

Decision No. 21700 -

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Suspension and Investigation on the Commission's own motion into the Special Contract No. 8 C.R.C. filed by The Nevada-California Electric Corporation for electric service to Interstate Bakeries Corporation.

ORIGINAL

Case No. 4376.

G. C. Delvaile and D. L. King, for The Nevada-California Electric Corporation.
T. A. Hunter, for Interstate Bakeries Corporation.
Lester S. Ready and Harry E. Horton, for the Imperial Irrigation District.

RILEY, COMMISSIONER:

OPINION AND ORDER

This is a suspension proceeding and investigation on the Commission's own motion into Special Contract No. 8-CRC, filed by The Nevada-California Electric Corporation and providing for electric service to Interstate Bakeries Corporation.

An Amendatory Agreement to said Special Contract No. 8-CRC, dated October 15, 1938, was filed with the Commission and, because the rate therein offered appeared to be of a discriminatory nature, this investigation was instituted on November 10, 1938, and the operation of said special contract was suspended until January 1, 1939, and the matter set for public hearing on December 1, 1938, before Commissioner Riley. On the date set the hearing was held, evidence taken and the matter submitted for decision. On December 30, 1938, an order was issued extending the period of suspension to January 31, 1939.

The record shows that Interstate Bakeries Corporation operates a bakery establishment in El Centro, California, and purchases electric service from The Nevada-California Electric Corporation to operate a motor load of 172.25 horsepower and that, of this load, 60 horsepower serves to operate an air conditioning system. It is further of record that such electric service is billed and paid for in accordance with the regularly published tariffs of the supplying utility and as set forth and under the conditions incorporated in Special Contract No. 8-CRC, dated March 26, 1957. Exhibit No. 1, in this proceeding, shows that an Amendatory Agreement, maintaining the captions of Special Contract No. 8-CRC, was executed on October 15, 1958.

The said Amendatory Agreement provides, among other things, for the application of the rates contained in The Nevada-California Electric Corporation's general tariff for heating (Schedule H-CI) to the 60 horsepower load of customer's air conditioning system, instead of the presently applied tariff for general power (Schedule P-I).

The evidence of record shows conclusively that such application of Schedule H-CI will result in a lesser charge for electric service supplied said motor load and, further, will result in a misapplication of Schedule H-CI.

In the Amendatory Agreement, heretofore referred to, and in the letter transmitting same for filing, it was represented that Imperial Irrigation District had offered to supply Interstate Bakeries Corporation at the rates set forth in said Amendatory Agreement and that it was necessary to meet such rates in order to hold the business.

The record shows that the Imperial Irrigation District is not offering to render the service in question at rates lower

than those charged by The Nevada-California Electric Corporation. Hence it is unnecessary for the utility to offer a lower rate in order to meet competition, for such competition does not in fact exist. (1)

The Commission is of the opinion that since no other justification was offered for the application of a heating tariff to a power load, such would constitute a clear case of unlawful discrimination as between Interstate Bakeries Corporation and other customers who would be denied the same favorable rate.

Under these circumstances the utility should not be permitted to make such reduced rate effective.

It is therefore found as a fact that the operation of the Amendatory Agreement of October 15, 1938, to Special Contract No. 8-CRC between The Nevada-California Electric Corporation and Interstate Bakeries Corporation will result in unlawful discrimination and,

IT IS ORDERED that said Amendatory Agreement be and it is hereby cancelled.

IT IS FURTHER ORDERED that our orders of suspension in the above proceeding be and they are hereby vacated and set aside as of January 31, 1939, and that this proceeding be and it is hereby discontinued.

This Opinion and Order shall be effective immediately.

The foregoing Opinion and Order are hereby approved

(1) However, T. A. Hunter, for Interstate Bakeries Corporation testified to the effect that in the event said Amendatory Agreement was not made effective, Interstate Bakeries would cease taking electric service from The Nevada-California Electric Corporation.

and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated, San Francisco, California, January 24, 1939.

Raymond
Frank Deane
Ray L. Cline
M. J. [unclear]
Justus J. [unclear]
Commissioners.

(For Roll Film)

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Assistant Executive Director

(Title)

June 3, 1985

(Date)

END