

Opinion No. 19-2323

July 8, 1919

BY: HARRY S. BOWMAN, Assistant Attorney General

TO: State Corporation Commission, Santa Fe, New Mexico.

Jurisdiction of Corporation Commission to Compel Electric Light Plant to Render Service.

OPINION

We have your oral request accompanied by the complete file of correspondence in the matter of the Pecos Valley Gas and Electric Company for an opinion regarding the procedure to be adopted by the Commission in the matter of the complaint of the citizens of Artesia because of the failure of the above named company to furnish light and power to the citizens of that community.

An examination of the file of correspondence mentioned indicates that the Commission has adopted every possible measure to bring the matter mentioned to a satisfactory termination by means of mediation but that the officers of the company named are not only opposed to taking any steps looking toward an amicable adjustment of this matter, but that they are ignoring the attempts of the Commission to accomplish results without a formal hearing.

In our opinion the Commission has no jurisdiction over companies of this character except such as is given to it by virtue of the provisions of Sec. 7 of Article 11 of the Constitution, wherein the Commission is given the power to fix, determine, supervise, regulate, and control charges and rates of . . . transmission companies. No power is given to the Commission controlling or regulating the business of transmission companies except in so far as the same would be incidental to and connected with the matter of fixing their charges and rates, and therefore, there would be no authority in the Commission to undertake to compel the Pecos Valley Gas and Electric Company to furnish light or power to the citizens of Artesia.

The present chairman of the Commission will probably recall that the writer drew a proposed amendment to the State Constitution wherein the Commission was given authority over public utility corporations and suggested its introduction before the last session of the Legislature but the measure evidently did not meet with the approval of the Legislative body and was never referred to a committee.

While the above is the opinion of the writer in regard to the powers of the Commission over public utility corporations, still it is possible that the courts might construe the section of the constitution cited in a manner different than that herein expressed and therefore, if the Commission sees fit it might not be inadvisable for the Commission to

make a test case of this matter and hold a formal hearing, issue an order and then have the matter taken to the Supreme Court upon the order, in order that the powers of the Commission may be defined by that Court and thus obviate any further uncertainty regarding the authority of the Commission over public utility corporations.

We are returning the file of correspondence above mentioned.