

Decision No. 45585**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 PACIFIC GAS AND ELECTRIC COMPANY for
 an order of the Public Utilities
 Commission of the State of California
 granting and conferring upon applicant
 all necessary permission and authority
 to carry out the terms and conditions
 of an agreement with the SACRAMENTO
 MUNICIPAL UTILITY DISTRICT, dated
 November 16, 1950, copy whereof is
 attached hereto, marked Exhibit "A".

Application No. 31979

R. W. DuVal, for applicant; Martin McDonough,
 for Sacramento Municipal Utility District;
Lewis Knerr and C. T. Mess, for Commission's
 staff.

O P I N I O N

Pacific Gas and Electric Company, a California corporation, and applicant in this matter, by the above-entitled application, filed December 14, 1950, requests an order of the Commission authorizing it to carry out the terms and conditions of an agreement dated November 16, 1950, with the Sacramento Municipal Utility District. Said agreement is entitled S.M.U.D. Contract No. 535 and relates to the supply of 30,000 kva of electric energy in addition to that currently being supplied by the applicant to the district. A copy of said contract, marked Exhibit "A", is attached to the application and by reference made a part hereof for all purposes.

A public hearing on this application was held before Commissioner Huls and Examiner Edwards on February 21, 1951, at San Francisco, California.

Electric energy is now being supplied by the applicant to the district in accordance with an agreement dated April 9, 1946,

entitled "Contract for Purchase and Sale of Electric Energy". Pacific Gas and Electric Company was authorized to carry out and perform the provisions of this original electric resale contract by Decision No. 39108 of this Commission, issued June 18, 1946, under Application No. 27443. The Sacramento Municipal Utility District now seeks an additional supply of electric energy to meet its growing loads and desires to receive such energy at a point different from that originally specified. The primary purpose of the agreement of November 16, 1950, is to amend the original contract so as to provide for the delivery of energy at the site of the district's proposed new City Substation to be located in the vicinity of Twenty-first and North "B" Streets within the City of Sacramento, in lieu of the delivery of such additional electric energy at applicant's Brighton Substation.

In justification of the change in delivery point for such additional energy, applicant's witness testified that necessary additional facilities at Brighton Substation for delivering this additional load at 22 kv. are not now available and considerable reconstruction would be required at an estimated total cost of \$445,000. For practically the same cost (\$456,538), applicant claims it could install a 110 kv transmission line between its Brighton Substation and the district's proposed City Substation, install its 110/22 kv step-down transformers at the City Substation, and thus deliver 22 kv energy at the location desired by the district, if the district would provide the right of way for the transmission line and necessary foundations for the transformers. Applicant claims there will be a saving in annual costs of operation compared to delivery at the Brighton Substation.

The estimated cost of the construction proposed by applicant is as follows:

4 - 10,000 kva, 110/22 kv transformers and 22 kv metering equipment	\$209,000
1 - 6½-mile double circuit 110 kv transmission line	129,538
2 - 110 kv oil circuit breakers and terminal switching equipment at Brighton Substation	<u>118,000</u>
Total	456,538

In addition to providing power at this alternate location, applicant proposes to absorb the losses in the 6½-mile, 110 kv transmission line and amend the so-called maximum demand ratchet clause of the original agreement so as to use only the actual demand each month in computing demand charges. Under the original contract, the maximum demand each month, for billing purposes, is an average of the current month's demand and the highest demand in the preceding 11 months. Under the new provision, applicant proposes to recompute bills retroactively to November 30, 1949, the time negotiations for this agreement were started with the district. Such recomputation for energy sold to the district during the 11 months ended October 31, 1950, would result in a proposed refund of \$26,713.28 to the district.

The applicant, in justification of the change in the method of computing demand charges, stated that other resale customers had been granted similar revisions in their resale rate contracts at the approximate time these negotiations were started. Applicant's representatives indicated to the district that the demand clause would be changed when the contract was approved and that the district in effect would be enjoying as favorable treatment as other resale customers are receiving, despite the delay in completing the contract.

On cross-examination of the company's witnesses, the Commission's staff developed the fact that contracts with other resale customers, heretofore authorized by this Commission, which provided for the change in the demand ratchet clause, also extended the contractual period for an additional five years. No such extension of time was effected in the contract here involved. For this reason, applicant was requested to cite authorities to substantiate its desire to make the proposed refund.

Under date of March 12, 1951, counsel for applicant replied to this request and cited Section 17(b) of the Public Utilities Act of the State of California as providing the authority for the Commission, by rule or order, to except this contract from the prohibition of the section against refunding or remitting any portion of the rates. In addition to Section 17(b), counsel recited the fact that under General Order No. 96 utilities are granted the right to furnish service at free or reduced rates, or under conditions otherwise departing from filed tariffs, to governmental agencies, public fairs and celebrations. Counsel also pointed out that in connection with informal complaints filed with, or on representations made to the Commission, retroactive adjustment of customers' billings made under filed rates and charges are being made continually by means of refunds or credits. Counsel therefore seeks an order of the Commission excepting this contract proposal from the operation of the prohibition of Section 17(b).

The Sacramento Municipal Utility District, through its counsel, urged early approval of the proposed contract, as a new delivery point for energy is necessary from the standpoint of good engineering. He stated that the proposed delivery point is equitable to both parties, since the district will pay the cost of installation and removal of the transmission line if the district ceases to take all of its requirements of electric energy from the

applicant prior to December 31, 1956. He further stated that the district is dissatisfied with operation of the old contract, that the concession with regard to the demand ratchet clause amounts to only nine-tenths of one per cent of the bill and that the district should have equal treatment with other resale customers such as the cities of Redding, Alameda, and Lompoc.

Applicant's 1949 annual report to the Commission shows the following comparison of annual sales and revenue to the district and to the afore-mentioned cities:

	<u>Sales - Kwhr</u>	<u>Revenue</u>	<u>Revenue per Kwhr</u>
S.M.U.D.	466,452,729	\$2,665,216.81	0.571¢
Redding	39,541,200	247,019.87	0.625
Alameda	99,787,200	668,835.34	0.670
Lompoc	5,577,000	49,914.37	0.895

The proposed refund will be \$26,713.28 on a bill of \$2,696,895.99, covering 470,810,822 kwhr for the 11 months ended October 31, 1950. The average rate for this period will be reduced from 0.5728 cents per kwhr to 0.5671 cents per kwhr. The level of this rate is only 12% above the price of 0.507 cents per kwhr the applicant paid for energy purchased from the United States Government's Central Valley Project, as shown in the 1949 annual report to the Commission.

Previously, the applicant has sought approval of low rates for resale service on the basis that such rates are necessary to meet competition and hold the business. In granting these authorizations in the past, the Commission has taken the position that if it should appear in a rate proceeding that any losses are being incurred because of these low rate levels, such losses are not to be imposed upon the applicant's other customers. Such a situation would result if the applicant were allowed to recover in rates all expenses plus a full return on its investment in electric plant.

Our authorization of the subject contract is likewise conditioned on the premise that the rates charged under the contract shall not be permitted to burden or prejudice, in any way, other customers of applicant.

The Sacramento Utility District also enjoys the advantage of a combination of meter readings not enjoyed by other resale customers. This situation is a carry-over from the days when the district was first formed, to enable both the district and the applicant to avoid the costs that would necessarily be incurred if their facilities were redesigned to permit delivery of power at a single point. At our staff's request, the company recomputed the bill to the district on the basis of the applicable Schedule P-31 rate for each of the 18 separate delivery points and showed that on such basis the billing would be \$3,539,976.82 for 518,007,756 kwhr.

The contract was executed on November 16, 1950, but contains a provision that it shall not become effective until the Public Utilities Commission of the State of California by order shall authorize the Pacific Gas and Electric Company to carry out its terms and conditions.

The contract does not contain a clause providing that it shall be subject, at all times, to change or modification as the Commission may direct in the exercise of its jurisdiction as provided by General Order No. 96. The fact that such clause does not appear in the agreement does not in any way exempt the company or the contract from the Commission's jurisdiction in this matter.

O R D E R

Public hearing having been held on the above-entitled application, the matter having been submitted and now being ready for decision,

IT IS HEREBY ORDERED that applicant be and it is authorized to carry out the terms and conditions of the written contract, dated November 16, 1951, with the Sacramento Municipal Utility District and to render the service described therein, subject to the following conditions:

1. Applicant shall file with the Commission, within thirty (30) days after the effective date of this order, two certified copies of the contract as executed, together with a statement of the date on which the contract is deemed to have become effective.
2. Applicant shall notify this Commission of the date of termination of said contract within thirty (30) days after said date of termination.
3. Applicant shall keep the Commission advised of any extension beyond the original term of this agreement.

IT IS HEREBY FURTHER ORDERED that the Pacific Gas and Electric Company is excepted from the operation of the prohibition against refunds contained in Section 17(b) of the Public Utilities Act of the State of California for this contract only.

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

Dated at San Francisco, California, this 3rd day of April, 1951.

R. T. [Signature]
Justus F. [Signature]
Harold P. [Signature]
[Signature]
[Signature]
 Commissioners.