

**ORIGINAL**Decision No. 63531

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THE SENIOR CITIZENS VILLAGE,

Complainant,

vs.

PACIFIC GAS &amp; ELECTRIC COMPANY,

Defendant.

Case No. 7115  
(Filed May 15, 1961)

Richards, Watson, Smith & Hemmerling, by  
David S. Smith, for complainant;  
Malcom A. MacKillop, for defendant;  
Carol T. Coffey, for the Commission staff,  
 intervener.

O P I N I O N

Complainant herein, Senior Citizens Village, is a non-profit corporation which is the owner of a 42 1/2-acre tract of land in the City of Fresno on which it has constructed 82 buildings, as a housing project pursuant to rules of The Federal Housing Administration, for rental of 557 apartment units as living quarters and for rental of portions of a community center building to commercial enterprises.

Complainant has sought a single gas meter and a single electric meter for the project. Defendant, Pacific Gas and Electric Company, has refused to serve the project by means of a single meter for each type of service, primarily on the grounds of its claim that such single metering is not provided for in its tariffs; defendant raises a number of other objections to complainant's request.

Public hearing in the matter was held before Examiner F. Everett Emerson on October 24 and 25, 1961, at Fresno. The matter was submitted on briefs, the last being filed on December 29, 1961, and it is now ready for decision.

Complainant's project is bounded by East Hamilton Avenue on the north, by South Chestnut Avenue on the west, by the Southern Pacific Railroad right-of-way on the south and by undeveloped lands on the east, the easterly extent of the project being on the order of 1300 to 1600 feet east of South Chestnut Avenue.

Ingress and egress for the project are by means of a single thoroughfare, named George McLain Boulevard, intersecting South Chestnut Avenue about 500 feet south of East Hamilton Avenue. Within the project are four thoroughfares (George McLain Blvd., Albert Rains St., B. F. Sisk Dr. and Ted Wills Circle) which effectively divide the project into five parcels of irregular shapes. Single-storied buildings consisting of either 6-unit or 8-unit living quarters occupy four of the parcels, to a total of 81 buildings. The fifth parcel is designated The Community Center and contains a single large building wherein are to be located the project office, a general meeting place and certain commercial enterprises such as a medical office, a drug-store, a market, a barber shop, a beauty parlor and a cafeteria.

The four thoroughfares within the project are presently private ways undedicated to public use. It is complainant's intent that they remain such.

Complainant owns and will manage and operate the entire project (excepting only the activities of the commercial tenants in The Community Center) and will provide water, gas and electric services to the living quarters, the charge for such services being included, but not separately stated, in the rental charge.

Sometime in 1958 (probably about September) complainant explained the plot plan and the extent of the project to defendant's representatives in Fresno and requested master meters for both gas and electric services. In these initial discussions, defendant's representatives first indicated that defendant would serve the project

through individual meters for each living unit (557 gas meters and 557 electric meters). After some further discussion, however, they indicated that service might be provided through meters for each building (81 gas meters and 81 electric meters). By letter dated September 24, 1958, it appears that complainant then sought to have the number of meters further reduced and requested a master meter "to serve a number of buildings in convenient proximity", the number of buildings to vary "from three buildings to a maximum of seven, the living units varying from a minimum of 18 to a maximum of 50". Defendant rejected the request and complainant gave notice of formal appeal.

Construction of the project commenced during December 1960. At the insistence of defendant, defendant installed the electric and gas distribution systems for and within the project and placed an electric and a gas meter at each building. The complaint herein followed.

On or about October 13, 1961, defendant made a proposal to complainant, confirmed by letter dated October 16, 1961, by which it would install a "master" meter for the entire project for each type of service (one for electric and one for gas) with submeters for each service at the Community Center. This letter is not entirely clear, but in the light of the evidence it appears that the proposal was to install single gas and electric meters for the project's residential usage and to apply defendant's rate schedules in such manner that each consumption rate block of the applicable tariff would be multiplied by eighty-one. Such proposal would effectively negate the monetary advantages of single metering insofar as complainant is concerned.

The electric system installed by defendant is a 12,000-volt overhead system, supported on approximately 44 poles set within the project and strung on 6 existing poles on East Hamilton Avenue,

feeding 31 transformers with a total installed capacity of 828 KVA. Except for 8 buildings served from the pole line on East Hamilton Avenue, electric service to the project originates from the 12-KV line along South Chestnut Avenue and enters the project at George McLain Boulevard.

The gas system installed by defendant is a high-pressure system (nominally 5 psig or greater) originating in South Chestnut Avenue and entering the project at George McLain Boulevard via a single 3-inch gas main.

Defendant's gas tariffs are primarily composed of a Preliminary Statement, approximately 36 rate schedules and 19 Rules. Its electric tariffs are primarily composed of a Preliminary Statement, approximately 75 rate schedules and 18 Rules. Of particular interest in this matter, are defendant's Gas and Electric Rules Nos. 15, 16 and 18, the subject matter being similar for the two types of service. These rules, as well as all of the rest of defendant's tariffs, are equally binding upon the utility and its customers.

Turning first to Gas Rule No. 16, Gas Service Extensions,<sup>1</sup> we find the following portions to be pertinent to the matter at hand:

"Extensions of gas distribution services necessary to furnish permanent gas service to applicants will be made by the utility in accordance with the following rules:  
\*\*\*\*\*C1. The utility will not install more than one service pipe to supply a single premises, unless it is for the convenience of the utility\*\*\*\*\*J. Definitions 1.  
See Special Condition F of Rule No. 15."

Gas Rule No. 15, Gas Main Extensions,<sup>2</sup> has among its definitions in Condition F:

"Applicant: A person or agency requesting the utility to supply gas service."

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1) Sheet 5416-G and Sheet 5417-G, filed April 15, 1960..  
2) Sheet 5527-G, filed November 15, 1960.

"Premises: All of the real property and apparatus employed in a single enterprise on an integral parcel of land, undivided, excepting in the case of industrial, agricultural, oil field, resort enterprises and public or quasi-public institutions, by a dedicated street, highway or other public thoroughfare or a railway\*\*\*\*\*"

3 Gas Rule No. 18, Supply to Separate Premises and Resale of Gas, reads in part as follows:

"Where the Company has adequate service facilities to supply separate premises, such separate premises, even though owned by the same customer, will not be supplied with gas through the same meter.

"Unless specially agreed upon, the customer shall not re-sell any of the gas received by him from the company to any other person or for any other purpose, or on other premises than specified in his application for service.

"Owners or lessees of apartment houses or other buildings may re-sell gas to tenants of such houses or buildings, provided either,

"1. Such service is resold at rates identical with the rates of the Company that would apply in the event that service were supplied to the sub-customer by the Company: or,

"2. The charge to the sub-customer for such service is absorbed in the rental charge for the premises occupied by him\*\*\*\*\*"

A careful reading of defendant's gas rules makes it abundantly clear that single metering of a project such as complainant's is contemplated by such rules. The only specific question involved is whether or not complainant's activities meet defendant's definition of "premises". In the light of the evidence, the Commission finds as a fact that complainant is conducting a single enterprise (that of providing housing and community center activities and services for the elderly) on an integral parcel of land (42 1/2-acre parcel) undivided by a dedicated public thoroughfare (private roadways only) and concludes therefrom that complainant is entitled to the single metering of gas service as requested. Further, the

Commission finds and concludes that complainant is entitled to receive such service under rate Schedule No. G-3, General Natural Gas Service, without modification thereof and at the "high pressure" now available at the site and as contemplated by defendant's Gas Rule No. 2. However, under the filed tariff schedules, unless the charges for gas are at all times included in the rent, the utility may now or in the future elect to meter and serve each nondomestic customer.

Turning to defendant's electric tariffs, Rule and Regulation No. 16, Service Connections and Facilities on Customer's Premises,<sup>4</sup> we find the following provision to be pertinent to the matter at hand:

"A1 (a) Location: All meters shall be installed by the Company at some convenient place, \*\*\*\*upon the customer's premises and so placed as to be at all times accessible\*\*\*\*.

"A1 (c) Master Meters: A master meter will be furnished and installed\*\*\*\*where electric energy is to be metered and resold\*\*\*\*as provided in Rule 18\*\*\*\*."

Rule and Regulation No. 18, Supply To Separate Premises<sup>5</sup> And Re-Sale of Electric Energy, except for the substitution of the words "electric energy" for the word "gas", is in substance identical to defendant's Gas Rule No. 18, excerpts of which are hereinabove quoted.

As in the case with gas, the crux of the electric service problem lies in the definition, or interpretation, of the term "separate premises". Unlike the gas situation, however, none of defendant's electric rules refer specifically to a definition of the word "premises". The only definition of such word is to be found in Electric Rule No. 15, Line Extensions.<sup>6</sup> Defendant relies

4) Sheet 3075-E, filed March 13, 1959; Sheets Nos. 1752-E and 1753-E, filed November 22, 1949.

5) Sheet 1085-E, filed June 21, 1943.

6) Sheet 3197-E, filed November 15, 1960.

on its placement of such definition in Rule No. 15 as grounds for maintaining that said definition applies only to the provisions of Rule No. 15. Defendant's reliance is misplaced. This Commission's Decision No. 60938, issued October 25, 1960 (58 Cal PUC 190-204), ordered that, "\*\*\*electrical utilities shall include in their definitions of tariff terms (preferably in Rule No. 1)\*\*\*" the prescribed definition of the word "premises" as hereinabove quoted. Defendant's placement of said definition in its Rule No. 15 in no way relieves it from the obligation to apply said definition throughout its rules.

In the light of the evidence respecting electric service, the Commission finds and concludes that complainant is entitled to receive electric service through single metering facilities and under either rate Schedule No. A-2, General Service, or rate Schedule No. A-13, General Service - Demand Metered, as it may elect.

However, under the filed tariff schedules, unless the charges for electric service are at all times included in the rent, the utility may now or in the future elect to meter and serve each nondomestic customer.

Defendant also objects to the granting of complainant's request on the grounds that complainant, not defendant, will own and maintain high-voltage electric and high-pressure gas distribution lines and, further, that defendant has designed the systems which it has now in place in such manner as to permit of their use in extending defendant's system to future customers beyond the confines of the village. Neither of these objections are weighty enough to overturn the findings and conclusions hereinabove set forth. With respect to the objection as to ownership, defendant's own rules (Gas Rule No. 20 and Electric Rule No. 16) place the responsibility for keeping the private facilities in good and safe condition on the customer and permit defendant to discontinue service to the customer in those

instances where the facilities are unsafe (Gas Rule No. 11 and Electric Rule No. 11). With respect to the objection as to design and future use of the systems, defendant's representatives were made fully aware of complainant's plans and request for single metering long in advance of either design or construction. Defendant's refusal to supply the service to which complainant was entitled should not now be held to militate against complainant. However, the granting of complainant's request should be contingent upon complainant's reimbursing defendant for the installed cost of all of its utility facilities, except meters, now installed on the property of complainant.

O R D E R

Based upon the evidence and upon the findings and conclusions set forth in the foregoing opinion,

IT IS ORDERED that:

1. Subject to Paragraphs 2 and 3 of this order, Pacific Gas and Electric Company shall proceed without delay to render gas and electric service to Senior Citizens Village, Fresno, through single metering facilities for each such service, provided, however, that unless charges for services are included in the rental for non-domestic use of those tenants in The Community Center Building, the utility may, if it so desires, meter and serve each such nondomestic user; defendant shall notify this Commission in writing of having complied with the order herein within ten days following the date on which completion of the necessary metering facilities has been accomplished.

2. Paragraph 1 of this order is contingent upon the approval by this Commission of an agreement between complainant and defendant providing for the sale to complainant of defendant's utility facilities, except meters, now installed on the property of complainant.



3. If complainant should at any time elect to charge its tenants for utility service by means other than including such charges in rent, defendant may meter and serve each tenant to the extent that the then applicable tariff schedules shall provide.

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

Dated at San Francisco, California, this 6<sup>th</sup> day of April, 1962.

Elliott H. Rode  
President  
Ed. E. Mitchell  
Sam Fox  
George T. Grover  
Fredrick C. Holboff  
Commissioners