

ORIGINAL

Decision No. 92351 October 22, 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HOUSING AUTHORITIES OF CITY )  
 OF LIVERMORE, et al., )  
 )  
 Complainants, )  
 )  
 v. )  
 )  
 PACIFIC GAS AND ELECTRIC )  
 COMPANY, )  
 )  
 Defendant. )

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Case No. 10766  
(Filed August 8, 1979)

Martin McDonough, Attorney at Law, for  
 complainants.  
Robert Ohlbach and Bernard J. Della Santa,  
 Attorneys at Law, for Pacific Gas and  
 Electric Company, defendant.

O P I N I O N

This complaint involves requests by the housing authorities of the cities of Livermore and Oakland, the counties of Contra Costa, Marin, San Joaquin, Sutter, and the city and county of San Francisco (housing authorities) that Pacific Gas and Electric Company (PG&E) assume ownership of the gas and electric service provided to their housing projects and convert such service from a master-metered basis for each project or building to an individually metered basis. In response to the requests, PG&E applied a set of sixteen requirements which must be agreed to by the housing authorities before PG&E will accede to their requests. The sixteen requirements for takeover and conversion are

contained in a PG&E document entitled "Procedure for Processing Housing Authority (HA) Projects, Where Purchase of Gas and/or Electric Distribution Facilities by Company is Contemplated". Through negotiation over a period of time only the following four requirements remain at issue.

- (A) Any necessary work to inspect, alter, modify, relocate, replace, rearrange or install facilities, as PG&E determines to be necessary, is an accommodation to the housing authorities for which PG&E expects to be reimbursed for all costs incurred.
- (B) Housing authorities shall reimburse PG&E for damage to PG&E's gas and electric facilities which is due to vandalism.
- (C) Housing authorities shall act as a bill guarantor for all utility bills rendered to tenants within the projects individually metered by PG&E.
- (D) In the event that PG&E is unable to collect its payments due from project tenants in the usual and customary way, housing authorities shall assist PG&E in this function.<sup>1/</sup>

The housing authorities are public housing agencies organized under the United States Housing Act of 1937 as amended. Each operates one or more low-income housing projects<sup>1/</sup> (projects) ✓ in its respective community. Sixty of the projects, with over 9,000 residential units, receive electric and/or gas service from PG&E through master meters. Where service is received through a master meter the housing authority is responsible for the maintenance

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<sup>1/</sup> The projects identified by name and number of dwelling units appear in Appendix A.

and repair of facilities on its side of the meter as well as payment for services rendered. Where a project is individually metered the individual tenant is responsible for payment of his bill and PG&E is responsible for the maintenance and repair of the facilities.

The complaint alleges that:

- (1) PG&E has a duty under its filed tariffs to convert projects to individual meters without requiring the consent of the housing authorities to the disputed requirements,
- (2) The requirements and tariffs for conversion to the extent that housing authorities' consent is required, are unduly discriminatory, unauthorized by law, and against public policy and the public interest,
- (3) The requirement for reimbursement for costs to repair and upgrade existing facilities is the implementation of a policy adopted by PG&E to provide individual service to tenants in projects in the future only if such projects bear the full costs of completely new gas and/or electric service lines, whether such service is installed by PG&E or by housing authorities and would deprive them and their tenants of the right to receive a free footage allowance for the extension of service,
- (4) The requirement for reimbursement for vandalism would place the housing authorities and their tenants in a different and less favorable position from other customers of PG&E, implying, without basis, that vandalism is more likely to occur in housing projects than in other areas serviced by PG&E,

- (5) The requirement for the housing authorities to act as a bill guarantor would set up a special and inferior method for the housing authorities and their tenants to establish credit,
- (6) The requirement to aid PG&E to collect bills would set up a special and additional method for the housing authorities and their tenants for the collection of tenants' bills,
- (7) Prior to about 1975 PG&E did not impose any of the disputed requirements as a condition of conversion and in a number of cases accepted applications for domestic services in existing projects as though they were new projects, and
- (8) The imposition of these requirements injures and damages the housing authorities and their tenants by hindering or preventing them from establishing direct electric and gas service.

The complaint also states that rates for utility services have increased in recent years and direct service to the tenants would enable tenants to control their usage and thereby obtain the greatest conservation and the lowest cost. Finally, it is alleged that direct service would enable tenants to have the same advantages and responsibilities as afforded all other utility customers.

In its answer, PG&E denies all of the material allegations stating that it is willing to assume ownership of any electric and/or gas distribution system provided that it meets PG&E's standards. It also states that a completely new system would be required only in those cases where it was not economical to bring the existing system up to acceptable standards. PG&E

denies that the free footage allowance is available to complainants under filed tariffs. It alleges that it has never accepted applications or provided free footage allowances for domestic service in projects as though they were new projects. PG&E denies that (1) the requirement for reimbursement for vandalism would unduly discriminate against the housing authorities or their tenants, (2) it is unreasonable to impose the cost of repair, replacement, and extra protection of the facilities on the housing authorities, or (3) it is unreasonable to require the housing authorities to be guarantors of their tenants' utility obligation.

With respect to the request to convert all project service to individually metered service, PG&E responded that (1) its procedure requiring reimbursement for all costs incurred for necessary work to inspect, alter, modify, relocate, replace, rearrange, or install facilities, is consistent with its filed electric and gas rules<sup>2/</sup> and is uniformly applied to all classes of customers, (2) its procedure requiring reimbursement for damage to gas and electric facilities due to vandalism is reasonable because the ownership and control of the premises are in the hands of the housing authorities, (3) its procedure to have the housing authorities act as a bill guarantor is reasonable since such would apply only to those tenants who fail to establish credit under PG&E's current credit rules, and (4) requiring the housing authorities assistance to collect unpaid bills is reasonable since in some government-sponsored low-cost housing areas it has been necessary to invoke extraordinary security measures whenever PG&E employees enter the area.

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<sup>2/</sup> Electric Rule No. 16, Sections E and G.2; Gas Rule No. 16, Section E.2 and Gas Rule No. 20, Section F.

Testifying on behalf of the housing authorities was an engineer from the Assistant Housing Management Branch, U. S. Department of Housing and Urban Development (HUD), and the executive directors of the housing authorities for the cities of Oakland and Livermore, the counties of Marin and San Joaquin and the Chief of Project Development for San Francisco. ✓

Mr. Landes of HUD testified that his biennial inspection of the various projects under his jurisdiction reveals deficiencies of varying types. He stated that he did not believe the housing authorities have the skilled personnel to make the repairs necessary to keep the facilities operating safely and that many repairs are made by PG&E because the housing authority is unable to do so. He stated that the first housing project involved here was constructed in 1941 and the latest in 1975. The determination of whether to master meter a project is made at the time of construction based on the most economical method of serving the project. He stated that some projects have been converted to individual meters and further conversion would provide better service to the tenants. Finally, he stated that PG&E is better equipped to provide utility service since it functions 24 hours a day, seven days a week.

On cross-examination, Landes stated that though some projects are master-metered, they could accept submetering. In fact most projects have meters or meter sockets in place. With respect to the condition of some of the facilities, he stated that many are in poor condition. He stated that several years ago he inspected one project and found it to be in bad shape. Although cathodic protection was recommended for this project, to his knowledge it still had not been installed. He stated that some of the projects have been working to install cathodic

protection since 1973 or 1974 but few have been completed. Finally, he stated that while the United States Department of Transportation (DOT)<sup>3/</sup> requires cathodic protection, noncompliance is largely ignored.

The essence of the housing authorities' testimony was that (1) as a conservation tool the federal and state governments urge individual metering of utility services, (2) the housing authorities are in the business of providing low cost housing and are not in the gas and electric utility business, (3) the housing authorities are not agents of a utility supplying service to tenants, (4) the housing authorities are not equipped nor do they have the internal funds or capacity to provide the necessary maintenance and repair facilities and, (5) the present condition of the facilities presents a serious safety environment for tenants. Each witness also stated that it was unfair to treat the housing authorities as if they were not a new applicant for service denying the free footage allowance offered new developments.

Testifying for PG&E was Peter Darnton, a commercial analyst, and Walter Baumsteiger, a supervisor in customer services. Darnton stated that PG&E was meeting its public utility obligation to the projects through master-metering. He stated that PG&E's proposal is a reasonable one, in accord with its tariffs, and is applied equally to all customers. Further, he stated there is nothing in its rules or any Commission order that would require PG&E to take over any system under the terms requested by the housing authorities. As an accommodation, he stated PG&E would agree to take over the projects' gas and electric distribution system pursuant

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<sup>3/</sup> DOT is responsible for the administration of the Pipe Line Safety Act on federal enclaves.

to the stated requirements but that it would be unfair to PG&E's ratepayers to expend ratepayers' funds to bring the subject systems up to an acceptable standard. He stated that the free footage allowance in PG&E Gas Rules Nos. 15 and 16 and Electric Rules Nos. 15, 15.1, and 16 are not applicable to the subject projects because these rules are not applicable to existing systems. In explaining that PG&E applies its reimbursement of cost requirement for the takeover of a distribution system uniformly, Darnton stated that recently in Concord a mobile home park distribution system was acquired by PG&E only after the owner had agreed to satisfy the requirement that he pay any expense incurred in bringing the system up to standard. By contrast, when another mobile home operator did not agree to meet the requirements, the takeover was not consummated. He stated that the systems now under consideration are old, some approaching 40 years; are in need of extensive repair; and are substandard by today's building codes. He agreed that individual metering encourages conservation but stated there is nothing to prevent the housing authorities from submetering their master-metered premises to achieve this purpose. Finally, he testified that he believed that the request for takeover by the housing authorities is a transparent attempt on the part of the federal government to shift the costs of a long-term deferred maintenance program to PG&E's ratepayers.

Baumsteiger testified that PG&E experiences a high degree of vandalism in the Hunters Point area of San Francisco where it provides gas and electric service to several projects. He also stated that there is a credit and collection problem in some of the projects in San Francisco.



Discussion

Although phrased as a request for an order to show cause, what the housing authorities are seeking is an order declaring that the conditions imposed by PG&E for conversion and takeover of the housing authorities' systems are unreasonable.

There is no question as to whether PG&E is performing its public utility obligation to provide electric and/or gas service to the housing authorities projects in compliance with filed tariffs. Further, as stated by PG&E's counsel, as an accommodation to the housing authorities PG&E will accept the projects' utility distribution systems provided the housing authorities agree to the requirements outlined by PG&E.

As noted above, through negotiation the parties reduced the original disputed sixteen requirements to four. These were the only issues addressed at the hearing. Stated succinctly the remaining four requirements at issue are (1) reimbursement of PG&E for expenses to bring facilities up to an acceptable standard, (2) reimbursement to PG&E for vandalism of facilities, (3) the housing authorities' guarantee of the tenants' utility bills, and (4) the housing authorities assistance to PG&E in the collection of tenants' utility bills.

Reimbursement of Expenses to Upgrade

We believe the reimbursement of PG&E for expenses incurred to upgrade or replace the existing distribution systems is a reasonable requirement. To find otherwise would place an unfair burden on PG&E's current ratepayers. Many of the systems are old, some having been constructed as far back as 1940. They have been poorly maintained and as testified by Landes, are in generally poor condition. Further, the cathodic protection required and ordered by DOT has not always been installed and where installed, it has not always worked.

The contention that the free footage allowance for conversion is or should be available to the housing authorities is untenable. PG&E's Tariff Rule 15.1 (Electric) and Rule 15 (Gas) govern the subject of free footage allowance Electric Rule 15.1 provides in part:

"Extension of underground distribution lines at available standard voltages necessary to furnish permanent electric service within a new single-family and/or multi-family residential subdivision of five or more lots (subdivision) and in a new residential development consisting of five or more dwelling units in two or more buildings located on a single parcel of land (development) will be made by the utility in advance of receipt of applications for service in accordance with the following provisions." (Emphasis added.)

A reading of this rule shows that the free footage allowance applies when necessary to furnish permanent service within a new single or multi-family subdivision. Clearly the housing authorities projects do not fall in this category. Each project is presently receiving service, albeit through a master meter. The housing projects are not "new" within the meaning of the rule. The same applies to gas service. The preamble of Gas Rule 15 provides that the free footage allowance is applicable to extensions of gas distribution mains necessary to furnish gas service to applicants. No extension is necessary to provide service. The projects all presently receive gas service. ✓

The goal of conservation through individual metering is one of the prime reasons cited by the housing authorities for requesting PG&E to assume ownership of their systems. We are in agreement with the housing authorities that a measure of conservation can be achieved through this means. However, the record herein is clear that in almost all projects meters or meter sockets are in place. Where there are neither check meters nor facilities available to accept meters there is no evidence to conclude that it would be difficult to make the necessary modifications for meter installation.

Reimbursement for Vandalism

The request for reimbursement for damage to facilities for vandalism is unreasonable. Though the meters and other necessary equipment are located on premises under the custody and control of the housing authorities, the situation or circumstances in existence are no different than with other customers of PG&E. There is presently no guarantee of reimbursement from other landlords for vandalism by tenants. Thus, why should such a requirement be applied to the housing authorities? Should PG&E desire, it has its civil remedies in such instances.

Guarantor of Tenants' Bills

We agree with the housing authorities that the requirement to guarantee the project tenants' utility bills is unreasonable. No evidence was introduced to the effect that bills for any tenants where individually metered service is provided are guaranteed by the landlord. It is conceivable that implementation of this requirement would not change the tenants' usage pattern since the housing authority would be responsible for payment.

Assistance Servicing Customers

This requirement originally provided that should PG&E be unable to collect project tenants' bills in the usual manner, the housing authorities would agree to assist PG&E. At the hearing PG&E modified it to provide that, "In the event that PG&E is unable to service accounts---in the usual and customary way, the housing authorities shall provide guaranteed access and physical protection to PG&E employees to perform these functions."

PG&E's argument that this requirement is reasonable because it has experienced difficulties in reading meters and collecting bills in one of the projects is unsound. Such a requirement is not imposed on any other class of customer and there is insufficient evidence or reason to impose such a requirement.

Findings of Fact

1. The housing authorities are public agencies organized under the United States Housing Act of 1937, as amended.
2. Housing authorities own and operate one or more low-income housing projects in their respective communities.
3. Housing authorities receive gas and/or electric service from PG&E through master meters for their projects.
4. Where gas and/or electric service is received through a master meter, the housing authorities are responsible for the maintenance, repair, and upkeep of all facilities on their side of the meter.
5. The housing authorities are responsible to PG&E for payment of gas and electric service provided tenants through a master meter.
6. Housing authorities have requested PG&E to assume ownership of the gas and electric facilities providing service to their projects with a free footage allowance.

7. As a condition for takeover of the master-metered gas and electric service provided to the housing authorities projects, PG&E applied a set of 16 requirements to be agreed to by the housing authorities prior to any conversion and takeover.

8. Only four of the original requirements are in dispute. They are: (1) reimbursement for expenses incurred by PG&E to inspect, alter, modify, relocate, replace, rearrange or install as PG&E deems necessary, (2) reimbursement of PG&E for damage due to vandalism of facilities; (3) that the housing authorities act as bill guarantor for project tenants, and (4) assistance in collecting bills from housing project tenants.

9. The subject projects were constructed between 1940 and 1975. The gas and electric distribution facilities in the projects are in generally poor condition, and have not received adequate maintenance.

10. PG&E's requirement that it be reimbursed for costs to inspect, alter, modify, relocate, replace, rearrange, or install facilities for conversion, as determined by PG&E to bring the facilities to an acceptable standard is reasonable. It is unreasonable to expect other PG&E ratepayers to bear this expense.

11. The free footage allowances in PG&E's extension rule only apply to extensions that are "necessary" to provide service (gas Rule 15) or to extensions "necessary" to provide service within a "new" project (Electric Rule 15.1).

12. PG&E's requirements for reimbursement for vandalism to premises, that the housing authorities guarantee the tenants' bills, and that the housing authorities assist in the collection of bills from project tenants are unreasonable.

Conclusion of Law

Relief should be granted to the extent provided in the following order.

O R D E R

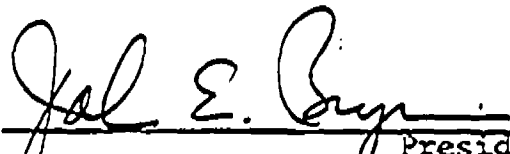
IT IS ORDERED that as a condition precedent to the takeover and conversion of the housing authorities of the cities of Livermore and Oakland, the counties of Contra Costa, Marin, San Joaquin, Sutter, and the city and county of San Francisco (housing authorities) gas and/or electric distribution facilities, Pacific Gas and Electric Company (PG&E) shall eliminate the requirements that (1) PG&E be reimbursed for vandalism to the distribution facilities, (2) housing authorities act as guarantors of gas and/or electric utility bills of its project tenants, and (3) where PG&E cannot service accounts in the customary way, housing authorities shall guarantee access to and physical protection to PG&E employees. In all other respects, the relief requested is denied.

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

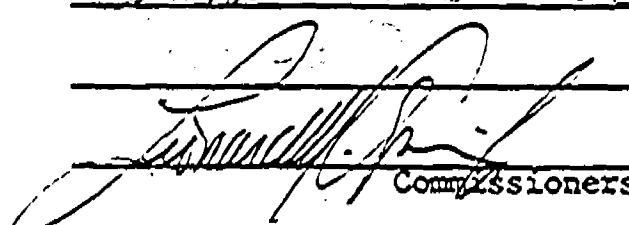
Dated OCT 22 1980, at San Francisco, California.

Commissioner Vernon L. Sturgoon, being necessarily absent, did not participate in the disposition of this proceeding.

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

  
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President

  
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Commissioners

APPENDIX A  
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<u>Housing Authorities</u>	<u>Units</u>
Livermore	
Leahy Square	125 family
Oakland	
Lockwood Gardens	372 family
Chestnut Court	77 "
Westwood Gardens	46 "
San Antonio Villa	178 "
Palo Vista Gardens	100 seniors
Tassafaronga Village	105 family
Contra Costa	
Alhambra Terrace	52 family
Los Medanos	44 "
Bridgemont	36 "
Los Nogales	44 "
El Pueblo	176 "
Bayo Vista	250 "
Marin	
Marin City	300 family
San Joaquin	
Mokelumne Manor	50 family
Sierra Vista	464 "
Conway Homes	200 "

<u>Housing Authorities</u>	<u>Units</u>
Sutter	
Cal 48-2	100 family
San Francisco	
Potrero Terrace	469 family
Sunnydale	772 "
Valencia Gardens	246 "
Bernal Dwellings	208 "
Westside Courts	136 "
Potrero Annex	172 "
North Beach	229 "
Ping Yuen	234 "
Alemany	164 "
Hunters Point (A)	244 "
Hunters Point (B)	82 "
Alice Griffith	354 "
Yerba Buena Annex	211 "
Ping Yuen (North)	194 "
Hayes Valley (South)	170 "
Hayes Valley (North)	140 "
Hayes Valley (Site A)	18 "
John F. Kennedy	98 for elderly
Mission Dolores	92 " "
Woodside Gardens	110 " "
990 Pacific	92 " "
350 Ellis	96 " "
227 Bay	50 " "
666 Ellis	100 " "
345 Hermann	42 " "
75 Coleridge	2 family
101 Lundy's Lane	2 "
3850 - 18th Street	107 for elderly
320/330 Clementina	276 " "
4101 Noriega	8 family
363 Noe	22 for elderly
200 Randolph	16 family
2206-2268 Great Highway & 2215-22 - 48th Avenue	16 "
2698 California	40 for elderly
25 Sanchez	90 " "
1760 Bush	108 " "
1880 Pine	113 " "
345 Arguello	69 " "
491 31st Avenue	75 " "
1750 McAllister	97 " "