

Decision No. 27754.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

H. C. MACAULAY FOUNDRY COMPANY,  
a corporation,

Complainant,

vs.

PACIFIC GAS AND ELECTRIC COMPANY,  
a corporation,

Defendant.

ORIGINAL

Case No. 3828.

Louis Bartlett for complainant.

C. P. Cutten for defendant.

BY THE COMMISSION:

O P I N I O N

By complaint filed on May 4, 1934, the H. C. Macaulay Foundry Company seeks an order that Pacific Gas and Electric Company serve its foundry at Berkeley with surplus natural gas under the utility's Schedule GS-1. Refunds of claimed overcharges are sought. The defendant denies the applicability of the schedule to complainant's uses.

A public hearing having been had before Examiner McCaffrey, the case is ready for decision.

Schedule GS-1 for "Surplus Natural Gas Service" was issued on February 20th and became effective on April 1, 1933. By its terms it is

"Available, upon application, to consumers located along existing mains having a delivery capacity in excess of the then existing requirements of domestic and commercial consumers, for surplus natural gas used for the following purposes where operation can be readily continued on other fuels in case of shut off of gas supply:

1. Boiler fuel for boilers producing steam primarily for other than building heating.
2. Building heating with a minimum payment guarantee of \$4200 per year.
3. Heating of green houses.
4. Glass melting tanks, including glass works feeder furnaces if in combination with gas for melting tanks.

5. Steel and iron melting furnaces and forging furnaces.
6. Vitreous enameling furnaces.
7. Drying ovens and evaporators.
8. Kilns, incinerators and calciners.
9. Asphalt melting tanks."

Territorially it includes Berkeley.

By special condition a three year contract is required which must "specify the equipment for which surplus gas will be used." Service is subject to discontinuance without notice in case of actual or threatened shortage. Charges under the schedule are low.

On May 12, 1933, the complainant requested service under this schedule but defendant refused the request.

The complainant in its foundry has long used manufactured and natural gas in its industrial process. Since the introduction of natural gas it has been served under Schedules G-1-N and G-Ind. Gas is used in its

- (1) Core Ovens,
- (2) Annealing Ovens, and for
- (3) A Ruud Heater and Drying Torches.<sup>(1)</sup>

In practice service under Schedule GS-1 has been furnished by the utility for "fruit dehydrators; drying ovens which remove water from gravel and remove water from sand used in glass making factories."

According to the utility the schedule was intended to apply "to those classes of business which could not be obtained under our regular rates." It was not intended to include "those

---

(1) About 95 per cent of the gas used is for heating core irons and for drying and baking cores. A core, which is used to make the interior of a casting, is a mixture of sand and linseed oil or flour, or some other binding material, and water. It is put into an oven and baked. A temperature of 450 degrees is required. By baking the moisture is taken out and the core is similar to a brick. Apparently about 4 per cent of the usage is in two annealing ovens for normalizing castings and the balance is for the heater and torches.

classifications of business which we could obtain under the natural gas rate and which we proved we could obtain under the manufactured gas rate."

Whether such a basis of classification could be defended if expressed in a schedule need not be decided, as the schedule as filed contains no intimation that service will be extended or withheld, depending upon whether a particular industry falls in the one category or the other. The schedule, as framed and published, constitutes the offer of service made by the utility. The descriptive words employed by complainant to designate the equipment in which gas is used are not controlling. The terms of the tariff fairly construed cover the gas uses of complainant, except the small use for a water heater and for torches.

The defendant has a Rule No. 19, similar to that considered in Bayer v. L.A. Gas & Elect. Corp., 35 C.R.C. 137, and the holding in that case is determinative here.

It therefore follows that the rates assessed and collected for gas supplied for industrial process to H. C. Macaulay Foundry Company at Berkeley were unlawful to the extent they exceeded the rates under Schedule GS-1 for industrial uses at such factory (except for use in a heater and torches) and that the complainant is entitled to reparation with interest at 6 per cent per annum on this basis during the period commencing on the first meter reading following May 12, 1933, and is entitled to service under the schedule, all subject to the condition that complainant enter into a contract with the defendant as provided in the special conditions contained in Schedule GS-1.

The amount of reparations due is not of record. Complainant should submit to defendant for verification a statement

of the exact sum due and upon payment of reparation defendant will notify the Commission of the amount thereof. Should it not be possible to get an agreement as to the reparation award, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

O R D E R

A public hearing having been had based upon the findings and conclusions contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that defendant, Pacific Gas and Electric Company, be and it is hereby directed to serve the complainant's foundry at Berkeley with surplus natural gas under its Schedule GS-1 and to refund to said complainant all charges collected in excess of those found lawful in the opinion which precedes this order, all subject to the condition that complainant enter into a contract as of date of the first meter reading following May 12, 1933, as required by the special conditions in such schedule; and that the Commission retain jurisdiction to determine the amount of reparation by supplemental order, if it becomes necessary.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 18<sup>th</sup> day of February, 1935.

Leon C. Whittall  
W. J. Cunn  
M. B. Lanning  
Walter H. Mason  
WILLIAM R. PALM

Commissioners.