

Decision No. 53659**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 THE CALIFORNIA OREGON POWER COMPANY)
 for approval of agreement with)
 Klamath Basin Water Users Protective)
 Association.)

Application No. 37918

Brobeck, Phleger & Harrison by Robert N. Lowry and Malcolm T. Dungan for applicant.

California Farm Bureau Federation by J. J. Deuel, Bert Buzzini and Joseph Q. Joynt; California Klamath River Commission by Bert A. Phillips and Robert B. Bond; Herald & News, Klamath Falls, Oregon, by R. W. Hubbell for News Editor, Max Wauchope; interested parties.

Harold T. Sipe for the Commission's staff.

O P I N I O N

By the above-entitled application, filed April 11, 1956, The California Oregon Power Company requests an order of the Commission authorizing it to carry out the terms of an agreement with the Klamath Basin Water Users Protective Association, dated November 3, 1955, providing, among other things, for reduced agricultural off-project pumping rates. A copy of the agreement is attached to the application and is marked Exhibit "B".

Applicant states that its reason for entering into this contract was to eliminate objection to the new Link River Dam contract with the U. S. Bureau of Reclamation which provided for special rates to certain customers, referred to as on-project users, engaged in pumping of Klamath River water for irrigation and drainage at lands of the Bureau's Klamath River Project. Applicant holds that the Link River Dam contract is of vital importance to it and states that it is seeking approval thereof under

Application No. 37724. Commission approval had been given thereto by an ex parte order, Decision No. 52809, dated March 27, 1956, but when the Commission learned of the above-mentioned opposition a public hearing was scheduled to determine whether Decision No. 52809 should be revoked, altered or amended in any particular.

Public Hearing

After due notice a consolidated hearing was held upon the above-entitled application and Application No. 37724 before Examiner M. W. Edwards on May 8, 1956, at Dorris, California. Applicant presented 5 exhibits and testimony by eleven witnesses in support of its request. The California Farm Bureau Federation appeared not as a protestant but as an interested party in the proceeding for the purpose of assisting the Commission in determining the need for special agricultural pumping rates in Scott and Shasta Valleys and it presented testimony through three witnesses. The Commission staff, through an electrical engineer, took an active part in the proceeding and cross-examined witnesses for the purpose of fully developing in the record the relevant facts for the Commission to consider in deciding this matter. The matter was submitted for Commission decision at the close of the day's hearing.

The Contract

The contract provides a special "Area Rate" of 7.5 mills per kwhr for agricultural power pumping to all off-project areas in the Upper Klamath River Basin. This special rate is to apply only to motors of 10 hp size or greater. The minimum charges are to be the same as those now provided in Applicant's Schedule No. 20 for a period of five years and, after the fifth year of continuous use, the minimum charges shall be one half of the first five-year rate. This rate is to be considered as a new rate and is proposed to affect all off-project pumps in the Basin, whether already in use or newly installed.

Position of the Klamath Basin Water
Users Protective Association

One witness stated that the position of the Association is that project and off-project users are in essentially the same position both as users of water and as consumers of electricity, and that the non-project irrigators should be placed in a position comparable to that which the project users would have under the Link River Dam contract. Moreover, by agreeing that return flows from off-project lands would be returned to the Klamath River above Keno, they were also agreeing to make available additional amounts of water in the river at points where it could be used for generation of electricity. He also stated that their usage of water, like that of reclamation project irrigation, takes place at times when annual system peak loads do not occur.

Rate Levels

This contract is designed to give some rate relief to those water users in the Upper Klamath River Basin who would not be eligible for the rate of 6 mills per kwhr under the renewed contract with the United States Bureau of Reclamation. It would reduce the disparity in rates between the on-project customers and off-project users who now take energy under Schedule No. 20. The parties agreed that the off-project users were not entitled to as low a rate as that under the Bureau contract because of the direct benefits received by the applicant under the contract.

The witnesses for the Farm Bureau pointed out the need for special agricultural rates in Scott and Shasta valleys. The Commission is aware of this need and at the same time recognizes the difference in the areas in that the drainage and return flows from Scott and Shasta Valleys return to the Klamath River below the hydro plants.

Revenue Effects

Applicant's Exhibit No. 2 shows that customers in the Upper Klamath River Basin on Schedule No. 20 in 1955 used 5,406,263 kwhr at a billing of \$78,335.80. Under the proposed contract the revenue would have been \$55,546.20 at rates proposed during the first five years and \$43,516.08 at rates proposed after five years.

The Commission has had considerable experience in designing and developing agricultural power rates on other utility systems operating in northern, central and southern California. The requests of California farmers generally for special rate treatment and for agricultural rates to meet competition, and the requirements of government agencies, have been considered over the period of the last twenty-five years or so by the Commission. The situation in the upper Klamath basin and in other parts of applicant's area appear now to be developing along lines experienced in the past in central California. The Commission has considered the level of Schedule No. 20 and has compared it with Schedule PA-1 of the Pacific Gas and Electric Company. Under Schedule PA-1 these customers would have been billed \$90,037.60. This computed billing is \$11,701.80 or 15 per cent greater than under Schedule No. 20.

Cost of Service

Applicant states that its approximate cost of energy is 4.54 mills per kwhr for production and 1.65 mills per kwhr for transmission. It did not indicate the added cost to distribute the energy or the customer costs, but stated that the proposed rate is 25 per cent more than the production and transmission cost and to that extent would contribute to other costs and other items allocable to that service. Applicant stated that a lowered pumping rate is believed to be justified to promote development of the area.

This production cost appears somewhat low and it is questionable whether it contains a full allocation of taxes and general and administrative expenses. Our analysis of applicant's 1955 annual

report indicates a unit production cost of 5.4 mills per kwhr sold, assuming a 6.0 per cent rate of return, and a transmission and distribution cost of 1.10 cents per kwhr. This total indicated cost of 1.64 cents per kwhr sold from applicant's distribution system is approximately 2 mills per kwhr higher than the average of 1.45 cents paid last year by these Schedule No. 20 customers.

Similar rough computations on the Pacific Gas and Electric Company for 1955 indicate a production cost of 8.5 mills per kwhr sold, a transmission and distribution cost of 1.04 cents per kwhr or a total unit cost of 1.89 cents per kwhr for delivery from the distribution system. These comparative cost statistics indicate that Pacific's production cost is about 57 per cent higher and delivered energy cost is about 15.2 per cent higher than applicant's.

Discussion

Based on this comparison it is apparent that from a cost standpoint agricultural power customers on Schedule No. 20 of the applicant are being treated as fairly as those on Schedule PA-1 of the Pacific Gas and Electric Company. In view of the Commission's familiarity with the position of the agricultural customers on the Pacific Gas and Electric System a logical conclusion is that the present level of Schedule No. 20 is reasonable for this class of service. Furthermore, a large portion of the agricultural development in California has taken place under rates which currently are some 15 per cent higher than applicant's.

While the contention is made that lower rates would help promote development of the area, the Commission has the duty to see that the agricultural rates do not burden the other classes of customers. In the Commission's opinion a flat rate as low as 7½ mills per kwhr for this agricultural power would burden the other classes and the present level of Schedule No. 20 should permit reasonable development of the area. While many organizations through witnesses placed statements in the record urging the Commission to grant the

lower rates; none were particularly concerned with this question of burden or considered the over-all economic effect of their action.

One principal disadvantage of a uniform rate per kwhr is that it normally undercharges the low-load factor type of customer, unless there is a high protective minimum charge. Another disadvantage of the uniform rate is that it may overcharge the high-load factor customer. Under the proposed contract rates the minimum charges vary from \$14.40 per hp per calendar year down to \$5.40 depending on size of motor and number of years of service. In Schedule No. 20 the rates are of blocked form designed to eliminate these disadvantages and provide more equitable charges as between high-and low-load factor customers.

Exhibit No. 2 indicates a load factor of operation of about 18 per cent on the average for these Schedule No. 20 customers. The Commission is of the opinion that this load factor is generally on the low side. These customers could earn lower rates by improving their load factors with smaller pumps and irrigation ponds.

Apparently the parties anticipate a term for this contract of 39 years equivalent to the term of the Reclamation Bureau contract. Such term is undesirably long and seldom does the Commission approve contracts with terms in excess of five years. Furthermore the contract does not contain a clause as provided by Section X(A) of the Commission's General Order No. 96 stating that it shall at all times be subject to Commission jurisdiction.

Conclusion

This contract would result in creation of a rate disparity, which does not presently exist, between users in the Upper Klamath River Basin and users in other parts of the utility's system such as in Scott and Shasta Valleys. Such rate disparity would result in unreasonable discrimination. After considering the deficiencies in the contract with respect to a reasonable term and the low level of the proposed rate compared to the apparent full cost to render the

service, the Commission concludes that the application should be denied.

O R D E R

Public hearing having been held on the above-entitled application, the matter having been submitted and it being the opinion of the Commission that approval of the agreement with Klamath Basin Water Users Protective Association should be denied, therefore,

IT IS HEREBY ORDERED that the application of The California Oregon Power Company for an order of the Commission authorizing it to carry out the terms of an agreement with the Klamath Basin Water Users Protective Association, dated November 3, 1955, be and it is denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at Los Angeles, California, this 29th day of August, 1956.

[Signature]

 President

Justin Z. Calver

Ray L. Lintner

[Signature]

R. Hardy

 Commissioners