

Decision No. 37118

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 Rail-  
road Commission authorizing Appli-  
cant to enter into a written  
agreement with PERMANENTE CEMENT  
COMPANY, in words and figures con-  
tained in the form therefor, which  
is hereunto annexed, marked  
Exhibit "A", and made a part hereof.  
(Gas Service-Santa Clara County)

Application No. 26069

R. W. DuVal, for Pacific Gas and Electric Company.  
Thelen, Marrin, Johnson & Bridges, by Thomas K.  
McCarthy, for Permanente Cement Company and  
Permanente Metals Corporation.

ROWELL, COMMISSIONER:

O P I N I O N

Pacific Gas and Electric Company requests authority of the Commission to enter into a supplemental agreement with Permanente Cement Company relative to the furnishing of natural gas for the entire industrial requirements of the cement and magnesium plants operated by this customer and its affiliated company in Santa Clara County. The consummated agreement is set forth as Exhibit "A" attached to the application.

A public hearing on this application was held in the Commission's Courtroom in San Francisco on May 1, 1944, before Commissioner Rowell, at which time evidence was taken and the matter submitted for decision.

The original agreement dated September 28, 1939, was made with Permanente Corporation (now Permanente Cement Company) and covered service to two cement kilns, one lime kiln and low pressure boilers having an aggregate capacity of 50 hp, and by a supplemental agreement dated April 22, 1940, was amended to include service to a third cement kiln.

In May, 1941, an affiliate, Todd-California Ship Building Corporation (now Permanente Metals Corporation), began the production of magnesium and used for cooling purposes the gas being purchased before it passed to the cement mill. This was permitted under a second supplemental agreement dated May 26, 1941. A further supply of gas was obtained by a second agreement dated May 26, 1941, covering service to a fourth cement kiln.

Permanente Metals Corporation is now engaged in producing a certain strategic material for the Chemical Warfare Service of the United States Army. Although it has not been recognized as a customer of Pacific Gas and Electric Company, the importance of this material caused the War Production Board, on December 16, 1943, to issue a directive to the company prohibiting curtailment of gas used in connection with its production.

The continuance of surplus gas service under these conditions was deemed by Pacific Gas and Electric Company to be in violation of the Commission's Decision No. 35455, and accordingly, on December 21, 1943, it advised the customer that beginning December 22, 1943, all gas supplied thereafter would be furnished and billed in accordance with that decision. The account was then transferred to the company's Schedule G-40 applicable to firm industrial gas service. This action led to protracted negotiations which resulted in the supplemental agreement now before the Commission.

The agreement provides that deliveries thereunder shall not exceed 640 Mcf per hour or 15,360 Mcf per day and the rate therein is as follows:

From December 22, 1943, to October 15, 1944 - 17-1/2 cents  
(\$0.175) per thousand cubic feet.

Monthly Minimum Charge - \$10,000.00.

From October 15, 1944, to December 21, 1944 - 21 cents  
(\$0.21) per thousand cubic feet.

The said rates are subject to increase or decrease on the basis of 1¢ per 1000 cu.ft. for each 6¢ per barrel increase or decrease, respectively, in the market price of fuel oil, as regularly quoted by the Standard Oil Company of California, from \$0.90 per bbl. f.o.b. Richmond, change to be to the nearest one-tenth cent and to become effective on all regular meter readings taken on and after the 30th day following such change in the price of oil.

The said rates are based on the foregoing fuel oil clause and the present posted price (effective April 30, 1941) of \$0.90 per barrel quoted by the Standard Oil Company of California f.o.b. Richmond refinery.

The market price of fuel oil was increased to \$1.15 per barrel effective April 1, 1943, but the adjustment in the above rates corresponding to that increase was temporarily deferred by authority of Decision No. 36323.

The first portion of the rate was designed for that time of the year when there is little probability that the company will be called upon to burn oil in its steam electric generating plants in order to release gas to the cement company.

The second portion of the rate is designed for that time when the company may be called upon to burn oil to accomplish this, and the rate of 21¢ per Mcf is practically the equivalent of the cost of fuel oil so used.

During the term of the agreement the existing surplus natural gas contracts between Applicant and the cement company are to be inoperative, but service thereunder is to be re-established upon its termination.

The term of the agreement is from December 21, 1943, under December 22, 1944, unless sooner terminated by the cement company on written notice of thirty days. The brevity of this term and the provision for earlier termination are based upon the expectation that Permanente Metals Corporation will have completed its contract with the Chemical Warfare Service by the middle of October of this year.

This application was filed pursuant to Section 17(b) of the Public Utilities Act, Section X of the Commission's General Order No. 96, and the order in the Commission's Decision No. 34797, amended by Decision No. 35455, in the last of which it is specifically provided that a surplus customer whose operations have been declared uninterruptible by the National Government can not continue to receive service under surplus rates unless he shall have provided other sources of standby fuel supply or shall have obtained permission from this Commission to do so.

In this instance it is impossible to provide standby facilities as the gas used is not burned as a fuel in the metals plant, but is employed as a processing agent for which it is not practical to substitute another fuel. Accordingly, since shutoff is not permitted, gas for this purpose must be obtained on a firm basis.

It is expected that the customer can earn an average rate of approximately 19¢ under the contract. Such a rate for continuous gas service, not subject to shutoff, is undoubtedly low. However, when the peculiarities of the customer's operations and the importance of its product to the war effort are considered, the average rate is not believed to be so low as to justify a denial of the application.

At the time of the hearing no one appeared to oppose or protest the granting of the request contained in the application.

O R D E R

A public hearing having been held in the above entitled application, the Commission having considered the evidence submitted in that hearing, and it being of the opinion that the requested authority should be granted,

IT IS ORDERED that Pacific Gas and Electric Company be authorized to enter into a written agreement with Permanente Cement Company in the words and figures contained in the form therefor, attached to the application and marked Exhibit "A," and to consummate said proposed agreement fully in accordance with its terms and conditions.

The Pacific Gas and Electric Company, within thirty days after the date of this Order, shall file three copies of the executed agreement with the Commission.

The effective date of this Order shall be the date hereof.

Dated at San Francisco, California, this 6<sup>th</sup>  
day of June, 1944.

Richard L. Jackson  
Austin F. Cooney  
Francis A. Havens  
Francis A. Havens  
Walter J. Powell  
Commissioners