

**ORIGINAL**Decision No. 56242

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and )  
 Investigation of the Commission's own )  
 motion of Proposed Schedules A-40, ) Case No. 6011  
 A-41 and D-40 filed by Pacific Gas )  
 and Electric Company. )

F. T. Searls and G. L. Harrick for Pacific  
 Gas and Electric Company, respondent;  
Robert W. Beardslee for the Commission staff;  
Daniel S. Carlton for Shasta Dam Area Public  
 Utility District, interested party;  
Jack Halpin for Jack and Sydney Halpin,  
 interested parties.

OPINION AND ORDER

Pacific Gas and Electric Company, on October 24, 1957, filed by Advice Letter certain electric schedules and a proposed Special Rate Area description by which the rates and charges for General Service, General Power Service and Domestic Service within the proposed Shasta Dam Rate Area would be less than those effective on the balance of the company's system but equivalent to those levied by the Shasta Dam Area Public Utility District, its competitor in such area. Following receipt of a request from the Shasta Dam Area Public Utility District that the proposed rates of the company not be authorized without a public hearing, the Commission, on November 19, 1957, issued an order of investigation, on the Commission's own motion, and suspended the effective date of the tariff sheets pending an investigation into the propriety and reasonableness of the proposed tariffs and hearing and decision thereon. The proposed schedules were suspended until February 21, 1958, the nineteenth day after the date such tariff sheets would become effective if not suspended.

After due notice to known interested parties and to the public, public hearing in the matter was held before Examiner F. Everett Emerson on December 11, 1957, at Redding. The matter was submitted, after the receipt of evidence and oral argument, on the same date.

The position of respondent is essentially that it has a substantial investment in electric distribution facilities in the area, that the Shasta Dam Area Public Utility District has constructed and is now engaged in constructing a distribution system which duplicates to a large extent the system of respondent located within the boundaries of the District, that the District has been and is presently soliciting customers of respondent, that the rates and charges of the District are lesser rates and charges than those which respondent is presently authorized to apply within the area, and that unless respondent is allowed to place into effect rates substantially identical with those offered by the District, it will be in no position to meet the District's competition and will thus find its investment in the area virtually destroyed.

Further, respondent states that "in accordance with the method followed in prior Commission decisions the Company will, for rate making purposes and for earnings studies furnished to the Commission, compute revenues from service in Shasta Dam Rate Area as though system rates were in effect."

The position of the District, as stated by its Counsel, is essentially that the District is interested in the respondent's proposal not for the purpose of avoiding or objecting to any lowering of rates but to determine what is respondent's real cost and where the cost is going with the projected rate policy, that

respondent's proposed rates are within the province of the law and that the record show whether the proposed rates are at cost, below cost or above cost.

The position of Mr. Halpin is essentially that he, as a customer of respondent residing without the boundaries of the special rate area proposed, will be discriminated against if respondent does not lower rates in his area as well as in the proposed special rate area. He also claims that there is now no provision in law which would permit special or preferential rate treatment in order to meet competition in the field of public utility operations.

The Central Valley Citizens Committee, Incorporated, through its chairman as a witness, presented a petition signed by approximately 300 persons approving and endorsing the rate reduction proposed by respondent, opposing the action of the officials of the District in protesting to the Commission, and urging the Commission to proceed with all possible speed to permit the rate reduction to take effect.

The testimony presented in this proceeding is almost wholly that of a rate engineer of respondent who introduced three exhibits. Full and unrestricted opportunity was accorded all parties to cross-examine this witness and his cross-examination was extensive.

Exhibits Nos. 1 and 2, respectively, set forth the rate schedules of the District and the proposed tariffs of respondent. In all essentials, the two sets of rate schedules are identical.

Exhibit No. 3 sets forth "costs which could be avoided by discontinuing service to the Shasta Dam Rate Area". Such so-called "avoidable" costs are estimates of the incremental operating costs of serving the area based upon the premise that if the

respondent did not provide service in the area these costs would, in effect, be savings. Such estimated operating costs when compared to the estimated revenues which respondent's proposed tariffs would produce in the area, leave an indicated excess of revenues over costs of \$15,100, according to the witness. This relationship is summarized as follows:

Facilities Costs	\$ 36,300.
Incremental Fuel Costs	50,500.
Capacity Costs	<u>50,300.</u>
Total Avoidable Costs, annually	137,100.
Gross Annual Revenue	152,200.
Excess of Revenue over Cost	15,100.

The facilities costs, except for ad valorem taxes on the physical plant in the area, are allocations of total system costs.

The incremental cost of fuel is calculated on the basis of 4.179 mills per kilowatt hour for the amount of energy used in the area during the year 1956, the latest full year for which data were available. The capacity cost, which also includes allocated amounts for ad valorem taxes and taxes on income, is based upon an average cost of \$1.50 per kw per month for the 33,550 Kw Mo attributable to the area. The gross revenue estimate is a repricing at proposed rates of the energy usage of the average of 1,384 customers respondent served in the area during the year 1956. Under rates presently in effect such usage would produce approximately \$210,000 in gross annual revenue.

The original cost of respondent's facilities in the area is reported to be approximately \$383,000. The depreciated cost of such facilities was approximately \$330,000 in 1956, the average annual accrual being approximately \$9,000 on the two per cent sinking fund method of accounting for depreciation. In deriving the

estimate of incremental costs, the witness did not include this latter amount, on the premise that depreciation is not an avoidable cost on plant already in service. In view of the evidence we find that the amount of gross revenue will be more than sufficient to meet the expenses of operating respondent's system in the proposed special rate area.

In our opinion, respondent has the legal right to reduce its rates in order to meet in good faith the competitive rates being offered by the Shasta Dam Area Public Utility District, arguments of certain counsel to the contrary notwithstanding. There is ample precedent for such action, both in this Commission's prior determination and in those of other states. The long and unbroken line of legal authority and precedent in such respect overwhelmingly sustains the right of a utility to meet in good faith a competitive rate without rendering itself subject to a charge of unlawful locality discrimination. Merely for the purpose of maintaining all of a particular class of customers on an exact parity, this Commission should not compel a utility to charge rates which will annihilate its service in competitive territory.

The Commission finds as facts that (1) respondent's proposed special rate area and the tariffs proposed for electric service rendered therein are not adverse to the public interest (2) are justified and (3) should be authorized. In the event that respondent's gross revenues under the existing and anticipated competitive conditions do not meet costs of operation (including a reasonable return), any loss which may thus be incurred shall not be a charge upon or place any burden upon other customers of respondent outside of the special rate area. Respondent has so stipulated and such end

result will be accomplished, in future electric rate proceedings, by respondent's including in its over-all presentations of gross electric revenues, revenues equivalent to those which would be produced in such area if system-wide rate schedules were applied thereto.

O R D E R

The Commission having on its own motion suspended the effective date of Tariff Sheets Nos. 2838-E to 2846-E, inclusive, filed by Pacific Gas and Electric Company, under Advice No. 157-E on October 24, 1957, which sheets include new Schedules A-40, General Service; A-41, General Power Service; and D-40, Domestic Service; and having on its own motion instituted an investigation into the propriety and reasonableness of said schedules; a public hearing having been held; the matter having been submitted and the Commission having found that said schedules are justified, therefore,

IT IS ORDERED that the suspension of Schedules A-40, A-41, and D-40 filed by Pacific Gas and Electric Company on October 24, 1957, be and hereby is removed, and Pacific Gas and Electric Company is authorized to place such schedules of rates into effect as of November 23, 1957.

IT IS FURTHER ORDERED that applicant shall in future electric rate proceedings compute its gross electric revenues as

though system-wide rate schedules were applied in the Shasta Dam Rate Area.

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

Dated at San Francisco, California, this 18<sup>th</sup> day of February, 1958.

[Signature]  
 President

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 Commissioners