

Decision No. 27586

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

MRS. THERESA E. HETLAND, THOMAS McCONNELL,  
 GEORGE E. WALLS, CAROL KNIGHT, MARTIN C. SMITH,  
 J. R. RICHINA, A. N. QUAYLE, R. E. SPENCER,  
 T. MONASMITH, P. A. VAUGHN, P. G. SCHNEIDER,  
 CECIL HOUSE, G. DRIVDOEL, G. E. MENDELL, M. L.  
 CONKLIN, W. L. ARNOLD, RAY FINNEY, E. A. SCHULTZ,  
 O. E. WALTER, J. R. ROBERTS, M. M. CHRISMAN,  
 FRED N. MERRIHEW, W. R. ROBISON, L. A. GIBSON,  
 W. W. TURNER, GEO. A. TURNER, H. C. BOWERS,  
 A. C. PETERSEN, R. E. WHITE, W. H. MCKINSTRY,  
 J. M. RASMUSSEN, LEWIS HEPLER, ERNEST R. PRATT,  
 MRS. L. M. WORKMAN, HARRY B. HIMES, HENRY  
 RADEMACHER, H. O. ACORN, G. M. HODGES, LANCE  
 ANDERSON, W. T. KERR, B. P. ROBERTSON,  
 T. C. SMETHERS, J. J. BERRY, C. W. RICHARDS,  
 E. W. DORSEY, JOSEPH OLIVERA, T. C. HITESHEW,  
 W. F. LEONARD, C. A. LUKINS, TONY FUNARI,  
 B. G. JACKSON, W. E. MORRIS, W. A. FRIDLEY,  
 H. J. DOUGHTY, TONY GAMBINI, CHAS. P. SIEDENTOFF,  
 WM. GREISNER, JOHN CRESCINI, MARTIN LARSON,  
 A. ALBERTONI, CHAS. H. GEISER, F. CHRISMAN, ROY  
 MOREHOUSE, G. W. SMUTZ, ROY A. NEWBY, L. E.  
 FISHER, EMMA JENKS, MARY A. REDDING, C. A.  
 McINTYRE, ADAM PRACK,

ORIGINAL  
 1934

Complainants,

vs.

Case No. 3857.

PACIFIC GAS AND ELECTRIC COMPANY,  
a corporation,

Defendant.

George Sehlmeier, for complainants.

C. P. Cutten and R. W. DuVal, by R. W. DuVal,  
for defendant.

WARE, COMMISSIONER:

OPINION

This proceeding involves a complaint on the part of  
 certain consumers located in the Oakdale Irrigation District,  
 Stanislaus County, north of the Stanislaus River, against the elec-  
 tric rates of the Pacific Gas and Electric Company applicable thereto.

A public hearing was held before Commissioner Ware in Oakdale on October 3, 1934, at which time testimony was introduced and the matter submitted for decision.

Complainants allege that the rates of defendant within the boundaries of the Oakdale Irrigation District north of the Stanislaus River are unfair, unreasonable and discriminatory as compared to the rates in said District south of said River. They contend that there should be no disparity in rates within the District, pointing out that the same lines of defendant's electric system are used to supply the consumers therein, whether located north or south of the River and they ask therefore that the lower rates effective south of the River be extended to the consumers within the District north of the River.

Defendant admits an appreciable difference in the rates and that the same lines are used to supply consumers within the aforesaid District both north and south of the Stanislaus River, but contends that the differential in rates was made necessary in order to meet competition and to hold its business in the area which is now and for some time past has been also served by the Modesto Irrigation District. The record of the present case makes clear that the area south of the Stanislaus River in the Oakdale Irrigation District is a part of the territory open to service by the Modesto Irrigation District. In defense of the rate differential defendant cited that the matter of competitive rates and locality discrimination had been fully considered by the Commission in its Decision No. 24214, dated November 9, 1931, involving in part complaints from the Modesto Irrigation District which sought to obtain an order (Case No. 2954) from this Commission requiring Pacific Gas and Electric Company to withdraw from the Modesto territory and an alternative order (Case No. 2953) lowering the rates over the system of the company outside of the competitive area to the level of the rates therein, in the event that the withdrawal

relief (sought in Case No. 2954) were not granted.

The Commission in passing on this latter matter (C.R.C. Decision No. 24214) held: "Neither in reason nor on authority may it be concluded that the company by merely meeting the rates of its competitor in order to attempt to hold its business created an unjust or unlawful discrimination." and cited numerous Federal and State authorities as well as earlier decisions of this Commission in support of such finding. (36 C.R.C. 770, 771.)

It was further contended by complainants herein that any loss being sustained by defendant in serving consumers under lower rates in the competitive area results in a burden to the consumers without the competitive area. The record here does not bear out such contention. The conclusion of this Commission under the record in Cases 2953, 2954 supra, relative to the right of the utility to meet in good faith a competitive rate without rendering itself subject to a charge of unlawful locality discrimination, was expressed in the opinion of the above referred to decision in the following language:

(36 C.R.C. 772) "Thus, to hold here under this record that there is an unlawful discrimination would involve not only a serious but unjustifiable departure from the long and unbroken trend of statutory, judicial and commission precedent, both in this State and elsewhere, which overwhelmingly sustains the right of a utility to meet in good faith a competitive rate without rendering itself subject to a charge of unlawful locality discrimination."

The record in the proceeding now under consideration insofar as the question of unlawful locality discrimination is concerned brings nothing new to light and the conclusion above set out may be safely said to apply as well here. Under the circumstances the complaint should be dismissed.

#### ORDER

The above entitled complaint having been set down for hearing, a public hearing thereon having been held and the matter

having been submitted for decision,

IT IS HEREBY ORDERED that said above entitled complaint  
be and the same is hereby dismissed.

Dated at San Francisco, California, this 19<sup>th</sup> day  
of November, 1934.

Leon White

W. A. Cunn

W. B. Young

W. H. ...

Frank ...

Commissioners.