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ORIGINAL

Decision No. 79980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RICHARD L. YOUNG,
Complainant,
vs.

SOUTHERN CALIFORNIA EDISON CO., a
Corporation, UNION OIL COMPANY, a
Corporation, and SHELL OIL COMPANY,
a Corporation,
Defendants.

Case No. 9252
(Filed July 28, 1971)

R. L. Young, for himself, complainant.
E. Clinton Tinker, Attorney at Law, for Southern
California Edison Company; Edward Stevens,
Attorney at Law, for Shell Oil Company; and
George G. Grover, Attorney at Law, for Union
Oil Company of California, defendants.

OPINION AND ORDER

On July 28, 1971, complainant filed the above matter. The gist of the complaint is that defendants are supplying electric service to his competitors on a selective arrangement and that such arrangements put him at a competitive disadvantage. He requests that either defendants Shell Oil Company (Shell Oil) and Union Oil Company (Union Oil) be prohibited from furnishing power from their lines or that they supply power to all who make request for such power on an equal opportunity arrangement.

Public hearing was held in Los Angeles on December 9, 1971 before Examiner Gillanders and the matter submitted on February 17, 1972 upon the receipt of the hearing transcript.

Position of Defendant Union Oil Company

According to Union Oil, it did not dedicate its property to public use when it provided electric service without compensation

to a radio station; such giving of electric service was unauthorized by the corporation; and the service has been terminated since the filing of the complaint. Union Oil moved that the complaint be dismissed.

Position of Defendant Shell Oil Company

According to Shell Oil, it is not subject to the jurisdiction of this Public Utilities Commission, inasmuch as Shell Oil is not and never has been a public utility within the meaning of the Public Utilities Act of the State of California; that the Public Utilities Commission has no jurisdiction over the subject matter of such complaint; and that the Public Utilities Commission lacks jurisdiction to make the order which the complainant requests against Shell Oil herein. For the above reasons, Shell Oil moved that the complaint be dismissed.

Position of Defendant Southern California Edison Company

Southern California Edison Company (Edison) believes that the arrangements under which it is providing service by virtue of the use of third parties facilities is in the public interest and should be continued. Edison moved that the complaint be dismissed.

Service by Union Oil Company

According to Union Oil's Area Superintendent in charge of on-shore operations from Ventura north to Saugus he had no knowledge of an electrical connection from Union Oil's electric distribution system on West Mountain to a radio station owned by a Mr. Howard located on West Mountain on the Richardson property until Complaint No. 9252 was filed. Upon receipt of a copy of the complaint, he investigated and found that there was a connection from Union Oil's pole line to a building which had upon it a meter box. There was no meter and the meter wires were disconnected. His investigation showed that the connection was permitted by a former^{1/} production foreman in the area named Stevens. Mr. Stevens understood that an

^{1/} Mr. Stevens was killed in an automobile accident in August 1971.

application for use of the service would go through normal channels and he dropped it at that time. A search of Union Oil's files showed no application. He notified his supervisors and upon orders from Union Oil's management the connection was terminated by the local foreman.

A section supervisor employed by Union Oil's joint venture accounting group testified that if there had ever been any payment billed or received for the service on West Mountain it would have been in Union Oil's records. He reviewed Union Oil's records from the present time back through 1963 and found no record of any payment nor did he find any record of any billing for the service on West Mountain.

Service by Shell Oil Company

According to Shell Oil's Superintendent for Operations for the area which includes the South Mountain area near Santa Paula, Shell Oil has a memorandum agreement with the General Electric Company dated June 12, 1968 (Exhibit 5) in which Shell Oil essentially agreed to allow General Electric Company to proceed with obtaining power from Edison and to use Shell Oil's private electrical lines to obtain this power from Edison. Shell Oil also has a letter agreement with Edison dated June 17, 1968 (Exhibit 4) which in essence gives Edison permission to supply General Electric Company with electrical power and to tie on to Shell Oil's electrical lines for this purpose.

General Electric Company agreed to pay Shell Oil \$100.00 for each year the agreement (Exhibit 5) remains in effect.

Exhibit 3 shows that Edison bills Shell Oil only for net power consumed by Shell Oil in its operations on top of South Mountain. Edison bills General Electric Company separately for the power it takes from Shell Oil's lines.

Service by Southern California Edison Company

Exhibit 1, introduced by a witness for Edison, is a copy of an "Absolving Service Agreement" between it and General Electric Company.

Edison agrees that the evidence presented by Shell Oil is true and correct and represents how and where service is rendered to General Electric Company.

Discussion

Service by Union Oil Company

It is quite clear from the record that Union Oil had no knowledge of the arrangement permitted by its field foreman and, upon learning of the service, management ordered it discontinued. It is equally clear that Union Oil did nothing toward dedicating any of its property to public use; and certainly it is clear that Union Oil had no intention to unequivocally dedicate its property to public use. It is clear also that Union Oil never received compensation for the time the unauthorized service was in use. Union Oil's motion for dismissal should be granted.

Service by Shell Oil Company

According to a witness for Shell Oil it entered into the agreement with General Electric Company purely as an accommodation to the owner of the property which Shell Oil leases for an oil field.

The owner of the property had a parcel of land which Shell Oil did not need for its oil operations, thus the owner had an opportunity to lease the land for a radio site. (Apparently land for a radio site is more valuable if electric power is already available at the site.)

According to the witness' testimony, Shell Oil's policy is as follows:

"We are very concerned that we do not at any time be considered as a public utility or that we are furnishing the public with services and this is one reason where if we are approached and a property owner sends somebody to us to find out if there is excess capacity we will tell them, after a study, that we would let them know, but primarily we are not in a position to give them electrical service. This is the public utility, Edison Company's job and we will work with them towards this and with our property owner, tell him if there is any service, that would have to come off of Edison Company."

While not clearly stated in the record it is easily discernable from the record that whether or not Shell Oil is interested in allowing use of its facilities depends upon who or what the entity is that desires such service.

We suggest to Shell Oil that if it sincerely desires not to be a public utility it leave the supplying of electric service entirely to the electric utility authorized to supply the area in question. On the basis of this record, we will not find Shell Oil to be a public utility.

Service by Southern California Edison Company

The Absolving Service Agreement (Exhibit 1) between Edison and General Electric Company contains the standard clause respecting this Commission's jurisdiction. We will not change or modify this agreement. However, we place Edison on notice that an agreement of this type could contravene its filed main extension rule. Before consummating any future agreements similar to Exhibit 1, such agreements must be forwarded to the Commission for review.

Findings of Fact

The Commission finds that:

1. An employee of Union Oil allowed an unauthorized electric connection from Union Oil's electric lines.
2. Upon discovery of such connection Union Oil ordered the service terminated.
3. The service was and is terminated.
4. Shell Oil has allowed Edison to make a connection with and install a meter on Shell Oil's private oil field facilities at South Mountain for the purpose of permitting Edison to furnish electrical power to an automatic communication installation belonging to General Electric Company. Payment received by Shell Oil is the fixed charge of \$100 per year allegedly to compensate Shell Oil for the additional wear and tear on its roads and other facilities thereby caused by the increased use thereof.

Conclusions of Law

The Commission concludes that:

1. This record shows that Union Oil Company has not dedicated its electric facilities on West Mountain to public use.
2. This record shows no unequivocal intention by Shell Oil Company to dedicate or devote its electrical facilities on South Mountain to public use.
3. Before Southern California Edison Company enters into future agreements similar to Exhibit 1, prior approval must be obtained from this Commission.
4. The complaint in Case No. 9252 should be denied.

IT IS HEREBY ORDERED that:

1. The complaint in Case No. 9252 is denied.
2. Southern California Edison Company shall, before consummating any agreement similar to Exhibit 1 in this proceeding, obtain prior approval from this Commission.

Dated at San Francisco, California, this 25th
day of APRIL, 1972.

William J. Sullivan Chairman
Thomas P. ...
Vernon L. Sturgeon
... Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.