

**ORIGINAL**

Decision No. 55123

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CALIFORNIA ELECTRIC POWER COMPANY,  
Plaintiff,

vs.

SOUTHERN CALIFORNIA EDISON COMPANY,  
Respondent.

Case No. 5815

Investigation on the Commission's own  
Motion into the Operations, Operating  
Authority, Service and Service Areas  
of CALIFORNIA ELECTRIC POWER COMPANY  
and SOUTHERN CALIFORNIA EDISON COMPANY  
in the County of Riverside.

Case No. 5898

McCutchen, Thomas, Matthew, Griffiths & Green, attorneys,  
by Gerald H. Trautman, Henry W. Coil and Donald J. Carman, for California Electric Power Company.

Bruce Renwick, Harry W. Sturges, Jr., and Rollin E. Woodbury, for Southern California Edison Company.

Leonard S. Patterson for the Public Utilities Commission staff.

O P I N I O N

By Decision No. 54516 this Commission entered an interim opinion in Case No. 5815 wherein a motion to dismiss the complaint made by the defendant Southern California Edison Company was denied. On the same date as Decision No. 54516, February 11, 1957, this Commission issued its order of investigation in Case No. 5898. The complaint filed in Case No. 5815 by California Electric Power Company concerns the question as to whether or not the Southern

California Edison Company should be ordered to cease and desist from soliciting or offering to serve the Kaiser mine in the vicinity of Eagle Mountain. The order of investigation in Case No. 5898 was issued to permit a more complete inquiry into the matter and specifically:

- "(a) To determine the present operating authority and the extent thereof of each of said respondents in said county, and whether or not any of such operating authority should be modified or amended;
- (b) To determine the conflicts of operating authority if any, which may exist between said respondents in said county;
- (c) To determine the kind, character, quality, reasonableness and adequacy of service of each of said respondents furnished in said county;
- (d) To prescribe and fix the areas within said county to be hereafter served by respondents, should the evidence warrant such prescription; and
- (e) To make any further investigation or inquiry or issue any further order or orders which, lawfully, may be made or issued in the proceeding herein."

A further hearing was held on March 20, 1957, in Los Angeles, before Commissioner Ray E. Untereiner and Examiner Grant E. Syphers. The record and evidence previously adduced in Case No. 5815 was incorporated in the proceedings, additional evidence was adduced and the matter submitted subject to the filing of briefs by the parties. These briefs now have been filed and the matter is ready for decision.

In the original hearing on January 24, 1957, the direct case of the complainant was presented and an analysis thereof was contained in Decision No. 54516, supra. At the hearing on March 20, 1957, the case of the Southern California Edison Company was presented.

Exhibit No. 6 is a map presented by the complainant in the first hearing in this matter and, according to that party's testimony, purports to show a division of the territory of Riverside County between the two companies. It was the testimony of a witness for defendant, who was the official who had signed that map for the Southern California Edison Company, that the document was not intended to divide the territory of the county but only that territory shown thereon. The territory shown on the map is the northwest portion of Riverside County. Accordingly it was the position of the defendant that there is not now nor has there ever been any agreement between the parties as to the division between the balance of territory in Riverside County.

Exhibit No. 39, introduced in evidence by the defendant, shows the existing power line of Southern California Edison Company. This line has a rating of 230 kv and runs for 133 miles from the Edison substation at Highgrove near San Bernardino to Hayfield where it connects with facilities of the Metropolitan Water District. Power presently being furnished to the Kaiser mine in Eagle Mountain has been furnished California Electric Power Company by Southern California Edison Company through Metropolitan Water District facilities.

The defendant company testified that while the amount of electricity available from the Metropolitan Water District connection has decreased, there are other sources of electricity

available to Southern California Edison Company which could be used to furnish power to the Kaiser substation.

In the opinion of defendant's witnesses the California Electric Power Company cannot now furnish electricity through its own facilities to the Kaiser mine. Accordingly it was the position of the defendant that the Southern California Edison Company should now directly serve the Kaiser mine rather than to sell electricity to the complainant. The construction of the additional facilities proposed by complainant, in the opinion of defendant's witnesses, would prove to be uneconomical and would result in unnecessary duplication of facilities.

Nothing in the evidence or arguments of Southern California Edison Company weakens materially the case of California Electric Power Company as presented at the January 24, 1957, hearing. In the dispute as to the meaning and intent of the map, Exhibit No. 6, purporting to divide the territory in question, the testimony of California Electric that it was intended to cover all of Riverside County is more convincing than that of Edison that it was limited to the area depicted on the map. Edison's practice of referring prospective customers in the area to California Electric on the ground that it was the latter's territory supports this conclusion. It appears clear that Edison did not, prior to 1956, hold itself out as offering service in the area. California Electric did. We conclude that the equities in the situation, so far as service to the Eagle Mountain Mine and Desert Center are concerned, are clearly on the side of California Electric.

A consideration of all of the evidence adduced in this matter now leads us to reaffirm our findings in Decision No. 54516, supra,:

(1) Each party has a certificate of public convenience and necessity which grants it authority to exercise a franchise covering all of Riverside County subject to the restrictions set out therein.

(2) As a matter of law, the authority of a utility may be changed or altered by this Commission should it be necessary to do so in the public interest.

(3) A private agreement between the parties cannot alter their obligations as public utilities nor can any such agreement affect the power of this Commission to make appropriate orders in the public interest.

In addition, we further find upon this record that it would be in the public interest to permit the California Electric Power Company to construct its proposed facilities to provide service to the Kaiser substation and to the proposed Desert Center substation. Inasmuch as the evidence in this proceeding indicates that a successful operation of these facilities might depend upon the development of additional patronage, the California Electric Power Company will be granted an area 10 miles on either side of the line to be constructed between Blythe and its terminus at the Desert Center substation and the Kaiser substation. Pending the construction of this line, the Southern California Edison Company will be directed to continue furnishing electricity to complainant for the use of the Kaiser mine.

These proceedings raise a broader issue as to a complete division of territory in Riverside County between the two companies. While this may eventually be desirable, the record as

it stands does not justify an order designed to accomplish it. Much of the territory in dispute is in no present need of service; and neither company has, nor will have when construction presently planned is completed, facilities that can economically serve such territory. The public interest does not, therefore, require that we divide the territory at this time, either on a basis previously agreed upon by the parties or on some different basis found by us to be fair and reasonable. Except as to the area herein granted exclusively to California Electric, we shall order that neither company shall install any new facilities in the disputed territory without prior approval by this Commission. Should the two companies reach an equitable and mutually satisfactory agreement for division of the territory, they may apply to this Commission for its approval. Failing that, we shall pass upon each application for authority to construct new facilities, by either company, on its merits as the need for service develops.

It is clear from the record herein, however, that there is some overlapping of facilities and service of the two companies not only in Riverside County but also in San Bernardino County. The companies have, until the present instance, avoided conflict, but in the light of recent developments the situation is one which may have to be resolved. We do not intend to permit needless and destructive competition to develop to a point where the public might suffer.

Accordingly we believe the parties hereto should make a serious attempt to negotiate some workable arrangement for dividing their territory wherever disputes are likely to arise. In this

matter the Commission prefers not to order a division of territory so long as a reasonable possibility exists that the parties may voluntarily reach an equitable agreement.

Until some satisfactory over-all agreement is approved by the Commission we intend to require each party to secure specific authorization before installing any new facilities in the central portion of Riverside County.

O R D E R

A complaint and answer thereto as above entitled having been filed, an interim order having been issued by this Commission in Decision No. 54516, dated February 11, 1957, in Case No. 5815, an order of investigation having been issued by this Commission in Case No. 5898, public hearings having been held thereon, the matters having been submitted and the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED:

1. That the California Electric Power Company may continue construction of an electric transmission line and appurtenant facilities between the United States Bureau of Reclamation Substation at Blythe, on the one hand, and on the other hand, the Kaiser Substation and a proposed Desert Center Substation as described in the exhibits and testimony contained in this proceeding.

2. That the territory within ten miles of either side of such line constructed by the California Electric Power Company shall be reserved for service by that company, and the Southern California Edison Company shall not directly provide service therein.

3. That pending the construction and operation of this line the Southern California Edison Company is directed to continue furnishing electric service to the complainant California Electric Power Company upon the same terms and conditions as such service has been furnished in the past.

4. That until further order of this Commission neither party shall construct any additional new facilities other than those authorized herein in that portion of Riverside County between the easterly boundary of Range 6 E and the westerly boundary of Range 20 E S.B.B. & M. without securing the prior approval of this Commission.

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

Dated at San Francisco, California, this 11<sup>th</sup> day of JUNE, 1957.

[Signature] President  
[Signature]  
[Signature]  
[Signature]

Commissioners

Commissioner [Ms. Lyn Fox], being necessarily absent, did not participate in the disposition of this proceeding.