

Decision No. 89324 SEP 6 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PACIFIC GAS AND ELECTRIC)
COMPANY for authorization, among)
other things, to abandon a portion)
of its Jackson District Water)
System.)
(Water)

Application No. 56692
(Amendment filed
November 29, 1977)

(Appearances are shown in Decision No. 87279)

Additional Appearances

Joseph A. Englert, Jr., Attorney at Law, for Pacific Gas and Electric Company, applicant.
Russell William Evitt, for himself, protestant.
Gale K. Cuneo, Attorney at Law, for Drytown County Water District; and Joseph M. Sinai and Walworth Rood Slenger, for themselves, interested parties.

O P I N I O N

The original application sought to abandon the remaining portion of Pacific Gas and Electric Company's (PG&E) Amador City Canal and to transfer nine of PG&E's untreated water customers on the portion of the canal to be abandoned to the treated pipeline to be installed, owned, and operated by the Drytown County Water District (District).

Decision No. 87279 dated May 3, 1977 in this proceeding authorized PG&E to abandon the remaining portion of its Amador City Canal upon the completion by it of a treated water pipeline between its Amador City Water Service area and a point on the boundary of the District. All customers presently receiving untreated water

service from the canal (an open ditch) would be continued as pipeline customers of PG&E. Decision No. 87279 authorized PG&E to charge its current rates for general metered service to its former canal customers, except that commercial irrigation rates were authorized for pipeline customers that irrigate two acres or more. The Commission found that it is the lead agency as defined in the California Environmental Quality Act of 1970 (CEQA) and Rule 17.1 of the Commission's Rules of Practice and Procedure and directed PG&E to supply additional data as to whether construction of the pipeline and abandonment of the canal may have a significant effect on the environment.

In the amendment filed November 29, 1977, PG&E proposes that it construct, own, and operate the pipeline commencing at its existing water main on East School Street in Amador City and extending approximately 3,500 feet north along the Drytown Amador Road thereby retaining those customers originally proposed to be transferred to District.^{1/}

The amendment also proposes that District construct, own, operate, and maintain the pipeline from Station 35+00 to its existing system, also a distance of about 3,500 feet. Attached to the amendment is a revised letter of understanding between PG&E and District

1/ Finding 19 of Decision No. 87279 stated:

"Present canal customers proposed to be served by PG&E from the pipeline would be adversely affected by the transfer to District under conditions proposed by PG&E because District's rates would be higher than the rates proposed by PG&E for commercial irrigation or for other usages, and because sufficient water may not be available from District to meet the future needs of those customers."

Finding 21 stated, in relevant part:

"In view of Findings 15 through 19, PG&E, rather than District, should construct, own, and maintain the pipeline. . . ."

setting forth, among other things, the agreement between the parties on the proposed pipelines. Also attached is a letter from the District to PG&E setting forth the method by which the District will obtain funds necessary to finance a pipeline to take delivery of treated water at Station 35+00. The amendment alleges that on the basis of that letter District has demonstrated the ability to finance its proposed pipeline to Station 35+00.

It is PG&E's position in the original application and in the amendment that it is requesting authorization of the Commission only to abandon the canal facilities and not to approve construction to the proposed pipeline. It is PG&E's view that the lead agency in the matter is the county of Amador, to which PG&E will make a timely application for all necessary permits and authorization in order to construct its pipeline to Station 35+00. PG&E requests that Finding 23 and Conclusion 2 of Decision No. 87279 be revised to indicate that the lead agency in this matter is the county of Amador. The Commission staff concurs in this request.

With the exception of the matters discussed hereinafter, PG&E's original application and the findings of facts and conclusions based thereon in Decision No. 87279 are not proposed to be changed as a result of the amendment to the application.

Public hearing on the amendment to Application No. 56692 was held before Administrative Law Judge Mallory in Jackson on April 17, 1978 and the matter was submitted.

Evidence in support of the request was presented by PG&E and District. Protestants and interested parties affected by the proposal also introduced evidence.

Effect of Amendment to Application

In our original decision we found that PG&E, rather than District, should construct the pipeline from Amador City to a point within the area served by District. We also found that all existing ditch customers of PG&E should become PG&E pipeline customers, whether or not their property was located within 50 feet of the pipeline; and that three persons whose property abutted the ditch and

whose cattle drank from the ditch should be provided with hookups to PG&E and that those cattle trough users had not been customers of PG&E and had not paid for the water used by their cattle.

Under the amendment to the application, the pipeline would no longer parallel the ditch. The location of the pipeline would be moved to adjacent public streets and roads, and would not abut parcels of land which are now adjacent to the pipeline.

The principal change from our prior order is that PG&E would construct the proposed pipeline for approximately half its length and District would construct the remaining half. Existing PG&E ditch customers would be served from PG&E's portion of the pipeline, as would two of the cattle trough users. PG&E proposed that Mr. E. Fancher, a cattle trough user whose property is located beyond the end of PG&E's portion of the pipeline, be served by District. It would be Mr. Fancher's responsibility to install a service pipe from a point in District's service area to the location(s) where his cattle would be watered. Only one service hookup is offered.

Under the amendment, PG&E no longer would be responsible for service to potential customers beyond the terminus of its portion of the pipeline. The responsibility for service would lie with District. District does not now offer service in the area where its portion of the pipeline is to be constructed. Authority to serve that area must be obtained from the Local Agency Formation Commission (LAFCO). Such authority has not been obtained by District. Thus, a potential gap in service areas may exist if the proposals set forth in the amendment to the application are granted.

Additional Evidence at Hearing by PG&E

PG&E's amended proposal was explained through the testimony of a senior hydraulic engineer and a commercial analyst. Those witnesses testified that it is the policy of PG&E not to expand its treated water service area. After review of Decision No. 87279, and

in light of PG&E's policy on expansion of treated water areas, PG&E filed the amendment to the application. With the written concurrence of District, PG&E proposes to construct and operate a 6-inch pipeline about 3,000 feet northerly from Amador City along an alternate alignment, which would be capable of serving PG&E's nine existing customers, the three trough users, and District. District would receive water through a 2-inch meter, which has a maximum flow capacity of 160 gallons per minute. In addition, PG&E would establish a 50-foot service corridor on either side of the pipeline and, if lateral mains are constructed to serve existing customers, a 25-foot corridor on either side of such lateral mains.

The construction, ownership, and maintenance of a pipeline from the end of PG&E's pipeline to the point at which a connection could be made to District's present system would be the responsibility of District. Construction of PG&E's portion of the pipeline would not commence until PG&E is assured that District has sufficient funds and is otherwise able to commence construction of its portion of the pipeline. ✓

PG&E proposes no change in the interim decision concerning rates. The decision provided that all customers (including irrigation customers) served from the pipeline would be subject to metered rates, including District.

PG&E estimated that the total costs to it for construction of its portion of the pipeline, installation of service lines to existing customers, and installation of meters is approximately \$90,700. As indicated in our prior order, the estimated annual savings resulting from the abandonment of the ditch is \$7,000 from lost water and \$6,000 from ditch maintenance (Finding 12).

District's Evidence

A director of District testified in support of the amendment. The witness iterated statements made in original hearing concerning the necessity to District for an adequate supply of treated water. He indicated that District has approved the arrangements proposed in the amendment. It is his estimate that the construction ✓

cost of District's portion of the pipeline will approximate \$35,000, half of which would be supplied by District and the balance from a state grant which has been applied for but not received.

If the pipeline is built, District will lift its moratorium on new service connections, and will immediately install meters for 20 homesites and to Mr. Evitt and Mr. Fancher, as hereinafter indicated. Because of the size and conditions of the mains and distribution system, no additional customers can be handled within District's present boundaries.

District has been requested by PG&E to seek approval to extend its boundaries to encompass an area paralleling its portion of the new pipeline. The board of directors has not as yet taken affirmative steps to seek such approval. Until such approval is received, District cannot offer service to potential customers outside its existing boundaries. Service offered to E. Fancher and R. Evitt for cattle trough usage (as hereinafter discussed) contemplates that each would install a service pipe to a meter located within District's boundaries.

Protestant's Evidence

Protestant Russell E. Evitt testified that he is part owner of 260 acres of grazing land; that PG&E's ditch terminates near his 200-acre parcel located north of Drytown-Quartz Mountain Road; and that he is now using the waste water remaining at the end of PG&E's ditch for the purposes of watering livestock. Mr. Evitt has constructed and maintains a ditch on the property of Mr. E. Fancher to transport water from the end of PG&E's ditch to a reservoir built and maintained by Mr. Evitt on his property. Mr. Evitt is not a customer of PG&E and does not pay for the waste water used by him. Offers by Mr. Evitt to PG&E to jointly construct and maintain a reservoir for entrapment of the waste water at the end of PG&E's ditch have been ignored or refused. District has offered to provide service to Mr. Evitt through a 5/8-inch meter on the condition that Mr. Evitt install the service line from District to the

point where Mr. Evitt would use the water, and that Mr. Evitt install and maintain valves and floats for regulating the flow of water into cattle troughs.

Mr. Evitt's position is that he is entitled to service from PG&E's pipeline inasmuch as he has made economic use of waste water for a period of years; but, if pursuit of his request would jeopardize the building of the pipeline, his request would be dropped. Mr. Evitt stated that as a former county supervisor, he recognized the necessity for bringing an adequate supply of treated water through a pipeline to District in order to avoid the inordinate expense of operating its treatment plant.

Mr. E. Fancher owns two parcels in the vicinity of PG&E's ditch. One parcel abuts the ditch north and east of the junction of Bunker Hill Road and Rancheria Creek. Under the amendment to the application, that parcel would not be within the service of PG&E's proposed pipeline. On that parcel Mr. Fancher grazes cattle that drink from the open ditch. Mr. Fancher is not a ditch customer and does not pay for the water used by his cattle. Under the interim order Mr. Fancher would become a cattle trough customer of PG&E. Under the amendment, service would be offered to Mr. Fancher by District under substantially the same conditions as those offered to Mr. Evitt. Mr. Fancher requests more than one water service in order to supply water at different locations within his fields, that the requested services be supplied from the PG&E pipeline, and that PG&E install the service pipes from its pipeline to the locations selected by Mr. Fancher, some of which are about 2,000 feet from PG&E's pipeline.

Mr. Joseph Garibaldi testified that he is part owner of the Amador Gold Mine and the Bunker Hill Gold Mine, which have been inactive for several years. Mr. Garibaldi is concerned whether water will be supplied to the mines if gold mining operations are again placed in operation. The record indicated that the parcels on which

the mines are located are within 50 feet of PG&E's proposed pipeline, and that service could be made available should the mines be reactivated. The record does not show the amount of water that would be used by the mines.

Staff Evidence

The Commission staff engineer who testified in the initial phase of the proceeding presented additional testimony. He recommended:

- (1) That the order herein be conditioned that District honor any request for service on its portion of the pipeline lying along Bunker Hill Road.
- (2) That the rates for residential customers on PG&E's pipeline be based on flat rate service rather than metered service as provided in the interim order.

The latter staff recommendation was made in the initial phase of this proceeding. A metered rate schedule assertedly was adopted in our prior order because of our policy at that time. By Decision No. 88692 dated April 11, 1978 in Case No. 10114, the Commission rescinded an order that all Classes A and B flat rate water utilities should be metered and ordered that such utilities should include, as part of any general rate increase proceeding, an analysis of the costs and benefits of converting existing flat rate services to metered service. The Amador City rate schedule for residential service is a flat rate schedule. According to the staff witness, all customers should be treated alike; thus a flat rate schedule should apply to the new PG&E pipeline. The staff witness also stated that inasmuch as this proceeding was not a general rate proceeding it is not an appropriate one in which to convert a flat rate service to a metered service rate schedule.

Discussion

The evidence adduced by PG&E and District in this phase and in the initial hearing convincingly shows that construction of the pipeline and the concurrent abandonment of the open ditch will provide better quality water to District and to other present customers of PG&E; that a substantial increase in water conservation will result from abandonment of the ditch; that both PG&E and District will realize monetary and other benefits from the replacement of the ditch with a pipeline; that District will be able to finance its portion of the pipeline construction; and that District will be able to provide more and better quality water to its customers.

Issues

The issues raised in the current phase of the proceeding, in addition to those set forth in the amendment to the application, are the following:

- (1) Whether the approval of the amendment to the application should be contingent upon District extending its service area to parallel its portion of the new pipeline.
- (2) Whether service beyond 50 feet from PG&E's pipeline should be restricted to property holders who are existing customers.
- (3) Whether Decision No. 87279 should be revised to provide that PG&E's residential pipeline customers should be accorded rates for unmetered treated water service.
- (4) Whether an application from Mr. Joseph Sinai for service from PG&E's ditch should be held in abeyance until the pipeline is constructed or whether service from the ditch should be ordered pending completion of the pipeline.

Extension of District's Service Area

As the proposals of PG&E and District now lie, District could not supply water to potential customers on either side of its portion of the pipeline because it has no authority to do so.

District has refrained from seeking that authority because it feels it must first serve all of the potential customers within its present boundaries. If the pipeline is built, District will have sufficient water supply to add about 20 residential customers who have requested service (plus Fancher and Evitt) to its present system without taxing its water supply.

If District does not revise its service area to include the property abutting its portion of the pipeline there will exist a 3,500-foot hiatus where water service will not be offered by either District or PG&E. That gap should not exist. The order which follows will require that PG&E offer service to potential customers having property located within 25 feet of District's portion of pipeline (the service area contemplated by District) until such time as District is authorized to provide service in that corridor. When appropriate authority is received by District and it offers to provide service in a corridor 25 feet on either side of its pipeline, PG&E may transfer its water customers within such corridor to District upon receipt of Commission approval under advice letter filing procedures.

Service to Persons Located
More than 50 Feet from Pipeline

PG&E offers to provide service to any person at locations within a 50-foot corridor on either side of its proposed pipeline. Existing ditch customers would be served by PG&E regardless of whether or not they are located within that corridor. PG&E desires to condition the service to provide for discontinuance upon transfer of the property of existing customers to persons other than their heirs and assigns. Our prior decision did not approve of service under those conditions to existing customers and to three so-called trough customers (see Findings 18 and 26). We adopt our prior findings on this issue.

Rates for PG&E's Pipeline Service

We adopted a metered schedule of rates for residential service in our prior order to conform with our then existing policy that all water service should be metered. We have rescinded that mandatory requirement and now require only that conversion from flat rate service to metered service be considered in a general rate proceeding. Application No. 56692 is not a general rate proceeding; thus it is proper in this proceeding to adopt the residential flat rate schedules now applicable to PG&E's Amador City system for those customers who do not qualify as irrigation customers; and for those who do qualify, to allow them to continue service under the general flat rate for untreated water tariff schedule. In the event customers' services in the Amador City system are metered at some indefinite date in the future, an irrigation rate similar to that shown as Table 1 - Commercial Irrigation Service - Treated Water (see page 10 of Decision No. 87279) should be established. Finding 25 and Ordering Paragraph 1(b) and (c) of the interim decision should be revised to provide for a residential flat rate schedule for former ditch customers.

Application for Service from Ditch

Mr. Joseph Sinai requested service from PG&E's ditch but that application was held pending a decision on the amendment. It appears that several months will elapse before the pipeline is completed. Mr. Sinai should be offered service from the ditch in the interim period and should be treated as a former ditch customer when the pipeline is placed in service.

Environmental Impact Report

Pursuant to Ordering Paragraph 8 of Decision No. 87279, PG&E was precluded from commencing work on the new pipeline facilities until it complied with Finding 23 and Conclusion 2 of the opinion and after a further order of the Commission. Finding 23 found that this Commission is the lead agency with respect to CEQA and Rule 17.1 of the Commission's Rules of Practice and Procedure. Conclusion 2

stated that PG&E should immediately furnish to the Commission staff the information necessary to prepare an initial study pursuant to Rule 17.1(c)(3) of the Commission's Rules of Practice and Procedure, and that construction of the pipeline should not commence until the requirements of CEQA are met.

PG&E asks that Ordering Paragraph 8, Finding 23, and Conclusion 2 of the interim order be rescinded on the basis that the lead agency with respect to the pipeline construction is the county of Amador. The staff concurs in this view. In the circumstances, we will rescind Ordering Paragraph 8 and modify Finding 23 and Conclusion 2 of Decision No. 87279.

Findings

The findings set forth in Interim Decision No. 87279 are adopted herein, except as follows:

Finding 7 is modified to read:

7. PG&E proposes that the pipeline be constructed, owned, and operated by PG&E to Station 35+00. District will extend the pipeline from that point to its existing system.

Finding 8 is modified to read:

8. District will have access to sufficient funds to construct its pipeline when the state grant is awarded. District proposes to construct a water pipeline and related appurtenances from the PG&E installed pipeline at approximately Station 35+00 to its existing facilities.

Finding 14 is deleted.

Finding 17 is modified to read:

17. PG&E will receive monetary benefits equal to or greater than District from the construction of the proposed pipeline to replace the Amador City Canal. PG&E and District have the ability to finance and to place into operation their respective pipelines.

Finding 18 is modified to read:

18. PG&E proposed that present canal customers and certain other persons taking water from the canal will continue to be served by it when the pipeline is built.

Finding 19 is modified to read:

19. Present canal customers proposed to be served by PG&E from the pipeline would not be adversely affected by the abandonment of the ditch facilities.

Finding 21 is modified to read:

21. In view of Findings 15 through 19, PG&E and District should each construct, own, and operate their respective pipelines. The pipeline constructed by PG&E to replace the Amador City Canal should be of sufficient capacity to meet the needs of all present and potential customers along that pipeline. The minimum size of PG&E's pipeline should be six inches.

Finding 23 is modified to read:

23. PG&E seeks abandonment authority from this Commission for the ditch system and not authority to construct and operate a treated water pipeline. Under these circumstances, the Commission is not the lead agency under CEQA. The county of Amador would be the lead agency in determining whether the construction of the pipeline may have a significant effect on the environment. As such, no data need be furnished by PG&E to the Commission directed to the implementation of CEQA.

Finding 24 is modified to read:

24. PG&E plans to meter all service from the pipeline, including service to District. When the pipeline is in service, PG&E proposes to serve protestants, District, and water trough customers which do not now commercially irrigate two acres or more at the rates set forth in Schedule No. 1 - General Metered Service - Treated Water (See page 9, supra); and proposes to assess the rates

in Table 1 - Commercial Irrigation Service - Treated Water (see page 10 of Decision No. 87279) for present customers who commercially irrigate two acres or more.

Finding 25 is modified to read:

25. District should be served at metered rates as proposed by PG&E. Notwithstanding the PG&E proposal to serve protestants and water trough customers as presented in Finding 24, existing residential and water trough customers who do not qualify as irrigation customers should be served under Schedule No. 2, Domestic Flat Rates - Treated Water, and existing customers that qualify as irrigation customers should continue to be served under Schedule No. 12, General Flat Rates - Untreated Water. A Commercial Irrigation Service - Treated Water tariff schedule (see page 10 of Decision No. 87279) should be filed when metering of the entire Amador City system is accomplished.

Finding 26 is modified to read:

26. It will be reasonable for District, rather than PG&E, to provide service to E. Fancher and R. E. Evitt for water trough usage. The additional conditions proposed in this phase and in the initial phase of this proceeding, under which PG&E offers service to protestants and to water trough customers, other than described in the preceding finding, are not reasonable and are discriminatory. Such conditions should not be adopted. PG&E should serve all present and potential customers who request service within 50 feet of its pipeline.

Finding 28 is modified to read:

28. Protestant Matulich requests that he be served under Schedule No. 11 - General Metered Service - Untreated Water, on the basis that an oral agreement to assess rates in that schedule was made by him and the local representative of PG&E at the time he first became a canal customer. PG&E must abide by its tariffs; therefore, if such oral agreement existed, it had no

force or effect. Protestant Matulich should be accorded the same rates as other commercial irrigation customers and to be continued on flat rate service.

Finding 30 is added:

30. PG&E should hold itself out and provide service to all present and potential customers who request service within 25 feet of District's pipeline until such time as District has the appropriate authority and offers service in that corridor. Upon commencement of service by District in that corridor PG&E may, upon receipt of authority by advice letter filing, transfer any PG&E customer located within that corridor to District.

Conclusion

Based on the findings set forth in Decision No. 87279 as modified herein, we conclude that PG&E should be authorized to abandon the remaining portion of its Amador City Canal in accordance with the order which follows.

O R D E R

IT IS ORDERED that:

1. Applicant Pacific Gas and Electric Company is authorized pursuant to Section 451 of the Public Utilities Code to abandon the facilities shown in Exhibit B to the application and described in the application as the remaining portion of the Amador City Canal starting at Amador City Reservoir (Canal Station 2407+71) to the end (Canal Station 2513+71), a total of 10,600 feet, upon completion of the construction of a treated water pipeline between a point on East School Street within Amador City Water Service area to a point of interconnection with the pipeline to be constructed by the Drytown County Water District and upon completion of the related distribution mains to connect all customers presently receiving untreated water service from the canal authorized to be abandoned and who desire to receive service from the treated water pipeline and to connect the prospective customers offered watering trough service from PG&E's pipeline, subject to the following conditions:

- (a) Applicant shall pay all costs of connecting the existing customers to the treated water pipeline.

- (b) Applicant shall provide service from the pipeline to those customers who qualify as commercial irrigation customers under Schedule No. 12, General Flat Rates - Untreated Water until such time as the Amador City system is converted to meter rate service. At that time, a meter rate schedule similar to that shown as Table 1 - Commercial Irrigation Service - Treated Water (see page 10 of Decision No. 87279) may be established. Service under these rates to the Amador City Canal customers shall be provided only to:
1. Customers of record on August 16, 1976.
 2. Customers who are irrigating two or more acres.
 3. Customers who are engaged in commercial cultivation.
- (c) Ordering Paragraph 5 of Decision No. 87279 is rescinded. The rates of applicant for treated water service to domestic customers formerly served from the abandoned canal facilities shall be those set forth in its Schedule No. 2.
- (d) The rates of applicant for treated water service to resale customers formerly served from the abandoned canal facilities shall be those set forth in Schedule No. 1.
- (e) Applicant shall offer and provide service to eligible applicants located within 25 feet on either side of the portion of the pipeline to be constructed and owned by Drytown County Water District. Applicant shall be relieved of this obligation when the District receives appropriate authority to provide water service within the 25-foot corridor paralleling its portion of the pipeline, and upon the receipt by applicant of appropriate authority from this Commission.

2. Upon the connection and transfer of applicant's existing canal customers who may desire water service from applicant's Drytown pipeline, and upon connection of Mr. E. Fancher and Mr. R. E. Evitt to the system of Drytown County Water District, or to applicant's Drytown pipeline, applicant shall be relieved of its duties and obligations as a water corporation arising out of its ownership and operation of the canal facilities to be abandoned.

3. Applicant is authorized by appropriate filing to revise the Jackson District water system service area map by deleting the facilities to be abandoned.

4. Concurrently with the discontinuance of service from the facilities to be abandoned pursuant to paragraph 1 of this order, applicant is authorized to establish by appropriate filing, a treated water service area of 50 feet on each side of its portion of Drytown pipeline and 25 feet on each side of any distribution mains installed therefrom to serve new customers. ✓

5. Applicant is authorized by appropriate filing to put into effect the water rates specified in Ordering Paragraph 1(b), (c), and (d). ✓

6. Within forty-five days after the connection and transfer of applicant's existing canal customers and water trough customers who may desire water service, applicant shall notify the Commission in writing of such fact and of its abandonment of the facilities in Ordering Paragraph 1.

7. Within forty-five days after the completion of the Drytown pipeline and the distribution mains to serve treated water to the existing ditch customers and to water trough customers who may desire such service, applicant shall file with the Commission four copies of a service area map delineating the service area for treated water service from the Drytown pipeline.

A.56692 ai

8. The authority granted to applicant by this order shall be exercised within three years from the date hereof.

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

Dated at San Francisco, California, this 16th day of SEPTEMBER, 1978.

Robert Bateman
President
William J. Quinn
Thomas L. Steyer
Charles D. Gault
Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.