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Decision 91-06-003 June 5, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Norbert E. Rupp, Bill R. Jobe, and
Gregory McManus,)

Complainants,)

vs.)

Kirkwood Associates, Inc., a
California Corporation,)

Defendant.)

ORIGINAL

Case 90-07-056
(Filed August 27, 1990)

O P I N I O N

This is a complaint by Norbert E. Rupp, Bill R. Jobe, and Gregory K. McManus (complainants) against Kirkwood Associates, Inc. (defendant). The complaint alleges that defendant is operating as an electrical corporation without authority from or regulation by the Commission.

Defendant filed an answer to the complaint which, in part, admitted that:

"With regard to Allegation II [of the complaint], defendant admits that:

"(c) it operates an electrical generation, transmission and distribution system to provide electrical services to its own business and properties and to residents of the community because there is no other electrical service available,

"(d) to the best of defendant's knowledge and belief, the Public Utilities Commission of the State of California has not at any prior time, nor at present, taken jurisdiction over Defendant's electrical system operation."

The Commission's Division of Ratepayer Advocates (DRA) and the Commission's Advisory and Compliance Division (CACD) had notice of the filing of the complaint. Neither DRA nor CACD requested a hearing in this matter or filed an advice of participation.

The Commission makes the following Findings and Conclusions.

Findings of Fact

1. In the light of the admissions contained in the answer and Exhibit 1, a public hearing is not necessary in this matter.
2. Defendant is a California corporation located in Kirkwood, California. Its officers are: Michael Berry, President and Vern Bothwell, Secretary.
3. Defendant is the operator of a recreational resort, developer of land for residential and occupancy purposes, and the operator of an electrical generation, transmission, and distribution system. It provides electric service to approximately 300 homes in Kirkwood.
4. Defendant has never received operating authority from the Commission. It has no tariffs on file with the Commission.
5. Neither Pacific Gas and Electric Company (PG&E) nor Sierra Pacific Power Company (Sierra Pacific) provides electric service in the Kirkwood area. It would not be economically feasible for persons living in the Kirkwood area to obtain electric service from PG&E or Sierra Pacific.
6. It is reasonable to require defendant to separate its public utility operations from its other business operations by causing the formation of a subsidiary corporation to acquire and operate the electric system.
7. Because this proceeding involves the public interest, the ensuing order should be made effective on the date of issuance.

Conclusions of Law

1. Defendant is an electrical corporation as defined in § 218 of the Public Utilities (PU) Code.
2. Defendant is a public utility as defined in PU Code § 216.
3. The Commission has jurisdiction over defendant as a public utility and it should be ordered to file the requisite tariffs and system map and be required to conform to applicable statutes and rules and regulations of the Commission.
4. Defendant should be ordered to form a subsidiary corporation within 60 days to acquire the assets of and operate the electric system.
5. The Commission should retain continuing jurisdiction over this matter.

ORDER

IT IS ORDERED that:

1. Kirkwood Associates, Inc. (defendant) is declared to be an electrical corporation as defined in Public Utilities Code § 218 and subject to the jurisdiction of the Commission.
2. Within 60 days after the effective date of this order, defendant shall cause a subsidiary corporation to be formed and transfer all of the assets and operation of the electric plant which it owns to the subsidiary corporation. The subsidiary corporation shall maintain its books in accordance with the uniform system of accounts as required by D.36665 in C.4230, dated October 19, 1943, as modified.
3. Within 30 days after its formation, the subsidiary corporation provided for in Ordering Paragraph 2 shall file:
 - a. A schedule of rates together with rules and a tariff service area map acceptable to this Commission and in accordance with the requirements of General Order 96. Such rates, rules, and tariff service area map shall become effective upon ten days' notice to this Commission and to the public after filing as hereinabove provided.

- b. Four copies of a comprehensive map, drawn to an indicated scale not smaller than 400 feet to the inch, delineating by appropriate markings the territory served; the principal electric production and distribution facilities; and the location of the various electric system properties transferred to it by defendant.

4. Defendant and the subsidiary corporation provided for in Ordering Paragraph 2 shall determine the accruals for depreciation by dividing the original cost of the utility plant less estimated future net salvage less depreciation reserve by the estimated remaining life of the plant. The subsidiary corporation shall review the accruals as of January 1st of the year following the date service is first rendered to the public under the rates and rules authorized herein and thereafter when major changes in utility plant composition occur and at intervals of not more than five years. Results of these reviews shall be submitted to this Commission.

5. The subsidiary corporation provided for in Ordering Paragraph 2 is assigned the corporate identification number of U-906-E. The number shall appear in the caption of all original pleadings and in the title of pleadings filed in existing cases with this Commission.

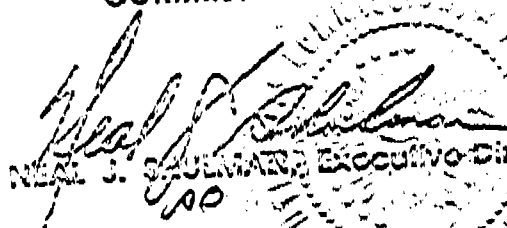
6. The Commission retains continuing jurisdiction over this matter.

This order is effective today.

Dated June 5, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SHUMWAY, Executive Director
