

Decision No. 37765

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

ORIGINAL

J. V. McAfee, F. A. Silvia, B. E. Black,
A. H. Rummelsburg,

Complainants,

vs.

Pacific Gas and Electric Company,

Defendant.

Case No. 4717.

The City of Richmond, a municipal
corporation, and the City of El Cerrito,
a municipal corporation,

Complainants,

vs.

The Pacific Gas & Electric Company, a
corporation,

Defendant.

Case No. 4748.

Thomas M. Carlson, City Attorney, and J.A. McVittie,
City Manager, for City of Richmond.

Clifford C. Anglin, City Attorney, for City of El
Cerrito.

R. W. DuVal, for the Pacific Gas and Electric Company.

J. E. Christensen, Manuel A. Mello and J. H. Crawford,
for the Town of San Pablo.

W. D. MacKay and L. H. Stewart, for Complainants in
Case No. 4717.

COMMISSIONER CLARK:

O P I N I O N

These are two complaints, brought against the Pacific Gas and
Electric Company, which petition the Railroad Commission to require the
Defendant Utility to alter its rate zone classification for electric service
in the Cities of Richmond and El Cerrito. (1) No reparations are involved.

(1) The unincorporated community of San Pablo, adjoining Richmond on the north
and west, made a verbal statement, through its representatives, asking that
its rate zoning be changed (now in Zone 6). Since San Pablo is not a
party to the instant complaints, its request can not here be considered.

The first-named complaint (Case No. 4717) was brought in the name of four customers of Defendant in the City of Richmond under Section 19⁽²⁾ of the Public Utilities Act. The second complaint, that of the Cities of Richmond and El Cerrito, was filed at a later date and, because it was brought by a municipality,⁽³⁾ its prayer for relief was not limited to discrimination under Section 19 but was broadened to cover the reasonableness of the rate classification within the meaning of Section 13⁽⁴⁾ of the Public Utilities Act. Both cases were heard together and it was agreed that both could be joined for decision.

Public hearings were held in Richmond on October 16 and December 18, and in San Francisco on December 19, 1944, and the matters were submitted for decision on oral argument at the close of the latter hearing. In all, forty exhibits were introduced in evidence and extensive testimony was presented.

The Rate Zoning in Challenge

The rate classifications complained of are limited⁽⁵⁾ to four in number and are:

- Schedule C-3 - Commercial Light and Power
- Schedule D-3 - Domestic Service
- Schedule L-3 - Light and Power Service
- Schedule DA-3 - Domestic Service - Apartment House.

- (2) Section 19 reads: "No public utility shall, as to rates, charges, service facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The Commission shall have the power to determine any question of fact arising under this section."
- (3) Section 60 of the Public Utilities Act provides that a complaint involving the reasonableness of any rate or charge must, among other things, be brought by proper representatives of a city or county or "signed by not less than twenty-five consumers or purchasers or prospective consumers or purchasers" of the utility service complained of.
- (4) Section 13(a) provides: "All charges made, demanded or received by any public utility, or by any two or more public utilities, for any produce or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful."
- (5) For the other classes of service, such as rendered under the "P" series for power, the rate level is generally the same on a system-wide basis.

The record shows that for the above classes of service the rate service areas of the Pacific Gas and Electric Company have been divided into six rate zones. (6) These are:

- Zone 1 - San Francisco and the six East Bay cities of Oakland, Berkeley, Piedmont, Emeryville, San Leandro and Albany;
- Zone 2 - The five cities of Sacramento, San Jose, Stockton, Fresno and Bakersfield;
- Zone 3 - Other incorporated cities of approximately 5,000 and more than 2,000 customers, which now include the cities of Burlingame, Chico, Daly City, El Cerrito, Hayward, Madera, Martinez, Marysville, Merced, Monterey, Napa, Pacific Grove, Petaluma, Pittsburg, Redwood City, Richmond, Salinas, San Anselmo, San Mateo, San Rafael, Santa Rosa, Selma, South San Francisco and Woodland;
- Zone 4 - Balance of incorporated cities;
- Zone 5 - Unincorporated areas having urban characteristics:
 - (a) Unincorporated towns
 - (b) Fringe areas adjacent to incorporated cities
- Zone 6 - All other unincorporated areas.

The cities of Richmond and El Cerrito are now classified as Zone 3 cities.

Testimony and exhibits introduced show that Zone 3 rates are higher than Zone 1 rates by 10 cents per meter per month, in the fixed service charge, on the "D" and "L" schedules and 20 cents on the "C" schedules. The kilowatt-hour charge is also higher, depending upon the usage. (7)

(6) There are certain minor exceptions, since some of the more isolated areas carry special rate zonings. For example, the electric service rendered in the County of Humboldt is an area where different and a higher classification prevails.

(7) For example:

<u>Domestic Service:</u>					
40 Kw-hrs.	are 22 cents higher in Zone 3 as compared to Zone 1 or			13.8%	
100 " " 34 " "	" " " " " " " "	" " " "	" " " "	11.6%	
<u>Commercial Lighting:</u>					
200 Kw-hrs.	are \$0.70	"	"	10.9%	
1000 " "	\$2.30	"	"	8.4%	
<u>Commercial Light and Power:</u>					
1000 Kw-hrs.	are \$2.20	"	"	8.0%	
3000 " "	\$4.20	"	"	5.7%	

If Zone 3 billing above be compared to Zone 2 instead of Zone 1, then each of the higher billings shown for domestic and commercial lighting would be reduced by 10 cents. There would be no change for commercial light and power, as there is no Zone 2 classification and Zone 1 applies to both Zones 1 and 2 groups.

Contentions of Complainants

It was Complainants' contention that Richmond and El Cerrito had not only reached a size and population growth that justified a Zone 1 rate classification but likewise an analysis of those factors dealing with electric service and use would substantiate such a regrouping. It was further contended that, because of the geographic relationship of Richmond and El Cerrito with the other six East Bay Zone 1 cities, these two cities should be similarly classified. In support of the last contention, maps were introduced to show that Richmond and El Cerrito, along with the other six East Bay cities, were one continuous built-up area.

In further support for reclassification, it was pointed out that Richmond had grown in population from 23,642 persons in 1940 to 93,738 in 1943 and that El Cerrito had similarly increased from 6,137 to 16,624,⁽⁸⁾ In addition, there were introduced several other higher estimates of populations. For instance, City Attorney Thomas M. Carlson, who has served the City more than 14 years, testified that, based upon his knowledge of building permits, housing statistics and other related matters, a very considerable growth had taken place since 1943. It was his opinion that in September, 1944, the combined population of both cities was not less than 165,000.

A consulting engineer presented figures for the City of Richmond which showed that the population density had increased from 1,782 to 6,605 persons per square mile, or 270 per cent, compared to a 31 per cent increase in the six East Bay cities during the 1940-1943 period; that of the gross electric receipts for all classes, in the eight East Bay cities here under discussion, Richmond and El Cerrito accounted for slightly less than 7 per cent in 1940 while this proportion had increased to approximately 20 per cent in 1943.

A witness on behalf of the four complainants in Case No. 4717 likewise presented statistics and testimony tending to show the more favorable characteristics of electric use in Richmond as compared to other cities with a lower rate zone classification.

⁽⁸⁾ The 1940 figures are the official U.S. Census, while the 1943 figures are a special census. The latter were not challenged.

Position of Defendant Utility

The Defendant Utility offered extensive exhibits and testimony in substantiation of the present rate zone classification of Richmond and El Cerrito. Its presentation included the historical development of the present zoning plan and its sanction by Commission decisions. Its principal defense rested upon two points, namely, (1) that the present growth and population of the two complaining cities are believed to be temporary and due to the tremendous expansion in the industrial war program centered around shipyard construction and (2) that the most important factor in zoning is customer density (i.e., customers or meters per mile of line) under which criterion the two cities are below the average of the zoning they seek and, on this latter basis, are now correctly classified.

Evidence presented showed that possibly 66 per cent of Richmond's 1943 population is in temporary federal housing, while in all the six East Bay Zone 1 cities such housing shelters less than 5 per cent, thus tending to show the more transitory nature of Richmond's population.

The following tabulation, based upon Defendant's Exhibit No. 32, presents the number of customers served (i.e., meters in service) and customers per mile of line (customer density):

	<u>Total Number Customers (Meters)</u>	<u>Customers (Meters) Per Mile of Line</u>
<u>Zone 1</u>		
Albany	4,346	177.0
Berkeley	32,774	165.6
Piedmont	3,000	97.3
Emeryville	1,222	70.2
Oakland	111,828	147.3
San Leandro	7,432	129.2
Subtotal	<u>160,602</u>	<u>147.69</u>
San Francisco	238,468	256.6
Total Zone 1.	<u>399,070</u>	<u>197.9</u>
<u>Zone 2</u>		
Bakersfield - Incorporated	9,961	85.4
Fresno	21,232	97.1
Stockton	18,005	106.1
San Jose	25,001	116.6
Sacramento	37,558	149.2
Total Zone 2	<u>111,757</u>	<u>115.1</u>
<u>Zone 3</u>		
Richmond (Excl. 20 Mi. of tap lines)	13,555	82.5
El Cerrito	3,231	62.8
Average of Zone 3 (24 Cities)	98,420	89.6

Analysis of Record and Conclusions

It may be said that the population statistics of Richmond and El Cerrito, based upon the 1940 census, namely, 23,642 and 6,137, respectively, and 93,738 and 16,624 based upon the special census in the fall of 1943, are acceptable to both the Complainants and the Defendant. Similarly, there was but little challenge to the higher estimates, for a period of one year later, testified to by City Attorney Carlson, that the combined population of the two cities was in the neighborhood of 165,000, of which 140,000 was assigned to Richmond. It is also of record that the population is still increasing and that additional homes and housing units are under construction or under applications. The extent to which new homes will be built to replace the temporary housing that will be dismantled after the war depends, to a considerable extent, upon the peace time industrial activity of Richmond. The record justifies the statement that there will be a sharp reduction in the employment in the four shipyards, though at least one of the largest yards will continue as a peace time enterprise.

Mr. J. A. McVittie, for 24 years City Manager of Richmond, testified that in the recent years before the war, there was a very important industrial development quietly taking place in Richmond, which had not, because of time, had an opportunity to assert itself fully. He pointed out the large number of peace time industrial firms that had selected Richmond for plant locations, as well as the large pre-war expenditures that had been made for port facilities. These, he concluded, pointed to a sound diversified industrial growth which should continue after the war, assuring Richmond a dominant place in shipping and in the industrial life of the San Francisco Bay region.

The record shows that some 60 per cent of the pre-war working population lived outside Richmond and that today a portion of the one hundred odd thousand Richmond workers are still non-residents. It was the view of the City that post-war Richmond will house a greater portion of its industrial workers and that within two years after the war it should have a population of at least 75,000. (9)

(9) Defendant Utility presented little or no evidence on these matters of population.

It must be concluded from the evidence that while a portion of the present populations will be lost, nevertheless the populations that may reasonably be expected to remain and the expected growth are certainly no barriers to the higher classification prayed for. The record likewise shows several cities now classed as Zones 1 and 2 that are much smaller in population than the two complaining cities:

The matter of customer density is an important factor in the zoning scheme of rate classification. Obviously, however, the number of customers per mile of line is merely a convenient index which, when properly interpreted or adjusted, may reasonably be used as one measure of cost to render the electric service and hence one measure of the level of rates to be charged for the service when rates are fixed on a cost basis.

It is seen, from the tabulation heretofore presented, that Richmond and El Cerrito have 82.5 and 62.8 customers per mile of line, respectively, compared to an average of 147.7 for the six East Bay cities in Zone 1 and about 115.1 for the five cities in Zone 2. The 24 cities in Zone 3, including the Cities of Richmond and El Cerrito, average approximately 89.4. Thus it is seen that the two cities are somewhat lower than the average of the zone they are now in and very much lower than Zones 1 and 2. However, careful consideration of the same abnormal factors, with respect to housing and industrial activity, likewise makes the use of "customer density" figures, as developed, misleading when used as the sole basis of comparison with other cities that have more normal characteristics.

From the figures presented by Defendant, it may be developed that for the Zone 1 East Bay cities the population per meter served is approximately 3.6, while for Richmond and El Cerrito the same computations show over 7. This comes about because a comparatively few meters in Richmond and El Cerrito serve a large number of consumers in the housing projects. It is true that "master metering" to housing projects automatically yields lower average rates; even so the higher density in Richmond and El Cerrito may not be fully reflected nor may there necessarily be an equitable distribution of the benefits of lower unit costs to serve as between other customers.

The use of commercial service in Richmond is likewise considerably more than average when related to the "meter density figures" developed by Defendant, due in part no doubt to the actual higher population density, as well as to that resulting from non-residential workers.

The record shows that Richmond has a proportionately higher industrial load than the East Bay Zone 1 cities. In establishing the zone classification for Richmond, it would appear appropriate to accord the domestic and commercial customer some credit in cost to serve for this advantage, due to diversity and concentration of power load.

If the "density" statistics, by cities, be re-examined, it will be seen that within any one zone there is a sharp variation. This is not surprising from a practical standpoint, for the ultimate determination as to what constitutes the proper zoning is not alone dependent upon population, nor density, nor location, nor competitive conditions, nor value of the service, nor whether incorporated or unincorporated, nor past rate history, nor cost to serve, but a weighing of these and other items as judgment dictates under the particular circumstances obtaining.

In the instant case, the geographic position of Richmond and El Cerrito, in respect to the other incorporated East Bay Cities, is important. When this is considered, along with the history of rate development and the other characteristics, heretofore set forth, no other conclusion is possible but that a more favorable rate zone classification is justified. It is the conclusion at this time that the cities of Richmond and El Cerrito should be reclassified and placed in rate Zone 2.

The order and findings that follow will conform to that permitted under the cities complaint.

I recommend the following form of order:

ORDER

Public hearings having been held on the two complaints for a rezoning of certain electric rates in the Cities of Richmond and El Cerrito, the matter

CG 11-1-1945

been submitted, and the Commission being fully advised in the premises;

It is Hereby Found that the present Zone 3 electric rate classification for the Cities of Richmond and El Cerrito will result in an unreasonable difference as to the rates and charges for the future, in respect to other rate zone classifications of the Pacific Gas and Electric Company, and after the effective date of this order Zone 2 rate classifications are found to be the reasonable and proper classifications for the two named cities, therefore,

IT IS HEREBY ORDERED that the Pacific Gas and Electric Company shall refile that part of its rate tariffs for Commercial Light and Power, Domestic Service, Light and Power Service, and Domestic Service - Apartment House, in an appropriate manner so that the Cities of Richmond and El Cerrito shall be removed from the Zone 3 classification and shall be classified with the Zone 2 cities;

IT IS HEREBY FURTHER ORDERED that Pacific Gas and Electric Company, beginning with meter readings taken on and after May 1, 1945, shall render bills and make charges for electric service supplied in accordance with the rates set forth in the revised zone classifications. In all other respects the presently effective rate zone classifications shall remain unchanged.

The effective date of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3rd day of April, 1945:

L. Harold Anderson
Justice F. C. Casper
Richard Kachle
Francis J. ...
Scott Powell
Commissioners:

CORRECTION

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THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

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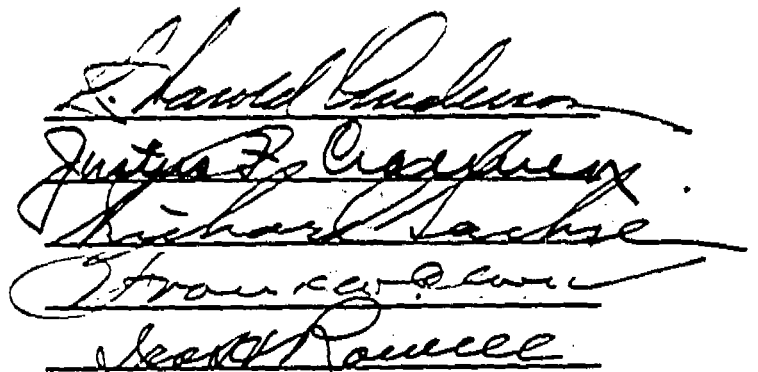
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