

Decision No. 38579

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

GRANT-PACIFIC ROCK COMPANY,
Complainant,
vs.
SOUTHERN CALIFORNIA EDISON COMPANY,
Defendant.
POMONA TILE MANUFACTURING COMPANY,
Complainant,
vs.
SOUTHERN CALIFORNIA EDISON COMPANY,
Defendant,
UNION FEED COMPANY,
Intervenor.

Case No. 4733

Case No. 4734

L. H. Stewart and W. D. MacKay, for Complainants.
Gail C. Larkin, B. F. Woodard, Bruce Renwick, and
Victor E. Koch, for Defendant.

BY THE COMMISSION:

O P I N I O N

These two complaints against Southern California Edison Company Ltd. allege undue preference and prejudice on the part of Defendant in contravention of Section 19 of the Public Utilities Act. (1) Reparations are not involved. Public hearings were held in Los Angeles on March 29, May 23 and 24, 1945 before Examiner Webe and the matter was submitted for decision on briefs filed July 3, August 1 and 7.

Edison's tariff schedules are made applicable to its service area by geographical zones. There are three major rate zones known as Zone A, B, and C.

(1) Sec. 19. 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. (1911, amended 1915, ch. 91.)

A number of minor zones need not here be discussed. In general, Zone A has the lowest rates and comprises the territory served by the company in Los Angeles County. Zone B has the next most favorable rate level and embraces the balance of the company's territory in southern California. Zone C rates are generally higher than Zone B and include the service area in the San Joaquin Valley.

The rate tariff complained of and under attack, is known as Schedule PCM-1. It is a low rate combination schedule designed essentially for large industrial power loads, where lighting is incidental to the use of power, and is separately metered. The rates provided in each of the PCM-1 schedules in Zones A, B, and C are identical except for the minimum charge as governed by the connected load. In this respect, in Zone A, a connected power load of not less than 500 hp is required, while 1,000 hp is the requirement in Zones B and C. Since the minimum charge is at the rate of 50¢ per billing horsepower per month (made accumulative over a twelve-month period) the monthly minimum in Zone A is \$250 and in Zones B and C it is \$500, or \$3,000 and \$6,000, respectively, on an annual basis.

Grant-Pacific Rock Company is a Fresno concern operating plants at Rockfield, Fresno County, and Lindsay, Tulare County, and processes rock, sand, and gravel for road and building construction and for use by others in the manufacture of concrete products, including concrete pipe. Grant-Pacific's market is largely confined to the San Joaquin Valley area from Merced to Bakersfield, and its competition is restricted to similar processors in the area because of freight differentials, although concrete pipe manufactured from its products is in competition with pipe manufactured outside the Valley. While Grant-Pacific's general manager was not prepared to say what proportion of its total operating costs represented the cost of electricity, he did estimate a cost of approximately 4.3¢ per ton for electricity supplied at the Lindsay plant and an average sales price of its products of 70¢ per ton. The Lindsay plant is supplied with electricity by the Defendant, while the Rockfield plant obtains service from another utility.

The Pomona Tile Manufacturing Company, located in Pomona, is engaged in the manufacture of all types of ceramic tiles. Its products are distributed on the Pacific Coast and shipped to the eastern part of the United States and foreign countries. The products of this company are in direct competition with similar products produced by a number of concerns in the Los Angeles industrial area. Pomona's president, in testifying as to cost of electricity, estimated that it would vary between 1% and 1 1/2% of the total cost.

During the hearings counsel for Complainants filed a Petition for Leave to Intervene in behalf of Union Feed Company, an organization engaged in manufacturing and processing animal feeds, with a plant located at Bassett, to which Defendant serves electricity. This request was granted.

The characteristics of electrical usage of the Complainants and the Intervenor, as revealed by exhibits and testimony, for comparative purposes, may be tabulated in the following manner:

Statistics of Electric Accounts
Complainants and Intervenor

	<u>Pomona Tile</u>	<u>Grant- Pacific</u>	<u>Union Feed</u>
Connected Load, hp	579	603.2	279
Load Factor Data 1944			
Highest Maximum Demand, kw	230	279	
Kilowatt Hours*	412,400	223,600	
Annual Load Factor	20.4%	9.1%	
Billing Data			
Consumption* (kwh), Power	403,200	202,600	264,960
Lights	98,640	1,334	3,352
Total	501,840	203,934	268,312
Revenue, Power	\$ 6,208.59	\$ 4,085.49	\$ 4,884.10
Lights	223.36	67.43	149.82
Total	\$ 6,431.95	\$ 4,152.92	\$ 5,033.92
Average Cost per Kwh	1.28¢	2.04¢	1.88¢

* Different annual periods used.

The two complainant plants are located in Zones B and C, and accordingly cannot qualify for the PCM-1 schedule as their connected loads, while over 500 hp, are materially under the 1,000 hp minimum as previously shown. Because of this situation Complainants are required to purchase their electric requirements under other and higher rate tariffs. In this respect the record shows

that for the period and load used Grant-Pacific Rock Company's bill is approxi-
mately 35.8% higher and Pomona Tile Manufacturing Company's bill, some 29.3%
more than each would have paid if the higher minimum on Schedule PCM-1 in
Zones B and C were reduced to the Zone A level or sufficiently to permit the
Complainants to qualify. This wide difference in connected load and minimum
charge requirements in the PCM-1 tariffs as between Zone A on the one hand and
Zones B and C on the other is the basis for Complainants' contention that it is
prejudicial to their interests and that the less restrictive minimum requirement
in Zone A gives users of Edison service in that area an unwarranted advantage
and preference over those in Zones B and C in violation of Section 19 of the
Public Utilities Act.

In reference to the rate differentials as between other tariff rates
in the three zones, the record shows; first, in respect to other power rates,
there are in general no differences, except in agriculture, wherein Zone C rates
are the lowest; second, there are fairly well defined and uniform differences as
between zones varying from a nominal amount up to possibly 8 or 10% in the
general services to domestic and commercial customers and in street lighting
services.

The defendant utility sharply challenged the positions and conten-
tions of Complainants. In this respect it put in extensive evidence covering
the fundamentals of rate design for the purpose of showing that the minimum
restrictions imposed on Schedule PCM-1 were proper means of screening out and
controlling those who may qualify in accordance with their use characteristics
and cost differences as between the zones in rendering the service. Challenge
was also made as to the pertinence and competence of much of Complainants'
testimony, and Defendant asked that the complaints be dismissed.

In a matter such as this we must act within the framework of the
statute. Here is a complaint limited to two protestants, and the defendant
utility has in excess of three-quarters of a million customers. The Public

Utilities Act, Section 60, provides in part that no complaint shall be entertained by the Commission involving the reasonableness of any rates or charges unless, among other requirements, not less than 25 consumers or purchasers of the service are parties to the complaint. No such proceeding is now before us, and Complainants admit that Section 13(a)⁽²⁾ may not be invoked, although it was on this very point that Defendant challenged Complainants' case, stating that to the extent a case had been made it went to the reasonableness of the charges, and hence was not a Section 19 action and should be dismissed.

The establishment and maintenance of zone rates are at best accomplished with some difficulty, and such rates and charges are necessarily predicated on many different factors recognizing average conditions.

Complainants have accepted the zoning as reasonable and are not contending that it should be altered. Likewise, there is no contention that the Defendant has in any way departed from the provisions of its filed tariffs. Their complaint points solely to the differences in the minimum requirements of the PCM-1 schedules in the three zones. The mere showing of a difference in rates, and especially in zone rates, does not in itself establish that such difference is an undue or unreasonable one. Further, it must be concluded that the record does not sufficiently establish a similarity of basic zone conditions to warrant the conclusion that the complained of rates are prejudicial to Complainants or result in an undue advantage to others within the meaning of Section 19. Accordingly, the complaints should be dismissed. While this unquestionably is the proper ruling under Section 19, yet, viewing the matter in its broader aspects, it appears from the showing made by both parties that a question is raised as to the reasonableness of the PCM-1 rates in the three zones within

(2) Sec. 13. (a) All charges made, demanded or received by any public utility, or by any two or more public utilities, for any product 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.

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the meaning of Section 13 of the Public Utilities Act. Under the circumstances, defendant utility should promptly review this rate situation and should it conclude that no change in the rates is justified the Commission will then consider the institution of a proceeding on its own motion to inquire into the reasonableness of the PCM-1 zone rates.

O R D E R

Public hearings having been held on the two complaints alleging undue preference and discrimination as to Defendant's filed rate tariffs PCM-1 as between Rate Zones A, B, and C, the matter having been submitted and the Commission being fully advised in the premises, and being of the opinion that the contentions raised by Complainants are inconclusive and that the evidence presented is insufficient to establish their claims under Section 19 of the Public Utilities Act, and good cause appearing, therefore,

IT IS HEREBY ORDERED that the complaints of Grant-Pacific Rock Company and Pomona Tile Manufacturing Company be, and they are hereby, dismissed without prejudice.

The effective date of this Order is twenty (20) days from the date hereof.

Dated at San Francisco, California, this 4th day of

January, 1946.

Harold Rudman
Justice F. Coe
Francis O. ...
Ernest ...
Harold ...
Commissioners.