

Decision No. 34209

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of  
PACIFIC GAS AND ELECTRIC COMPANY for  
an order of the Railroad Commission  
of the State of California, authoriz-  
ing applicant to enter into a written  
agreement with CALAVERAS CEMENT COM-  
PANY, relating, among other things,  
to the sale by the former and purchase  
by the latter of surplus natural gas  
for use in its cement plant located  
two miles southeast of San Andreas,  
Calaveras County, California.

Application No. 24118.

R. W. DuVal, for Pacific Gas and Electric Company.

BY THE COMMISSION:

O P I N I O N

In this application Pacific Gas and Electric Company, hereinafter sometimes referred to as Applicant, requests authority to enter into a written agreement with Calaveras Cement Company, hereinafter sometimes called Customer, relating to the sale and delivery of such surplus natural gas as shall, during the term of the agreement, be required for fuel purposes in the operation of Customer's cement plant located two miles southeast of San Andreas, Calaveras County, California. A copy of the proposed agreement, marked Exhibit "A," is attached to and made a part of the application.

A public hearing was held in this matter in San Francisco on April 21, 1941, at which evidence was taken by Examiner Wehe and the matter submitted for decision.

According to the terms and conditions of the proposed agreement Applicant agrees, if and when it shall have surplus gas available, to sell and deliver to Customer, and the latter agrees to purchase from the former such quantities of the same as shall, during the term of the agreement, be

required for fuel purposes in the operation of cement kilns, boilers used primarily for industrial purposes, and other equipment in Customer's plant.

According to the testimony presented at the above hearing, Customer has been engaged in the manufacture of cement at its plant located near San Andreas for some time past and has used oil as the principal fuel in its operation. Customer now desires to convert its equipment to the use of natural gas in place of oil, and to this end has completed an 8-inch welded steel gas transmission line, hereinafter sometimes referred to as San Andreas line, approximately 38 miles in length extending from the San Andreas plant generally northwest to a point known as Woodbridge Junction, northwest of the community of Woodbridge.

In order for Applicant to supply Customer with surplus natural gas it will be necessary for the former to construct approximately 29,000 feet of 6-inch high pressure gas main, from a point on its so-called Line No. 196 running between Stockton and Sacramento, known as Las Vinas metering station, in a general southeasterly direction to the westerly terminus of the aforementioned San Andreas line of Customer. It has been estimated by Applicant that the cost of installing the 29,000 feet of 6-inch main to connect with the said San Andreas line is approximately \$45,100, of which \$7,000 will be paid by Customer.

The testimony further indicated that if the proposed agreement is authorized, Customer will turn over to Applicant its San Andreas line to be operated by it as lessee thereof for the term of fifteen (15) contract years thereafter. Customer has agreed adequately to maintain said San Andreas line, but Applicant will have complete and exclusive control of the operation and use thereof.

Applicant has agreed to pay as rental for said San Andreas line the sum of \$36,600 per contract year, provided Customer purchases for use in its plant during such year at least 1,400,000,000 cubic feet of gas. It was

pointed out that in the event Customer shall, in any contract year, take less than the above quantity of gas, because of its reduced needs or because Applicant requires the gas for its so-called regular customers, the rental fee will be subject to a proportionate reduction.

The proposed agreement further provides that Applicant has the right to supply so-called casual gas service to others which it may serve from the San Andreas line. Because of the somewhat temporary nature of such service to casual customers, Applicant has stated its intention to execute a special agreement with such customers before service is rendered. These special agreements will, among other things, point out the temporary nature of the service and copies will be filed with this Commission.

The rates to be charged for surplus natural gas delivered for the use of Customer are in accordance with the following:

If the average monthly heating value thereof be between 1000 BTU and 1099 BTU per cubic foot:

- (a) for the first 30,000,000 cubic feet, 11.9¢ per thousand cubic feet;
- (b) for all in excess thereof up to but not exceeding a quantity equivalent to the total quantity delivered into said San Andreas line between 8:00 P.M. and 6:00 A.M. during all nights of said month, 8.3¢ per thousand cubic feet; and
- (c) for all in excess of (a) and (b), 10.1¢ per thousand cubic feet.

If the average monthly heating value thereof be between 1100 BTU and 1200 BTU per cubic foot:

- (a) for the first 30,000,000 cubic feet, 13.2¢ per thousand cubic feet;
- (b) for all in excess thereof up to but not exceeding a quantity equivalent to the total quantity delivered into said San Andreas line between 8:00 P.M. and 6:00 A.M. during all nights of said month, 9.2¢ per thousand cubic feet; and
- (c) for all in excess of (a) and (b), 11.2¢ per thousand cubic feet.

The foregoing rates are subject to increase when the market price of fuel oil exceeds 80 cents per barrel as quoted by the Standard Oil Company of California at Richmond, California.

Applicant estimates that the annual usage of gas by Customer will be approximately 1,400,000,000 cubic feet and that the annual gross revenue to be derived therefrom will be approximately \$137,000.

The proposed agreement contains a provision that it shall at all times be subject to such changes or modifications by the Railroad Commission of the State of California as said Commission may from time to time direct in the exercise of its jurisdiction.

It is Applicant's stated intention normally to supply Customer with surplus natural gas from the Rio Vista gas field and, according to testimony presented at the above hearing, it is prepared to execute an agreement with certain gas producers in said field for the purchase, during the term of its proposed agreement with Customer, of an amount of gas equivalent to that which Applicant will deliver to Customer. This quantity of gas is to be purchased by Applicant at a special rate of  $6\frac{1}{2}$  cents per 1000 cubic feet when the market price of fuel oil is 80 cents per barrel or less, f.o.b. Richmond, and is subject to increase when the market price of fuel oil at Richmond exceeds 80 cents per barrel.

It was further indicated by Applicant that when feasible it intends to conserve the dry gas obtainable from the Rio Vista field by supplying Customer with wet gas from the southern producing areas.

The proposed agreement provides that Customer will, in addition to the rates herein set forth, pay Applicant on demand all sums which shall be paid for severance, production or sales tax assessed by any local, state or federal authority on gas sold to Customer regardless of whether such tax be assessed against or paid by Applicant or by the producers of such gas.

It is quite clear that the proposed agreement is an unusual one and contains numerous terms and conditions which ordinarily are not found in contracts of this nature. The peculiar conditions existing have in the main been brought about by the widely divergent interests of the several parties involved in the transaction. Ordinarily a public utility would not extend its facilities such distances as are involved in this instance in order to supply one surplus gas user, nor is it usual to lease a transmission line for this purpose. According to the testimony, Customer for some time past has been the owner of a small portion of a producing area in the Rio Vista field. Customer believed that potential reserves of gas in said field were adequate to supply its needs for a minimum period of fifteen (15) years, and, accordingly, began the construction of the San Andreas line from its plant near San Andreas to the Rio Vista field in order to make said gas available for its own use. However, in carrying out Customer's own program, many difficulties and delays developed, as well as uncertainties as to Customer's ability to secure the necessary permits to transverse certain state-owned lands and whether or not pro rata restrictions might become effective that would reduce Customer's take of gas from its own resources. Because of this situation and further because of the willingness of Customer to cooperate with the other interested parties, the agreement here under consideration was worked out.

The term of the agreement, namely, fifteen (15) years, normally would be viewed by the Commission as considerably in excess of that period which could be justified. However, the Commission desires each party to the contract clearly to have in mind that, due to the unpredictable future in reference not only to the availability of the gas supply and the requirements of Applicant's other customers but likewise as to the cost of rendering the service, the Commission will follow future developments and, if necessary, will modify or set aside the aforesaid agreement by appropriate order if in so doing the interests of Applicant's regular customers are better served.

Another important consideration should be kept in mind: This Commission recently has instituted Case No. 4591, which is an investigation

on its own motion into the reasonableness of contracts and schedules, and of the practices, rules, regulations and privileges, applied or enforced by each public utility in the supplying of surplus natural gas for industrial, commercial or other uses. In this investigation there is at issue the question of the natural gas supply and the propriety of supplying large industrials, such as contemplated in the instant proceeding, with special relation to conservation and to the requirements of national defense in this emergency period. Applications Nos. 23862, 23866 and 23921, now pending before this Commission, are from gas utilities asking the Commission for permission to amplify the conditions under which they may curtail the delivery of natural gas to large industrial customers for sale at surplus rates. Both Applicant and Customer in this proceeding assume the risk, therefore, that the results of the investigation may indicate that the contract authorized by this decision may have to be modified at some later date.

At the public hearing of this matter no one appeared to oppose or protest the granting of the request prayed for in the application.

O R D E R

The Pacific Gas and Electric Company having applied to the Railroad Commission of the State of California for permission to enter into an agreement with the Calaveras Cement Company for the sale and delivery of surplus natural gas for use in the latter's cement plant located near San Andreas, Calaveras County, California;

A public hearing having been held, the matter being submitted and now ready for decision,

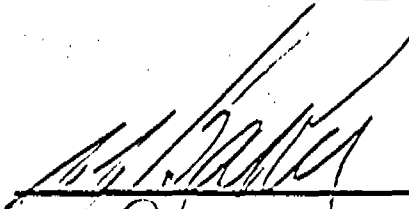
IT IS ORDERED that Pacific Gas and Electric Company is hereby authorized to enter into that certain proposed agreement with Calaveras Cement Company substantially as set forth as Exhibit "A," attached to the within application, and to render surplus natural gas service to said Calaveras Cement

Company at the rates and under the terms and conditions set forth in said agreement; provided, however, that the authority herein granted shall not be taken as limiting the Commission's authority to modify or set aside such agreement by appropriate order.

Pacific Gas and Electric Company shall file two (2) copies of the agreement with the Commission within thirty (30) days after its execution.

Authority herein granted shall become effective as of date hereof.

Dated at San Francisco, California, this 20<sup>th</sup> day of May,  
1941.

  
\_\_\_\_\_  
Ray L. Peirce  
\_\_\_\_\_  
Justice F. Cooney  
\_\_\_\_\_  
Francis X. Havens  
\_\_\_\_\_  
Richard H. [unclear]  
Commissioners.