

SUPREME COURT MAY SOON DECIDE RATE-FIXING CASE

Decision in Important Litigation
Expected at February
Sitting of Court.

RALEIGH, Jan. 12.—Decision in the Southern Power company rate fixing case, one of the most important now pending, is expected at the next session of the state supreme court in February. The case was carried to the courts by a number of manufacturing plants supplied with electric current by the power concern a large amount of money through an increase in rates granted by the state corporation commission is involved.

The corporation commission's base rate for primary power granted to the power company was 1.25 cents per kilowatt hour, a compromise between the general level established by diverse contracted rates and the 1.40 cents for which the Southern Power company petitioned. Some of the mill operatives accepted the rate as fair and reasonable, but three important groups were among those that appealed. These were the Cone Mills, at Greensboro; the Cannon group, at Concord and Kannapolis, and the Johnson Mills, located in and around Charlotte.

All of the appellants had contracts with the Southern Power company for secondary power and their appeals were aimed partially at the retention of these as inviolate. Under these contracts, the power company was obligated to furnish electricity to the mills for six months or longer, but less than full time, yearly, and at times that the company elected. These periods coincided with the seasons when the rivers were at flood and the company's hydro-electric plants were operative. The contracting mills installed steam plants for use in the off-season, and by shutting these down when hatched up to the transmission wires of the Southern Power company, they are said to have operated at a large saving over the average.

The issue drawn in the superior court at Shelby, when the mills appealed, was upon the side point whether the rate was fixed as just and reasonable. The Cone Mills took a different tact admitting the fairness of the rate accorded to the power company, but setting up that the corporation commission was without authority to establish a rate, inasmuch as the furnishing of the power in question was interstate commerce, they claimed, because a vast portion of the electricity was manufactured in South Carolina and transmitted to this state.

While the issue was before the Cleveland county jury, the other appellants introduced a motion, while reserving the right to continue to prosecute the case to determine the issue of the rate's fairness, to remand the matter to the corporation commission because of alleged error in the commission's figures in regard to invested capital and other material facts upon which the rate had been based. This group further asserted that the rate fixed was so high as to afford gross discrimination in favor of the South Carolina mills, where the old contract rates remained in force, and it joined with the Cone group in asking the supreme court to find that interstate commerce was involved. Their appeal is from the lower court's denial of this motion to remand.

Among the questions which the supreme court will have to decide is whether the appeal is properly before it, because the point has been raised that the appeal could come only from a verdict in the superior court, and the jury of that court disagreed and was never able to decide the issue.

Complicating the case somewhat, according to attorneys, is an opinion of the supreme court of the United States, written by Chief Justice Taft, in expressing the decision of that body in a case carried up from Kansas, wherein a user of electricity appealed from a rate fixation which contracted the terms of a contract which the plaintiff had with a public utility company. The court held that the contract could not be violated without the issue being adjudicated as to whether the rate named therein was just and reasonable.

Unless there is a demonstrable distinction between the North Carolina statute and conditions and the Kansas law and facts, the decision of the federal court might leave the matter of rate fixing in this state open to almost limitless litigation. It was said.

Bound up in the case is the right of the corporation commission to regulate the rates of electricity sold in this state, since there is a South Carolina connection between other purveyors of current in this state, as well as between the Southern Power company and the adjoining state. A decision holding with the theory that the commission cannot regulate the traffic because interstate commerce is involved would leave individual contracts in force, but would permit the Southern Power company to make its own rate with users without contract.

The appellants in the one group are the Cannon Manufacturing company, the Calhoun Cotton Mills, the Highland Park Manufacturing company, Anchor Mills, Johnson Manufacturing company, Brown Manufacturing company, Jewell Mills, Inc., Norcott Mills, Inc., A. M. Smyre Manufacturing company, Grove Mills, Inc., Franklin Cotton Mills, Peterson Manufacturing company, Kesler Manufacturing company, Amazon Cotton Mills, Barringer Manufacturing company, Efrd Manufacturing company, Wiscasset Mills company, Tuscarora Cotton Mills company, Tuscarora Manufacturing company, Loray Mills, Buckeye Cotton Mills, and in the other group, the Proximity Manufacturing company, the Revolution Cotton Mills and the Bellevue Manufacturing company.

FORECAST BY STATES
WASHINGTON, Jan. 12.—Virginia: Fair and colder Saturday; Sunday fair and warmer.
North and South Carolina and Georgia: Fair and cooler Saturday; Sunday fair and warmer.
Florida: Fair Saturday and Sunday.
Extreme northwest Florida, Alabama and Mississippi: Fair Saturday; Sunday cloudy and unsettled, moderate temperature.
Tennessee and Kentucky: Fair Saturday; Sunday cloudy and unsettled.

Coming — that mysterious "Seventh Guest."—Adv.

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Good flour, 12-pound sack	45c	Nice prunes, 2 pounds for	28c
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Nice round Irish potatoes, special, per peck	28c	Trusty Friend garden peas, 15c cans, for	9c
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