

**ORIGINAL**Decision No. 60427

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 PACIFIC LIGHTING GAS SUPPLY COMPANY  
 for a Finding and Order under  
 Section 701 of the Public Utilities  
 Code and General Order 96 authorizing  
 Applicant to carry out the terms and  
 conditions of written Service Agree-  
 ments with Southern California Gas  
 Company and Southern Counties Gas  
 Company of California and Authorizing  
 the filing of same.

Application No. 41361  
 (Amended)

Appearances are listed in Appendix A.

### O P I N I O N

#### Applicant's Request

By the above-entitled application filed on January 15, 1960, as amended on April 18, 1960, and as further amended at the hearing on June 9, 1960, Pacific Lighting Gas Supply Company (Pacific) requests that the Commission issue its decision and order:

(1) granting and conferring upon applicant authority to carry out the terms and conditions of the written service agreements filed as Exhibits Nos. 42 and 43; (2) authorizing applicant to file the form of such service agreements (Exhibit No. 46) as part of applicant's effective tariff schedules; (3) approving the rules and regulations attached to the application as Exhibit D and authorizing applicant to file said rules and regulations with the Commission as part of applicant's effective tariff schedules.

Public Hearing

After due notice, public hearing was held on this application before Commissioner Peter E. Mitchell and Examiner William W. Dunlop on March 2, May 4 and 5, 1960 in Los Angeles and on June 9, 1960 in San Francisco.<sup>1/</sup> Pacific presented exhibits and testimony in support of its application. No other party to the proceeding presented any affirmative showing, although a number of the parties, including counsel for the Commission staff, cross-examined applicant's witnesses.

At the conclusion of the hearing on June 9, 1960, the matter was submitted subject to the receipt of Exhibit No. 46. Such exhibit having been received, the matter now is ready for decision.

Applicant's Position

Pacific considers that the execution of a service agreement with its two customers<sup>2/</sup> is a necessary prerequisite to the establishment of final rates for the sale of natural gas which is purchased under contracts wherein Pacific commits itself to purchase a stated volume of gas at a stated delivery rate over a predetermined period of time. Pacific cites that it has entered into a contract with Transwestern Pipeline Company for an initial period of 20 years with a best efforts period of an additional 7 years. Such contract provides, in part, for the purchase by Pacific of an initial daily obligated quantity of 300,000,000 cubic feet of gas. In addition, it appears, Pacific has entered into a number of long-term contracts with California producers for minimum terms of 20 years.

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<sup>1/</sup> Application No. 41861 was heard on a consolidated record with Application No. 41277 on March 2, and on May 4 and 5, 1960.

<sup>2/</sup> Southern California Gas Company (California) and Southern Counties Gas Company of California (Counties).

Pacific takes the position it is both necessary and proper that the long-term contractual obligations for purchasing gas be followed or accompanied by long-term service agreements with its two affiliated customers, California and Counties. However, Pacific stipulated that approval of the service agreements by the Commission shall not be deemed to be approval or disapproval or have any effect upon the long-term purchase agreements that Pacific has executed with California producers. Pacific further states that its need for outside financing to construct pipeline facilities also has prompted execution of the long-term service agreements.

Service Agreements

The service agreement which Pacific<sup>3/</sup> has executed with Southern California Gas Company<sup>4/</sup> and the service agreement which Pacific has executed with Southern Counties Gas Company of California are Exhibits Nos. 42 and 43, respectively, filed in this proceeding. The two service agreements contain similar provisions and, according to Pacific, complement its rate schedule and the proposed rules and regulations sought to be filed.

Each service agreement provides that its effective date shall be the effective date of a decision of the California Public Utilities Commission which approves the filing of said agreements. The agreements are written for a term of 20 years from the first day of the calendar year next succeeding the effective date and continue thereafter for seven years on a best efforts basis and then from year to year until at least 12 months' written notice by either party to cancel.

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<sup>3/</sup> Applicant is designated Seller in the Service Agreements.

<sup>4/</sup> Southern California Gas Company and Southern Counties Gas Company of California are each designated Buyers in the Service Agreements.

Among other things, the service agreements specify the initial maximum daily and hourly rates of delivery; and provide that at least 90 days before the beginning of the second and each succeeding contract year the parties will mutually agree upon the total annual volumes of gas, the maximum daily volumes of gas, and the maximum hourly and daily rates of delivery of gas. The service agreements also have provisions relating to the storage of gas and the use of best efforts to purchase and to take additional quantities of gas.

With respect to price, the service agreements provide that charges are to be in accordance with Pacific's latest effective tariff schedule applicable to California and Counties.

Under the provisions of the service agreements all gas presently available for sale or presently contracted for by Pacific is dedicated to California and Counties. California and Counties, according to the testimony, are not bound to take any greater volume of gas offered by Pacific than Pacific now has available or contracted for. To the extent that California and Counties take less than 91 percent of the out-of-state gas specified, California and Counties must take and pay for, or pay for if not taken, all of the gas thus deferred, within a period not to exceed five years, or before the agreement terminates, whichever is earlier.

Furthermore, California and Counties must each physically take at least 75 percent of the average daily volume of out-of-state gas designated, except where deferment is occasioned by lack of current market for such gas or lack of future market arising out of conditions beyond the control of California and Counties. There are also provisions relating to deficiency of supply.

Each service agreement contains the following jurisdiction provision:

"This agreement shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may, from time to time, direct in the exercise of its jurisdiction."

Benefits of Long-Term Service Agreements

Pacific showed several benefits to its operations from the proposed long-term service agreements. First, Pacific would be assured of a market for all gas presently available for sale or presently contracted for. A second benefit, according to the testimony, is that Pacific will be able to do outside financing on more favorable terms. In this connection, Pacific presented three communications from representatives of financial institutions (Exhibits Nos. 44, 45 and 47) showing that the long-term service agreements will have a favorable effect on outside financing.

Benefits to California and Counties were testified to by a vice president of each of the two distributing companies. Such benefits, according to these witnesses, include:

- (1) The obligations of Pacific to California and Counties are set forth in definitive contract language.
- (2) The service agreements state the responsibility of Pacific to perform the peaking service function.
- (3) Pacific dedicates all of its presently contracted for gas supply to California and Counties.
- (4) There is protection for California and Counties in the event of any change in ownership of any of the three companies.
- (5) Pacific has an obligation to store gas owned by California or by Counties.
- (6) Deferral of gas is provided for in the event that the market for gas does not support the contracted for volumes of gas.

### Rules and Regulations

Two rules attached to the application as Exhibit D are sought to be filed. These rules are designated No. 2, Character of Service and No. 3, Contracts. No specific opposition to the filings of these rules was made at the hearings.

### Position of the Commission Staff

The Commission staff urged that the terms of the service agreement restrict the obligation of California and Counties to take only the local and out-of-state gas presently contracted for by Pacific. Witnesses for Pacific, California and Counties testified that they interpret the provisions of the service agreements set forth in Exhibits Nos. 42 and 43 to so restrict the obligation of California and Counties.

The staff also urged that Pacific file each year either by letter or by tariff schedule the volumes of gas which California and Counties are obligated to take and the delivery points thereof.

### Findings and Conclusions

Based upon the entire record in this matter we find:

1. A granting of the application as herein provided will not be adverse to the public interest.
2. Since applicant has but two customers, copies of the actually executed service agreements (Exhibits Nos. 42 and 43) should be filed as part of applicant's tariff schedules, rather than the form of service agreement (Exhibit No. 46).
3. Applicant should file as part of its tariff schedules the volumes of gas which Southern California Gas Company and Southern Counties Gas Company of California are obligated to take and the delivery points thereof.

4. Rules Nos. 2 and 3 attached to the application as Exhibit D should be filed as part of applicant's tariff schedules, except Rule No. 3 should be modified to show that the executed service agreement is filed as part of the tariff schedules.

5. Such increases in rates or charges as may result from the order herein are justified and present rates or charges insofar as they differ from those herein prescribed are for the future unjust and unreasonable.

The action taken herein should not be construed in any way as approval of the long-term gas purchase contracts of Pacific or the setting by Pacific and its two affiliated customers of the volumes of gas or prices thereof without prior Commission approval.

#### O R D E R

Public hearing on the above-entitled matter having been held, the matter having been submitted for decision, the Commission being informed thereon, and based upon the entire record and the above findings and conclusions,

IT IS ORDERED that Pacific Lighting Gas Supply Company is authorized to carry out the terms and conditions of the written service agreements filed as Exhibits Nos. 42 and 43 herein, provided:

1. Pacific Lighting Gas Supply Company shall file as part of its tariff schedules copies of the executed service agreements, Exhibits Nos. 42 and 43. Such filing shall be made in accordance with the provisions of General Order No. 96 within fifteen days after the effective date of this order and shall become effective on not less than five days' notice to the Commission and to the public.
2. Pacific Lighting Gas Supply Company shall file as part of its tariff schedules the volumes of gas which Southern California Gas Company and which Southern Counties Gas Company of California are obligated to take and the delivery points thereof. Such filing

shall be made in accordance with the provisions of General Order No. 96 within fifteen days after the effective date of this order and shall become effective on not less than five days' notice to the Commission and to the public; provided, however, that revisions in the volumes or in the list of delivery points may be made annually.

IT IS FURTHER ORDERED that Pacific Lighting Gas Supply Company is authorized to file as part of its tariff schedules Rules Nos. 2 and 3 attached to the application as Exhibit D, except that Rule No. 3 shall be modified to show that the executed service agreements rather than the form of the service agreement is filed as part of the tariff schedules. Such filing shall be made in accordance with the provisions of General Order No. 96 within fifteen days after the effective date of this order and shall become effective on not less than five days' notice to the Commission and to the public.

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

Dated at San Francisco, California, this 26<sup>th</sup> day of July, 1960.

[Signature] President  
[Signature]  
[Signature]  
[Signature]  
[Signature] Commissioners

Commissioner Everett C. McKee, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

LIST OF APPEARANCES

FOR APPLICANT:

O. C. Sattinger, J. R. Elliott and R. D. Twomey.

FOR INTERESTED PARTIES:

Milford Springer and Robert M. Olson, for Southern Counties Gas Company of California; T. J. Reynolds and E. P. Letton, for Southern California Gas Company; Chickering and Gregory, by Sherman Chickering, C. Hayden Ames, Frank Porath, and H. C. Dillin, for San Diego Gas & Electric Company; Rollin E. Woodbury, Harry W. Sturges and J. F. Nail, for Southern California Edison Company; T. M. Chubb, Jack O. Sanders, and Robert W. Russell, for Department of Public Utilities and Transportation, City of Los Angeles; Manuel Kroman, for City of Los Angeles; O'Melveny and Myers, by Lauren M. Wright, for Riverside Cement Company, Division of American Cement Corporation; Brobeck, Phleger and Harrison, by Robert M. Lowry, and William W. Evers, for California Manufacturers Association; William L. Knecht, for California Farm Bureau Federation; Henry E. Jordan, for City of Long Beach; Enright, Elliott and Betz, by Norman Elliott and Joseph T. Enright and Waldo A. Gillette, for Monolith Portland Cement Company; W. D. McKay, for Challenge Cream and Butter Association; Henry F. Lippett II, for Southern California Gas Company and Southern Counties Gas Company of California; Harold Gold, Ruben Lozner and Stuart Foutz, for Department of Defense and other Executive Agencies of the United States Government; Leslie E. Still and Walhfred Jacobson, for the City of Long Beach.

FOR COMMISSION STAFF:

Frank G. Campbell, Richard Perry, and Richard R. Entwistle.