

Decision No. 39509

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of CLYDE W. HENRY and PACIFIC GAS AND ELECTRIC COMPANY for an order of the Railroad Commission granting upon applicants all necessary permission and authority to consummate in accordance with its terms, an agreement of sale and purchase dated the 24th day of September, 1946 (Covelo Electric System).

Application No. 27896

Commission's investigation into sufficiency and quality of electric service, and the reasonableness of the rates, etc. of CLYDE W. HENRY (Klamath Water, Light and Power Company), etc.

Case No. 4804

CALIFORNIA FARM BUREAU FEDERATION, Complainant,
vs.

CLYDE W. HENRY (The Point Arena Electric Light and Power Co.) and PACIFIC GAS AND ELECTRIC COMPANY, Defendants.

Case No. 4805

RALPH W. DuVAL, for Pacific Gas and Electric Company.

CLYDE W. HENRY, in propria persona

J. J. DEVEL and EDSON ABEL, for California Farm Bureau Federation.

ROWELL, Commissioner:

O P I N I O N

In Application 27896, Pacific Gas and Electric Company seeks authority to purchase, and Clyde W. Henry to sell, the latter's electric generating and distribution system at Covelo, County of Mendocino. Cases 4804 and 4805 raise the question of the adequacy of the electric service rendered by Henry, not only at Covelo but also at Klamath and at Point Arena. The first case is an investigation instituted by the Commission, and the other is a complaint filed by California Farm Bureau praying that the Commission order Pacific Gas and Electric Company* to extend its electric service facilities into the Covelo area.

* This applicant will be referred to in this Opinion as "Pacific".

Hearings in the complaint matters relating to the Point Arena and Covelo operations were first held on December 12 and 13, 1945. At the same time evidence was taken on a joint application filed by Henry and Pacific for the sale of the Point Arena properties. That application was subsequently granted by Decision No. 38562 issued December 21, 1945. A further hearing was then had on October 3, 1946, relating solely to the Covelo operations. In that hearing Pacific advised that it had just completed negotiations with Henry for the purchase of the Covelo system and that there was then in preparation a joint application to obtain the Commission's approval of such acquisition. Upon the filing of that transfer application, it was heard and submitted on October 21, 1946, and it was then stipulated that the complaints, in so far as they related to the electric service at Covelo, might be held in suspense pending the Commission's determination of the transfer matter.

The town of Covelo is situated in Round Valley, about thirty miles northeast of Longvale on the Redwood Highway. The Valley comprises approximately twenty-five thousand acres of level and tillable lands. Although a plentiful underground water supply makes the area adaptable to irrigation, the existing electric service is insufficient to permit of a substantial use of power for the pumping of water or for other general power purposes. There are now about 260 customers, but their uses of electricity are limited mainly to lighting and to the operation of small motors and appliances. Henry has recently installed a second Diesel powered generating unit to improve the reliability of the service, but even with this added capacity his utility plant is inadequate to afford satisfactory service for existing customer needs and cannot satisfy the demands for power immediately anticipated.

Henry also owns and operates an electric generating and distribution system at Klamath, Del Norte County, as well as one at Gold Beach, Oregon. In addition, he has four domestic water systems in this state. Henry constructed the Covelo Electric System in 1925. In 1922 he began rendering electric service at Point Arena, and he acquired the Klamath properties in 1941. He testified that

the combined revenues received today from these various utility enterprises were about sufficient to meet the costs of operation, although losses had been incurred in earlier years. However, the Commission must take cognizance of the several pending complaints alleging the inadequacy of the service being rendered in some of these localities and of Henry's apparent inability to provide fully for the needed improvements and extensions to these properties.

It is evident that the public interest requires that steps be taken promptly to assure residents in the Covelo area of an ample supply of reliable power. It would be economically unsound to expand Henry's local generating facilities sufficiently to provide the power needed to meet the demands which reasonably may be anticipated in the near future. On the other hand, the construction of a transmission line to connect with Pacific's facilities near Longvale on the Redwood Highway would make possible the development of customers' power consumption to a degree which would fully justify the cost of constructing such a connecting line.

At the hearing first had in the complaint matters, Pacific indicated its willingness to purchase Henry's system at Covelo and then to proceed with the construction of line facilities to bring in central station power. However, the agreement of purchase and sale now before us provides for Pacific's purchase of not only the local system, but also a transmission line between Longvale and Covelo to be constructed by Henry himself. Pacific testified that it has been unable to consummate an agreement with Henry for the purchase of the Covelo system alone. The agreement executed by Pacific and Henry dated September 24, 1946, and attached to the application as Exhibit A, provides that construction of such transmission line shall begin at once upon demand of Pacific and that the work shall proceed according to a schedule which contemplates the completion of the work within six months thereafter. Pacific itself will secure the rights of way, and will aid Henry in procuring materials of a critical nature. The stated consideration covering both the existing electric system and the newly constructed transmission line is \$110,000, but from this total price Pacific will deduct any amounts it may be

compelled to expend to assure the completion of the line within the agreed time limit. Pacific declares its intention, should the Commission authorize it to carry out such agreement, to exercise all its rights thereunder to the end that the transmission line be constructed as expeditiously as possible and, upon its completion, to begin rendering service in Round Valley at the rates applicable to similar territory elsewhere on its system. Those rates are approximately one-half the rates presently applied by Henry.

The Commission concludes that the authority requested by the applicants should be granted. It is evident that were the Commission to make such an order as prayed for in the complaint of the Farm Bureau, directing Pacific to extend its service into Round Valley prior to its acquisition of Henry's local distribution system and operative rights, the resulting service competition and duplication of facilities would mean financial loss to each. The Farm Bureau now urges the Commission to permit the parties to carry out the sale agreement submitted. Henry testified that the performance of that part of the agreement permitting him to build the connecting line for Pacific's account would not detract from his ability to conduct any of his utility operations, as the line construction project will be independently financed and the work performed by special personnel. Henry will be expected to abide by this commitment, and the authorization here given to carry out the terms of the sale agreement should not be construed by him as permission to defer the making of any needed improvement in his other utility services.

Pacific introduced an exhibit to show the estimated original cost of Henry's electric properties, together with estimated accrued depreciation. However, because the agreed sale price covers the acquisition of both the existing properties and the additional line facilities yet to be constructed, no order can now be made with respect to the entries to be made upon Pacific's books of account. Therefore, in accordance with the directions contained in the Commission's Uniform System of Accounts, Pacific will be expected to submit for approval the book entries it proposes to make for the purpose of recording the entire transaction, and at that time a further hearing, if required, can be had upon that issue.

In view of the Farm Bureau's request that the Commission grant the transfer application, its complaint against Henry will be taken off calendar, and when the transfer is actually accomplished the complaint will be deemed satisfied and dismissed.

O R D E R

A public hearing having been held upon the above entitled joint application, No. 27896, of Clyde W. Henry and Pacific Gas and Electric Company, the matter considered, and the Commission being of the opinion that the public interest so requires,

IT IS HEREBY ORDERED as follows:

1. Clyde W. Henry is authorized to convey to Pacific Gas and Electric Company, all of the public utility properties and rights described in that certain agreement of purchase and sale executed on the 24th day of September, 1946, a copy of which is attached to the application herein as Exhibit A, and upon the conveyance of said properties to cease furnishing and supplying public utility electric service in and about the town of Covelo, County of Mendocino, California.
2. Pacific Gas and Electric Company is authorized to purchase and acquire from Clyde W. Henry said properties described in Exhibit A attached to the application, in accordance with the terms and conditions set forth in said agreement, and, upon acquisition of said properties and one day's notice, to cancel and withdraw the rates, rules and regulations on file by Clyde W. Henry and to file and make effective in lieu thereof its then effective system electric rates, rules and regulations applicable to comparable territory.
3. Pacific Gas and Electric Company shall file with the Commission, a copy of the written notice given to Clyde W. Henry as provided in paragraph 12 of the agreement attached to the application as Exhibit A, that the location of all poles for the transmission line has been determined and all rights of way been acquired. Pacific Gas and Electric Company also shall thereafter, at each two month

interval, file a report summarizing the construction progress made on the transmission line as set forth in the construction schedule contained in Section 18 of the instrument entitled "Specifications", attached as Exhibit 1 to the said agreement of purchase dated September 24, 1946.

IT IS FURTHER ORDERED that the ordering paragraph contained in the Commission's Decision 33946 rendered in Application 21744 on February 25, 1941, granting to Pacific Gas and Electric Company a certificate to exercise in part the rights and privileges of an electric franchise granted by the County of Mendocino, be deemed amended, effective as of the date Pacific Gas and Electric Company acquires said properties from Clyde W. Henry, by deleting the provision therein that such franchise shall not be exercised in those parts or portions of said County being served by Point Arena Electric Light and Power Company.

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

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

Dated at San Francisco, California, this 4th day of November, 1946.

Harold P. Huls
Justice J. C. Green
Frank W. Dewey
W. H. Powell
A. E. Johnson

Commissioners.