

**ORIGINAL**Decision No. 53649

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 PACIFIC GAS AND ELECTRIC COMPANY for a  
 certificate of public convenience and  
 necessity under Article 1 of Chapter 5  
 of the Public Utilities Code to con-  
 struct, operate and maintain a certain  
 natural gas project and to exercise all  
 permits, easements and franchises which  
 may be used or useful in connection  
 therewith; for authorization to supply  
 natural gas service to Permanente Cement  
 Company (Cushenbury) cement plant in  
 accordance with a contract dated  
 December 28, 1955; and for authorization  
 to supply natural gas service in the  
 vicinity of Lucerne Valley in the County  
 of San Bernardino, and to file and make  
 effective natural gas schedules appli-  
 cable thereto.

(Gas)

Application No. 37635

(Appearances and witnesses are  
 set forth in Appendix A)

INTERIM OPINIONApplicant's Present Request

At this time Pacific Gas and Electric Company, applicant herein, seeks a decision on only that portion of the above-entitled application which is concerned with firm and interruptible service to the proposed new cement plant of the Permanente Cement Company to be located approximately eight miles southeast of the town of Lucerne Valley in San Bernardino County. The application was filed with the Commission on December 30, 1955, and, pending decision on the other portions, applicant requests an early decision on this part of its total request.

Public Hearing

After due notice, the first day of public hearing on this application was held on February 16, 1956, before

Commissioner Justus F. Craemer and Examiner H. W. Edwards at Victorville, California. At this hearing the Southwest Gas Corporation, now rendering natural gas service in Victorville and vicinity, appeared as a protestant to applicant's request to serve the domestic and commercial load in the town of Lucerne Valley and adjacent territory. When it was apparent that additional time and several more days of hearing would be necessary to receive all pertinent evidence on the Lucerne Valley service matter, the applicant submitted for decision that portion of the application concerned with service to the Permanente cement plant.

After considering the limited amount of evidence presented by the applicant at the first day of hearing as to the future availability of natural gas to serve such a large load, the Commission, on March 13, 1956, set aside the submission and reopened the matter for further hearing.

A second day of hearing was held before Commissioner Ray E. Untereiner and Examiner H. W. Edwards at Victorville on March 29, 1956. At this reopened hearing, applicant presented additional information regarding the estimated future availability of natural gas over as long a period of time as the 15-year term provision of the contract. Pursuant to the suggestions contained in the order reopening the hearing, additional testimony was presented regarding the price of fuel oil and equivalent natural gas rate levels, and a shorter term for the contract than 15 years. Also the effect of the proposed sale upon the problem of air pollution in the San Francisco Bay area was discussed.

No party offered any objection to the proposed service of interruptible and firm natural gas to the new cement plant. The representative for the California Farm Bureau Federation made a statement in favor of the proposed service to Permanente. The

Commission staff, through a gas engineer, took an active part in the proceeding and by cross-examination of the witnesses brought out certain deficiencies in the proposed agreement and other points for the Commission to consider in deciding as to the advisability of this proposed sale of natural gas to the new cement plant.

Proposed Construction and Cost

Applicant plans to provide and install, and thereafter to operate and maintain, a gas transmission main extending approximately 34 miles from its Topock-Milpitas transmission line in the vicinity of Daggett southward to the proposed cement plant situated in the southeast quarter of the southwest quarter of Section 11, Township 3 North, Range 1 East, S.B.B. & M. The proposed main will consist of 22.7 miles of 10-inch high pressure pipeline to a point northeast of the town of Lucerne Valley, where a tap will be available for service to Lucerne Valley. Continuing therefrom, an 8-inch high pressure pipeline, approximately 11.3 miles in length, will be run to the cement plant site.

The estimate of cost of the proposed construction is set forth in Exhibit No. 4 and may be summarized as follows:

119,856 ft. of 10-inch pipe @ \$3.76 per ft. installed	....	\$450,659
59,664 ft. of 8-inch pipe @ \$3.10 per ft. installed	....	184,958
Rights of Way, Roads, Trails, Valves, Odorizing Equipment, Meters, Regulators, etc.....		76,200
Subtotal	.....	\$711,817
Overhead Construction Costs @ 15%	.....	106,772
Meters, Services and Regulation Installed at Cement Plant		20,000
Total	.....	\$838,589

Because part of the cost of this project is chargeable to firm load in Lucerne Valley, applicant states that the installation cost assignable to the Permanente Cement Plant is \$788,755.

Such assignment is based on an interruptible demand of 1,000 Mcf per hour to the plant compared to an estimated firm load of 32 Mcf per hour at the plant and in the surrounding area.

Extension Cost Advance

In accordance with applicant's gas Rule and Regulation No. 15 it is required that the interruptible customer advance the full amount of the allocated portion of the cost of the extension. However, in this case, because of the large amount of the advance and the desire of the customer to preserve its flexible line of credit, the applicant proposes to advance the \$788,755 and be reimbursed at the rate of 1.35 cents per Mcf on future gas sales. Such proposal falls under the "Exceptional Cases" section of Rule and Regulation No. 15, which provides that the utility or the customer may refer the matter to the Public Utilities Commission for special ruling, or for the approval of any special conditions which may be mutually agreed upon. As a precedent for this method of financing applicant refers to the Trona Case,<sup>1</sup> wherein the Commission authorized a 60.3-mile extension on the basis of repayment at the rate of 2.0 cents per Mcf.

Applicant states that it intends to pay the cost of constructing and completing the project out of its income and other funds in its treasury not obtained from the issue of securities and/or from such funds as may be obtained by means of the issue of such stock, bonds, notes or other evidences of indebtedness as the Commission shall hereafter, on proper application, authorize for that purpose.

Exhibit No. 14 shows that the 1.35-cent rate will repay the extension advance of \$788,755 in 15 years, plus \$325,617

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<sup>1</sup> Decision No. 51666, Applications Nos. 36889, 36890, 36891, dated July 12, 1955.

accumulated interest at a 4 per cent per annum rate, assuming 82,546,000 Mcf is consumed by the cement plant during this period. It should be pointed out that this payment is in addition to the proposed effective rate which the customer will pay for the interruptible gas service.

Proposed Rate

The proposed rate for the interruptible service is the same as that being charged in connection with interruptible service from the Trona extension and to a new cement plant being installed by the California Portland Cement Company west of Mojave. The rate consists of a base rate and two components. The first component is an offset charge of 1.2 cents for the first 20,000 Mcf per month because of increased prices of out-of-state gas which are subject to possible refund. The second component is an amount of 6.67 cents per Mcf based on a current posted price of fuel oil of over \$2.00 per barrel. The proposed rate follows:

		<u>Base Rates For Fuel Oil @ \$1.50 per Bbl.</u>	<u>Offset Charges</u>	<u>Fuel Oil Clause</u>	<u>Effec- tive Rates</u>
First	1,000 Mcf, per Mcf	36.46¢	1.2¢	6.67	44.3
Next	2,000 Mcf, per Mcf	32.76	1.2	6.67	40.6
Next	3,000 Mcf, per Mcf	31.76	1.2	6.67	39.6
Next	4,000 Mcf, per Mcf	30.76	1.2	6.67	38.6
Next	10,000 Mcf, per Mcf	26.20	1.2	6.67	34.1
Over	20,000 Mcf, per Mcf	24.60	-	6.67	31.3

The above effective rates are predicated on natural gas with a heating value of 1,100 Btu. In case the heating value varies substantially from this base the rules provide for appropriate adjustments upward or downward.

It does not appear desirable or necessary to establish a new rate schedule for this service. Therefore, the order will provide for service to Permanente under Schedule No. G-56.

Agreement with Permanente Cement Company

Applicant seeks authority to provide the interruptible natural gas service in accordance with the terms and conditions of an agreement with Permanente Cement Company, dated December 28, 1955, which is attached to its application as Exhibit "C". It is provided in the agreement that applicant shall not be obligated at any time to supply interruptible gas at a rate in excess of 1,000,000 cubic feet per hour. The contract term is for 15 years and Permanente expects to consume 2,600,000 Mcf during the first year and gradually to increase this amount up to 8,700,000 Mcf during the 13th and 14th years.

The agreement provides for payment of a surcharge at the rate of 1.35 cents per Mcf in lieu of any immediate obligation to advance the installation cost of the transmission main necessary to render the interruptible service. The agreement also provides that Permanente may discontinue the 1.35 cent per Mcf payment at any time by a lump sum payment of 1.1 cents per Mcf on the unused gas balance of the specified 82,546,000 total Mcf. In the event that Permanente (a) discontinues operating its equipment before the expiration of the term of the contract, or (b) fails to take the necessary quantity of interruptible gas to operate its equipment when such gas is available therefor, or (c) causes this contract to be cancelled prior to its expiration date, it shall on demand pay the applicant the amount based on the 1.1 cent per Mcf computation basis and shall also pay the cost of installing and removing the service facilities, i.e., service pipe, service regulators, meters and other miscellaneous facilities associated therewith.

The usual liability, curtailment, standby fuel and Commission jurisdictional clauses have been incorporated in the agreement.

Economics of Project

Applicant represents that the expenditures required for the proposed project will not result in any burden on applicant's other customers, and that under the rates proposed the project would have increased the gas department's rate of return from 5.868 per cent to approximately 5.882 per cent if it had been operative during the year 1955. The rate base on which applicant expects a return will not be increased by this portion of the project. The estimated installation cost of \$788,755 will be charged to Account 125, Accounts Receivable, and credited to Account 265, Contributions in Aid of Construction. While applicant's plant will be increased by \$788,755, for the purpose of rate making the contribution in aid of construction will be deducted and the net result will be no increase in rate base. Account 524, Interest Revenue, will be credited with an amount equal to 4 per cent per annum on the remaining unpaid balance of the estimated installation cost and the amount of money recovered by the monthly surcharge will be credited to Account 125, Accounts Receivable. In the event that Permanente elects to pay off the unpaid balance of the estimated installation cost, such amount likewise will be credited to Account 125.

A large interruptible load enables applicant to contract for large blocks of out-of-state gas at high annual load factors to meet the growth in the firm peak load. So long as the utility has sufficient interruptible load to use the gas when it is not required for firm customers, the growing firm load normally can be most economically met by this method. Should applicant not be able to obtain additional high load factor supplies it would have to resort to alternate and more expensive means, such as underground storage or manufactured gas, to meet the firm load growth. The

future availability of interruptible gas is of importance in deciding the economics of the proposed project.

#### Availability of Gas

The staff questioned that applicant had sufficient gas to supply an interruptible load of this magnitude for a period of time as long as 15 years in the future. Particularly questioned was applicant's proposal to base the line repayment surcharge on 100 per cent load factor of operation during the 13th and 14th years of operation. At the second day of hearing a witness for applicant described negotiations with the El Paso Natural Gas Company for an additional 150,000,000 cubic feet of gas daily and testified that there is a reasonable expectation that applicant will have sufficient gas during this 15-year period to supply most of the estimated requirements of Permanente. Applicant revised its earlier estimate of the amount of gas to be delivered by assuming curtailment of roughly 5 per cent during the 6th to 15th year of the contract but estimated that the surcharge of 1.35 cents per Mcf would still pay off the extension advance before the end of the 15th year.

#### Fuel Clause

A fuel clause is provided in the rate to maintain the competitive position of the price of interruptible gas with that of fuel oil. At present this clause has a \$2 per barrel ceiling and a \$1 floor. Currently, the posted price of oil is above \$2 so that the price of gas is below a truly competitive price. The testimony showed that the competitive oil would be purchased in the Los Angeles basin, but that applicant's proposed fuel clause was based on the price in the San Francisco Bay area. The staff suggested that the fuel clause should be changed and the price based on the posted price at El Segundo or other points in the



Los Angeles area. Applicant was opposed to this change on the basis that it desired uniformity in its interruptible schedules and stated that a uniform price spread of 5 cents has been maintained in the posted price between the two areas. So long as this spread is maintained at 5 cents applicant contended that the use of a San Francisco Bay area posted price is equitable.

Interest Rate

The staff questioned the use of a 4 per cent interest rate on this extension advance inasmuch as the applicant has in the past in rate cases stated that its cost of money is approximately 6 per cent or greater. Applicant's witness did not consider 4 per cent a fair rate of return on property or investment in utility operations, but looked at this particular matter as something outside of the utility operation, a 4 per cent interest charge on an installment payment as a banker in this particular instance.

Term of Contract

Applicant cited the Trona contracts as a precedent for a 15-year term contract. In those matters the applicant was contracting with firms long established in the Trona area. In this case, a new plant is involved. Applicant pointed out, however, that the contract provided for full extension advance repayment if the contract is terminated before the 15-year term is completed, and considered Permanente as an old and well-established customer based on its service to the Permanente Cement Plant near Los Altos, California. Applicant also pointed out that at any time the Commission could alter the contract under the jurisdictional clause.

The staff pointed out a fundamental weakness in the contract regarding the manner in which applicant would be

reimbursed if Permanente did not consume as much gas as estimated. To correct this weakness, Permanente stipulated that at the end of 15 years it would pay any unpaid balance on the extension advance including interest due.

Air Pollution

A letter was sent to the Commission by the Bay Area Air Pollution Control District stating that any change in the type of fuel now consumed in large quantities in the San Francisco bay area, which might tend to increase the amount of pollutants emitted to the atmosphere, should be discouraged. Fuel oil generally creates more smog than natural gas and there is question as to the advisability of permitting the sale of gas in a desert area where the smog problem does not presently exist.

One of applicant's witnesses, who had lived in the bay area for some 30 years, was of the opinion that presently there was no smog problem caused by the burning of fuels. He was of the opinion that the sale of gas to Permanente will not have an adverse effect on the smog situation for the reason that the applicant is buying additional gas to supply this plant, which, without this load, it would not be able to buy. He concluded that this project will not result in any decrease in the quantity of natural gas available for distribution in the bay area.

Franchises, Rights of Way and Easements

Applicant plans to lay and install the gas mains, in part, on private rights of way, on public highways, streets, roads and places of the County of San Bernardino. In this regard it requests a certificate of public convenience and necessity to exercise the rights and privileges under a general county franchise granted to it by Ordinance No. 760 of the Board of Supervisors of the County of San Bernardino to the extent necessary to construct, operate and maintain the project, as described, and extensions thereof made in the ordinary course of business in the unincorporated territory in San Bernardino County. Inasmuch as the question of service to the town of Lucerne Valley is not being decided at this time, the certificated service area proposed in the application is greater than needed for the extension to the cement plant site.

Findings and Conclusions

After considering the early record herein, the questions posed by the staff and the testimony at the reopened hearing, the Commission finds and concludes that a sufficient quantity of interruptible gas should be available reasonably to supply the estimated future fuel requirements of the Cushenbury Cement Plant, and that applicant should continue to base its fuel oil clause on posted prices in the San Francisco bay area so long as a 5-cent differential with the Los Angeles Basin posted price is maintained.

As to the level of the rates, the Commission is aware that the proposed price of the gas is lower than a reasonable competitive level based on the probable delivered cost of fuel oil at the plant site. With the increasing costs of supplying firm gas service, the Commission places the parties on notice that it may desire to increase this rate in the near future, or revise the fuel escalator clause. With regard to the 4 per cent interest rate, the Commission realizes that applicant does not earn 6 per cent on each extension but may earn a higher rate on some and a lower rate on others. The Commission does not favor a utility acting as a banker, nor a contract term longer than 5 years. Applicant, however, is apparently convinced that this is the best arrangement it could make in this instance to obtain the new load and its benefits without in any way burdening its existing customers. The Commission prefers that utilities extend interruptible service in accordance with their filed rules without resorting to the "Exceptional Cases" clause thereof. However, in this instance, after careful weighing of all the facts, we will not let these considerations stand in the way of our authorizing the contract.

In entering into this contract, Permanente takes the risk that interruptible gas may not be available for as long a time as, and to the extent, forecast by applicant. Another risk that Permanente takes is that the smog situation may become so bad in the San Francisco, Los Angeles or other metropolitan centers that the Commission may be required, in the public interest, to reduce the available gas supplies to loads in areas not particularly subject to smog.

The Commission finds that public convenience and necessity require the construction, operation and maintenance of a natural gas

pipeline extension generally as described in the application to supply the interruptible and firm gas requirements of the proposed Cushenbury Cement Plant of Permanente Cement Company, and the acquisition and use of all lands, rights-of-way and easements, and the exercise of all rights, permits and franchises, including Ordinance No. 760 of the County of San Bernardino, to such extent as is necessary to install and operate the extension, except that the question of service to the town of Lucerne Valley or other firm load shall be held in abeyance pending completion of public hearings on this application.

The certificate of public convenience and necessity granted herein is subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of the franchise involved herein or this certificate of public convenience and necessity or the right to own, operate or enjoy such franchise or certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, certificate of public convenience and necessity or right.

INTERIM ORDER

The above-entitled application having been considered, a public hearing having been held, the matter having been submitted in part and now being ready for decision on the question of interruptible and firm natural gas service to the Cushenbury Cement Plant, therefore,

IT IS HEREBY ORDERED that Pacific Gas and Electric Company be and it is granted a certificate that public convenience and necessity require the construction, operation and maintenance of a gas main extension generally as described in this application but limited to serving the Cushenbury Cement Plant, and require the exercise by it of the right, privilege and franchise granted to it

by Ordinance No. 760, adopted April 4, 1955, by the Board of Supervisors of San Bernardino County, only to the extent necessary to construct, operate and maintain the extension and serve gas to the said cement plant.

IT IS HEREBY FURTHER ORDERED as follows:

1. That applicant be and it is authorized to carry out the terms and conditions of a written contract dated December 28, 1955, as amended at the hearing and by stipulation, with the Permanente Cement Company.
2. That applicant is authorized to amend the territory description of Schedule No. G-56 to include interruptible gas service to the Cushenbury Cement Plant.
3. That applicant is authorized to amend the territory description of Schedule No. G-41, Firm Industrial Natural Gas Service, to include the Cushenbury Cement Plant.
4. That applicant may deviate from its filed Rule and Regulation No. 15 - Gas Main Extensions, in accordance with Section F, "Exceptional Cases", thereof, in order to install the gas transmission main involved substantially on the basis set forth in said agreement of December 28, 1955.
5. That applicant file with the Commission within thirty days after the effective date of this order three certified copies of the contract as executed.
6. Applicant shall notify this Commission in writing of the date service is first rendered under the agreement herein authorized, within thirty days after such commencement of service.
7. Applicant, within six months following the date of completion of this extension, shall file with this Commission a detailed statement of the capital costs of the added pipeline and related facilities.
8. Applicant shall notify this Commission of the date of termination of said contract within thirty days from and after said date of termination.
9. Applicant, within thirty days after the extension advance, including interest, has been paid by the customer, shall furnish this Commission a detailed summary of the accounting thereof, and, in the event that the contract is terminated prior to

completion of pay-out of the extension advance at the rate of 1.35 cents per Mcf, an appropriate accounting summary shall be included with the termination notice required by paragraph 8 above.

The authorization herein granted will expire if not exercised within one year from the date hereof.

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

Dated at San Francisco, California, this 8<sup>th</sup> day of May, 1956.

*John E. W. [Signature]*  
 President

*Justin J. [Signature]*

*Rouge [Signature]*

*[Signature]*

Commissioners

Deeming himself disqualified, Commissioner Rex Hardy abstains from participating in this decision.

APPENDIX A

LIST OF APPEARANCES

For Applicant: F. T. Searls and John C. Morrissey.

Protestant: Southwest Gas Corporation by W. M. Laub.

Interested Parties: Permanente Cement Company by Kenneth M. Robinson and Peter S. Haas; Monolith Portland Cement Company by Waldo A. Gillette, Joseph T. Enright and Norman Elliott; Southwestern Portland Cement Company by Donald H. Ford; Riverside Cement Company by Lauren M. Wright of O'Melveny & Myers; Big Bear Lake Gas Company by William A. Betterley; California Electric Power Company by Walter H. Bailey, Jr.; Bu-Pane Gas Service and Western Liquid Gas Association by William K. Merrill; California Farm Bureau Federation by J. J. Deuel and Bert Buzzini; City of Los Angeles, Department of Public Utilities and Transportation by R. W. Russell; Southern California Gas Company by T. J. Reynolds and L. T. Rice.

Commission Staff: William W. Evers.

LIST OF WITNESSES

Evidence was presented on behalf of the applicant by Peter S. Haas, John Smith, Rudolph Jenny, R. W. Joyce and James S. Moulton.

Evidence was presented on behalf of Southern California Gas Company by P. R. Shea.