

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Investigation)
on the Commission's own motion, of)
the reasonableness of the rates)
charged and the adequacy of service)
rendered by certain person or per-)
sons, corporation or association,)
operating under the name of WALTER)
P. STORY BUILDING, in the distribu-)
tion and sale of steam heat.)

Case No. 1592.

I. R. Rubin, for complainant Gustav Mann
Walter P. Story, in propria persona.

LOVELAND, Commissioner:

O P I N I O N

This is an investigation, on the Commission's own motion, into the reasonableness of the rates charged by Walter P. Story for the distribution and sale of steam.

At the hearing Mr. Story raised the objection that the Commission had no jurisdiction over his business for the reason that he was not operating a public utility. It appears from the evidence that Mr. Story installed a heating plant in the basement of his office building in 1910. Since that time he has made contracts for the sale of steam from his plant to various owners of stores and other office buildings in the immediate vicinity thereof. He now serves about 10 consumers with steam. With most of these he has written contracts in which the rate is definitely fixed. With the others he has merely verbal arrangements.

The steam plant in question was designed primarily for supplying service to the patrons of the Story Building. The evidence does not show that Mr. Story ever offered to sell steam to the public generally, or to any particular class thereof. He had no regular rate, and the terms of sale were fixed in each case by special agreement. On at least one occasion Mr. Story refused to supply steam to a party who desired to purchase it from him. Taking all the facts into consideration, it cannot be said that Mr. Story was operating a public utility.

This view is confirmed by the fact that the Supreme Court, in the case of Richardson v. Story, 61 Cal. Decs. 785, held, that, for the purposes of taxation by the State of California, Mr. Story was not operating a public utility either as to the sale of steam or as to the sale of electricity. While it is true that at the time this decision was rendered, sections 2(bb) and 2(cc) of the Public Utilities Act had not been added, we believe that the ruling of the Supreme Court, relative to the sale of electricity by Mr. Story, is applicable to the sale of steam. The facts before the Supreme Court showed that Mr. Story was operating his electrical plant in very much the same manner as it appears here that he is carrying on the sale of steam.

O R D E R

For the reasons stated in the foregoing opinion,
IT IS HEREBY ORDERED that the above-entitled pro-

ceding be, and the same is hereby dismissed.

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 29th day of December, 1921.

H. P. Brandegee
H. H. Brandegee

Charles H. Brown
J. T. Pennington
COMMISSIONERS.