

ORIGINALDecision No. 49634

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SOUTHWEST GAS CORPORATION, LTD.)
 to sell and deliver to a consumer) Application No. 34709
 natural gas in excess of 25,000 cubic)
 feet per day.)

W. M. Laub and W. J. Cusack, for applicant;
Overton, Lyman, Price & Vermille, by
Wayne H. Knight, for Southwestern Portland
 Cement Company, interested party;
Ralph W. DuVal and Frederick T. Searls, for
 Pacific Gas & Electric Company, protestant;
Fred C. Hutchinson, City Attorney, by
Loren W. East, for City of Berkeley, protestant;
John W. Collier, City Attorney, by Loren W. East,
 for City of Oakland, protestant; Wallace K. Downey,
 for California Portland Cement Company, interested
 party; Lloyd E. Cooper, for the Commission staff.

O P I N I O N

Southwest Gas Corporation, Ltd. in this proceeding requests a finding that Southwestern Portland Cement Company cannot readily use another fuel without undue hardship, and further requests an order that applicant be allowed to sell and deliver to Southwestern Portland Cement Company natural gas on an interruptible basis in excess of 25,000 cubic feet per day, to be used for the pre-heating of fuel oil, machine shop purposes, and for such other incidental or minor use as said Southwestern Portland Cement Company may desire. A public hearing was held before Commissioner Kenneth Potter and Examiner C. E. Crenshaw on December 9, 1953, in Los Angeles.

According to the record, Southwestern Portland Cement Company made a request to applicant for gas service for the above said uses which uses would be in excess of 25,000 cubic feet per day

and therefore subject to the provisions of applicant's Rule and Regulation No. 31 on file with this Commission.

The first paragraph of applicant's Rule and Regulation No. 31, Limitation upon Natural Gas Service, as submitted in applicant's Exhibit "A", attached to the application, is as follows:

"In order that this utility may be enabled to make the most effective and economic use of the natural gas available and to be available, each of the gas rate schedules and contracts of, and the rules and regulations governing the sale of natural gas by, this utility on file with the Public Utilities Commission of the State of California shall be deemed amended and is hereby declared amended or reformed to the extent that any such schedule, contract, rule or regulation is or may be inconsistent, or in conflict, with the following condition and regulation:"

It will be noted from the above quotation that the limitation rule is to enable the utility to make the most effective and economical use of natural gas available and to be available.

The second paragraph of the rule provides that the utility will not deliver in excess of 25,000 cubic feet per day to any customer unless such customer cannot readily use another type of fuel without undue hardship and applicant's procedure in determining whether or not the consumer is entitled to service in excess of 25,000 cubic feet per day and consumer's right to appeal to this Commission if service is refused.

In the event applicant should approve the customer's request for gas service in excess of 25,000 cubic feet per day, applicant would submit the customer's request to the wholesale supplier in accordance with that portion of the rule which states:

"In the event this utility should in the first instance approve an application for such service, the application will be submitted to said wholesale supplier

for its consent, and a copy of the application will be forwarded to the Public Utilities Commission of the State of California; if the consent of the wholesale supplier should be refused, or withheld for more than 60 days after receipt of the application, the Commission, upon written request by this utility, will decide the matter. This utility will not, in any case, commence service to any consumer in excess of 25,000 cubic feet per day until it shall have first obtained the consent of either the wholesale supplier or the Commission in accordance with the procedure outlined in this Rule."

Upon investigation, in accordance with its filed Rule and Regulation No. 31, it was determined by applicant that the Southwestern Portland Cement Company was entitled to gas service. After making this determination, applicant then made application by letter dated June 22, 1953, to its wholesale supplier, Pacific Gas & Electric Company, enclosing a copy of the Southwestern Portland Cement Company's letter to applicant, requesting Pacific Gas & Electric Company's consent to the service of natural gas as outlined in the Cement Company's letter.

The Pacific Gas & Electric Company, by letter dated July 6, 1953, advised applicant, in part, as follows:

"In view of the fact that the Cement Company has been in operation for a long time and is fully equipped to take care of its fuel needs, we do not feel that there will be any undue hardship involved if gas is not made available for firing a subsidiary boiler and for use in its machine shop."

Since more than 60 days have elapsed between the date of applicant's letter requesting supplier's consent, without such consent having been granted, applicant has applied to this Commission, in accordance with its Rule and Regulation No. 31, for authorization to supply natural gas service on an interruptible basis to the Southwestern Portland Cement Company.

The application of the Southwestern Portland Cement Company for natural gas service on an interruptible basis was approved by applicant. However, the wholesale supplier, Pacific Gas & Electric Company, did not in this case give its consent. Therefore, the instant application was filed in accordance with the last paragraph of applicant's Rule and Regulation No. 31.

Southwestern Portland Cement Company, by its letter of June 12, 1953, which was made a part of the application as Exhibit B-2, requested interruptible gas service in the amount of 120,000 cubic feet per day. It was stated that the major portion of this gas would be used to fire a boiler producing steam to pre-heat fuel oil for its kilns and to operate a steam hammer in the blacksmith shop; further, that they wished to install some gas burners in the machine shop, to pre-heat large castings before welding, to pre-heat large machinery parts which have a press fit, to melt babbitt for bearings and other similar work.

Witness for Southwest Portland Cement Company testified that in the past the boiler has been fired with the same type oil that was used in the kilns, namely, P.S. 400. Recently, the additions of more kilns and a steam hammer to the plant's operations have caused the load to fluctuate considerably. Furthermore, frequent outages in the electric service to this plant have occurred, which then require a change in the methods of operating the fuel pumps and the kilns until electric service is restored. After considerable investigation by burner manufacturers it was determined that the only practical solution to these operating problems was to utilize natural gas as a fuel to heat the boiler. It was brought out that to use a lighter oil for the boiler fuel would entail a very expensive installation for handling and storing

the oil. It was also noted that the maintenance and operating costs for the boiler and related equipment would be more economical if natural gas were available. The close competitive margins in the cement industry require the most economical operation feasible. The present oil-burning and storage facilities could be used appropriately for standby purposes during periods of gas curtailment as required by the special conditions of the interruptible rate schedule.

Witness for applicant testified that under its service agreement with Pacific Gas & Electric Company, as approved by the Federal Power Commission, it is entitled to a maximum daily contract quantity of 5 million cubic feet for the calendar year 1953, and for the calendar year 1954 and thereafter it would be entitled to 7 million cubic feet per day. At the present time the maximum daily use is considerably below this maximum limitation. Therefore, it is applicant's contention that the granting of service on an interruptible basis to the Southwestern Portland Cement Company in this instance would not result in a hardship on its existing firm customers since such customers would take service priority over the interruptible customers.

Both applicant and Pacific Gas & Electric Company submitted interpretations of the undue hardship clause referred to in Limitation Rule and Regulation No. 31. Since undue hardship must be related to all the circumstances in any particular case, it does not appear reasonable that any rule could be established that would cover all of the variables that may be considered as undue hardship in the many varying types of gas service. Therefore, it is necessary to reject both applicant's and Pacific Gas & Electric Company's interpretation of undue hardship. It is our opinion that in the

future each case should be decided upon its own merits, with due consideration being given to all existing pertinent circumstances.

The representative for the cities of Berkeley and Oakland protested granting the request of applicant and Southwestern Portland Cement Company, alleging that such action would cause the impairment of natural gas sources to these cities.

It appears from the evidence presented in this proceeding that if interruptible gas service is granted in this instance it will not impair firm service to be rendered in the future by applicant to its customers as such firm service would, under the present rules and regulations, take precedence over interruptible gas service at times when there is an insufficient amount of gas available for all other classes of service. Further, since the record indicates that the sale of the volume of gas as requested in this application on an interruptible basis would not cause applicant's requirements to exceed the daily limitation provided under its service agreement with Pacific Gas & Electric Company, and since by order of this Commission in its Decision No. 48595 in Application No. 34061 this service will be subject to curtailment concurrently and pro rata with the curtailment of like customers of supplier it will not adversely affect the existing customers of either applicant or Pacific Gas & Electric Company.

In view of the evidence submitted in this proceeding it is the opinion of the Commission that the Southwestern Portland Cement Company is entitled to interruptible service in an amount not to exceed 120,000 cubic feet of gas per day for use in its boiler and equipment in the machine shop, provided adequate standby facilities as required in the interruptible tariffs are installed and used.

O R D E R

The above-entitled application having been filed, a public hearing having been held, the matter being submitted and now being ready for decision,

IT IS HEREBY FOUND AS A FACT that Southwestern Portland Cement Company is entitled to natural gas service on an interruptible basis for an amount not to exceed 120,000 cubic feet per day for use in its boiler and machine shop facilities, provided that its facilities qualify and meet the requirements of applicant's interruptible tariff.

IT IS HEREBY ORDERED that Southwest Gas Corporation, Ltd. be authorized to supply natural gas service to the Southwestern Portland Cement Company on an interruptible basis of not to exceed 120,000 cubic feet per day for use in its boilers and machine shop facilities, in accordance with its interruptible tariffs as filed with this Commission.

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

Dated at San Francisco, California, this 2nd day of February, 1954.

R. F. Dwyer
President

Justice F. Casner

Francis J. Dutton

John E. McMillin

Gene Higgins
Commissioners