

63429

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

UNITED STATES BORAX & CHEMICAL
CORPORATION, a corporation,

Complainant,

vs.

PACIFIC GAS AND ELECTRIC COMPANY,
a corporation,

Defendant.

Case No. 7064
(Filed February 16, 1961)Robert L. Starkey, for United States Borax &
Chemical Corporation, complainant.F. T. Searls, John C. Morrissey and Malcolm A.
MacKillop, for Pacific Gas and Electric Company,
defendant.Dion R. Holm, Thomas M. O'Connor and Robert
Laughead, for City and County of San Francisco;
Donald J. Carman and Richard Edsall, by Richard
Edsall, for California Electric Power Company;
and William W. Evers, for California Manufacturers
Association; interested parties.O P I N I O NNature of Proceeding

The issues raised in this proceeding are the same as those raised in American Cement Corporation v. Pacific Gas and Electric Company (Case No. 7036), this day decided; the respective complainants in Cases Nos. 7036, 7033 and 7064 have filed joint briefs. For the reasons stated in today's decision in Case No. 7036, defendant's motion to dismiss the complaint herein should be granted.

Findings

The Commission has considered the evidence and the arguments of the parties. We find as follows:

1. The charge under attack by complainant is contained in a contract for gas main extension for interruptible natural gas service entered into between complainant and defendant on April 20, 1956, as amended on August 3, 1956.

2. The requirement in Section 10 of said contract that complainant pay the installation cost of \$76,087 as a condition of obtaining service is in accordance with defendant's Rule 15 in effect at the time the contract was executed in 1956 and at the time service actually was established in 1957.

3. Fairly interpreted, the 1951 order of the Commission (Decision No. 45751), under which defendant's Rule 15 became effective on June 11, 1951 and which was controlling at the time service was established for complainant pursuant to said 1956 contract, formally declared the rates and charges therein fixed to be reasonable.

4. The alternate methods of payment of the \$76,087 of installation cost set forth in Section 10 of the 1956 contract were: (1) a monthly charge of 0.65 cents per Mcf of gas delivered, until the sum of \$76,087 plus interest at six per cent per annum on the unpaid balance has been paid, and in any event within five years after the date interruptible gas is first supplied, or (2) at any time during said five years, a sum equal to the entire unpaid balance of the installation cost, plus accrued interest at the rate of six per cent per annum. These alternate methods of payment were mutually agreed upon in 1956 by complainant and defendant pursuant to Section F of Rule 15 then in effect. The special payment arrangements contained in Section 10 of the 1956 contract were subsequently expressly authorized by this Commission by Decision No. 53813 in Application No. 38245.

5. Complainant has elected to pay the installation cost of \$76,087 over a period of time rather than by a lump sum payment.

6. The extension to serve complainant was completed, and actual initial gas deliveries were made, prior to September 15, 1959, the issue date of Decision No. 59011, and prior to April 20, 1960, the effective date of defendant's new Rule 15.

7. The evidence does not sustain a finding of unlawful discrimination against complainant by defendant.

8. Defendant's motion to dismiss should be granted and the relief sought by complainant should be denied.

O R D E R

Public hearing having been held on the above-entitled complaint, the matter having been duly submitted, and the Commission being fully advised,

IT IS ORDERED that the relief sought by complainant is hereby denied and that this complaint is hereby dismissed.

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

Dated at San Francisco, California, this 20th day of MARCH, 1962.

Charles B. Page
President

Ed. J. Mitchell

George D. Trover

Fredrick B. Hobbhoff

Commissioners