entirely free from doubt, I am inclined, particularly in view of the apparent need of the Oro Corporation for additional current for distribution in San Joaquin county, to recommend that the application be granted.

It should be distinctly understood that this Commission has not had an opportunity to examine whether .7¢ per K.W.H. is or is not a reasonable rate to be paid for electric energy at wholesale under

the conditions specified in this contract and that the approval of this rate shall not be taken as in any way expressing the view that this rate is a reasonable rate in any of the three counties affected.

I submit herewith the following form of order:

ORDER.

PACIFIC GAS AND ELECTRIC COMPANY having applied for the authority of this Commission to make effective a rate of seven tenths (.7) of one (1) cent per K.W.H. for electric energy to be supplied to the Oro Electric Corporation in the counties of Calaveras, Butte and San Joaquin, under the conditions specified in contract between said parties, dated August 30, 1913, a copy whereof is attached as Exhibit "C" to the petition in this proceeding, and a public hearing having been held on said application, and it appearing that the application should be granted subject to the observations contained in the opinion,

IT IS HEREBY ORDERED, that the rate of seven tenths (.7) of one (1) cent per K.W.H. to be paid by Oro Corporation to Pacific Gas and Electric Company for electric energy supplied may be made effective on one day's notice.

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 22nd day of September, 1913.

H. D. Loveland
Geo. Gordon
E. W. Van Thelen
Edwin O. Edgerton

Commissioners.