

Decision No. 28746.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Monterey Bay Redwood Company,  
a corporation,  
Complainant,

vs.

Coast Counties Gas and Electric Com-  
pany, a corporation,  
Defendant.

ORIGINAL

Case No. 3637.

Ezra W. Decoto, for Complainant.

Pillsbury, Madison and Sutro, by  
Hugh Fullerton, for Defendant.

BY THE COMMISSION:

O P I N I O N

Complainant seeks recovery from Coast Counties Gas and Electric Company of the difference between the amount actually paid for power on the basis of demand meter measurements during the period for which reparations may be awarded and the amount which would have been paid had the connected load basis of billing been employed. During the latter part of 1931, at the complainant's request, the method of purchasing power was changed by the exercise of certain optional features of Schedule P-1, so there is nothing here involved save the matter of reparation prior to December 21, 1931.

Complainant began taking power from the defendant in 1926 by virtue of a contract dated April 3, 1926, which is attached to and made a part of the complaint. This contract provided for the payment of power under the following conditions:

"The price at which such electric current shall be sold and delivered to and paid for by the Consumer shall be as provided in the Power Company's rate Schedule P-1, a copy of which is attached, a copy of which is also on file with the Railroad Commission of the State of California, the minimum per month to be one hundred sixty-six (166.00) dollars per month, or according to Schedule P-1 if enough additional horsepower is installed to increase said minimum according to said Schedule P-1 for the term of this contract, and after the term of this contract to be as specified in the heretofore mentioned Schedule P-1 or any other schedule of rates applicable to such power service at the time of expiration of this contract."

Complainant's case as developed in the record consists of (1) the claim that the defendant has violated the terms of said contract by basing the power bills on maximum demand measurements rather than horsepower connected load and (2) a showing that the complainant would have received lesser charges had the bills been based on connected load rather than maximum demand measurements. In the instant case it is clearly evident and is conceded that the bills of the complainant, with the exception of one monthly bill, would have been lower under the connected load basis of billing than under the maximum demand basis as billed. Therefore, the remaining point to be decided in this case is the responsibility for the application of the maximum demand basis of billing.

Special condition (d) of Schedule P-1, in effect on April 3, 1926, follows:

"The above rates and minimum charges may at the option of the consumer be based on the horsepower of measured maximum demand instead of horsepower of connected load, in which case the demand on which the rates and minimum charges will be based will be not less than forty (40%) per cent of the connected load, and the minimum bill will be not less than \$50.00 per month."

This is in effect an optional rate, its advantage or disadvantage being dependent upon the particular characteristics of the consumer's usage. The record shows that a

demand meter was installed upon initiation of the service, together with the application of a maximum demand basis of billing. The option of selection of this method of billing rests with the consumer, which admittedly is proper. The contract is silent with reference to application of the optional maximum demand clause.

The testimony introduced by defendant herein touches upon the subject, but does not indicate or establish as a fact that the consumer requested the application of the optional maximum demand feature of the rate schedule. Under these circumstances the complainant was at the time clearly entitled to billing on the connected load basis, which condition was not altered until the complainant, during the latter part of 1931, upon request exercised optional features of the then existing Schedule P-1. We therefore find that the rates charged defendant from July 18, 1930, to December 21, 1931, were unlawful to the extent that they exceeded rates based upon the connected load of the complainant and that complainant is entitled to reparation with interest in the amount of the difference between the rates paid and the rates found lawful.

Defendant presented what might be termed a counter-claim based upon the ground that the complainant used energy for lighting, which energy was measured by the power meter installation and combined with the power usage for billing purposes. It is true that the defendant's schedules did not provide for or permit the combination of lighting consumption with power usage for billing purposes prior to September 1, 1931, and therefore an irregular rate application existed to this date to the extent that electric lighting was employed in the consumer's plant. The record, however, shows that

the lighting was served by means of a lighting transformer installed in conjunction with defendant's power transforming equipment and therefore within the knowledge of defendant. We therefore find no merit in this adjustment claim and a consequent reduction of refund will not be allowed therefor.

O R D E R

The above entitled case having been duly heard by Examiner Handford and submitted, investigation of the matters involved having been had, and basing this order on findings of fact contained in the opinion;

IT IS HEREBY ORDERED that defendant, Coast Counties Gas and Electric Company, be and it is hereby directed to refund, with interest at six per cent per annum, to complainant Monterey Bay Redwood Company, all charges collected in excess of those calculated on the basis of a connected load of 282 horsepower from July 18, 1930, to December 21, 1931.

IT IS HEREBY FURTHER ORDERED that in all other respects the complaint be and it is hereby dismissed.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 29<sup>th</sup> day of January, 1934.

C. J. Jensen  
Leon White  
M. J. Van  
M. B. Lewis  
M. J. Van  
Commissioners.