

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION G-3197
February 5, 1997

R E S O L U T I O N

RESOLUTION G-3197. PACIFIC GAS AND ELECTRIC COMPANY AND SOUTHERN CALIFORNIA GAS COMPANY REQUEST REVISIONS TO THEIR SERVICE AREA IN KERN COUNTY, CALIFORNIA.

BY ADVICE LETTERS 1859-G AND 2345 FILED ON JUNE 29, AND AUGUST 18, 1994, RESPECTIVELY BY PG&E AND SOCALGAS. SOCALGAS ALSO FILED A SUPPLEMENT 2345-A ON OCTOBER 27, 1994.

SOUTHERN CALIFORNIA GAS COMPANY'S REQUEST IS GRANTED;
PACIFIC GAS AND ELECTRIC COMPANY'S REQUEST IS DENIED.

SUMMARY

1. The service territories of Southern California Gas Company [SoCalGas] and Pacific Gas and Electric Company [PG&E] abut and interweave in Kern County. The two utilities have a history of competition for customers in this area. The utilities have rekindled this competition by their advice letter filings. Both utilities seek authority to add service territory in the vicinity of a new development, the McAllister Ranch.
2. The two utilities are jointly subject to a Commission order directing discussions over extensions into open territory. Despite the Commission order and staff encouragement, the utilities have not reached agreement in the two years that have elapsed since the advice letters were filed.
3. Both PG&E and SoCalGas have installed gas mains in open territory. Both invoke Decision [D.] 62681 dated October 17, 1961 as the basis of their request. D.62681 approved the agreement between PG&E and SoCalGas that provided half a mile on either side of a new gas main in the open zone to be added to the gas service area of the utility that owns the main.
4. Each utility protested the other's advice letter. Each utility responded to the other's protest. A representative of the McAllister Ranch wrote to the Commission supporting SoCalGas' filing. This resolution grants SoCalGas' request and denies that of PG&E's, primarily on the basis of customer preference.

BACKGROUND

1. The Kern County Service Area Agreement [Agreement] between PG&E and SoCalGas was approved by D.62681 on October 17, 1961. D.62681 states that:

When either party installs a distribution or transmission main in open territory, an area one-half mile on either side and beyond the terminus of such main shall be added to the gas service area of the party installing and owning such main. When such new main crosses a main installed previously in open territory by the other party, the party owning the pioneer main shall retain one-half mile service area at the crossing. (Mimeo, page 2, para. 6)

2. Under the terms of the Agreement, PG&E informed the Commission and SoCalGas by letter dated July 15, 1994, that PG&E had installed gas mains in previously open territory along Taft Highway, Buena Vista Road, and Panama Lane located in Kern County.

3. Also consistent with the terms of the Agreement, SoCalGas informed the Commission and PG&E, by letter dated July 29, 1994, that SoCalGas had installed a six-inch gas main in previously open territory along Panama Lane between SoCalGas' twelve inch Line 149 and Buena Vista Road located in Kern County for the purpose of serving a major new residential development known as McAllister Ranch. The new gas main became fully operational on July 25, 1994.

4. PG&E and SoCalGas are claiming territory along Panama Way that conflicts with the other's service territory request.

NOTICE

1. Both SoCalGas and PG&E served notices of their respective Advice Letters 2345 and 1859-G by mailing copies to other utilities, government agencies, and parties that requested such information. Both Advice Letters were noticed in the Commission Calendar.

PROTESTS

1. SoCalGas and PG&E protested each other's advice letters. Both parties responded to each other's protests. Those protests are discussed below.

DISCUSSION

1. It was the intent of D.62681 that requests for revisions to service territory maps should be filed by the concerned utilities after reasonable effort had been made to establish their respective service territories through mutual agreement. In D.62681 the Commission noted:

Where future developments in open territory close to mains of both parties indicate that a common boundary should be established, ... [PG&E and SoCalGas] will meet to discuss establishment of suitable service area boundaries for such areas or localities... [A]t or about the end of each two-year period..., representatives of the parties shall meet in Bakersfield to review developments during the previous two-year period and develop proposals for any changes or modifications in boundary lines or basic service areas that are indicated in such review. [Mimeo, page 3, para. 7]

There is nothing in the filings by either party that indicate such meetings have taken place. SoCalGas in its protest letter admits that such meetings have not taken place. Both utilities have gone forward independently constructing pipelines.

2. Both utilities finished installation of their gas mains along Panama Lane and Buena Vista Road in Kern County around July 1994. It was only during this time that they informed each other of their pipeline constructions. SoCalGas maintains that while there is an apparent overlap in service territory claims along Panama Lane, there is no disagreement on the specific customers that the respective utilities intend to serve. PG&E plans to serve new agricultural pumping customers not located in the proposed SoCalGas service territory on either side of Panama Lane.

3. SoCalGas nevertheless requests that PG&E's AL 1859-G be rejected and the service territory lines redrawn to reflect the customers being served. This, according to SoCalGas, is easy to achieve because it has pipeline facilities in place along Panama Lane whereas PG&E's agricultural pumping customers are located away from Panama Lane.

4. PG&E replies that it informed the Commission and SoCalGas of its pipeline on July 15, 1994 whereas SoCalGas informed them of its pipeline two weeks later on July 29, 1994, after PG&E had claimed the territory. It is also PG&E's view that since the existing mains were not close to the development in the open territory there was no need to meet and confer on service territory changes [SoCalGas' existing plants on Buena Vista Road are over two-thirds of a mile from the McAllister Ranch development area].

5. PG&E also takes issue with SoCalGas by asserting that at the time its project was over, nearly 25 percent of the proposed McAllister Ranch development fell within PG&E's 'historical' service territory and the majority of the remainder is contained within PG&E's rightful 'claimed' service territory.

6. PG&E concludes that since its pipeline installation and notification preceded that of SoCalGas, its pipeline facilities qualify as the 'pioneer' main under the terms of the Agreement, and therefore requests approval of its AL 1859-G.

7. PG&E's protest of SoCalGas AL 2345 brings out all of what is discussed above. SoCalGas responds that other criteria such as the existence of utility customers and capacity to serve the expected load should also be considered in granting territory to a utility. SoCalGas claims that PG&E's plastic distribution pipe lacks the capacity to serve its agricultural pumping customers, much less the capacity to serve McAllister Ranch. SoCalGas asserts that its representatives have established that PG&E's pipeline is connected only to its medium-pressure distribution system and so lacks the capacity to serve its agricultural pumping customers. SoCalGas admits that PG&E is in the process of making arrangements to increase the pressure in its pipe. According to SoCalGas, until PG&E does so, it is not 'operational' as it claims, and the new pipeline is a mere 'placeholder' and cannot serve the intended load.

8. SoCalGas claims that its new six-inch pipeline became fully operational on July 25 and has more than enough capacity to serve the entire McAllister development. Moreover, it has an executed contract with its customer.

9. SoCalGas finally proposes that this matter be solved based on the location of each utility's customers and the service capacity of each utility. There is a precedent for this solution in D.86-05-008, regarding the enhanced oil recovery [EOR] market dispute between PG&E and SoCalGas. In that decision PG&E was granted the right to serve all new [noncontracted] EOR customers in SoCalGas' service territory because SoCalGas did not have the capacity to serve the entire EOR market; SoCalGas, nonetheless, retained the right to serve all EOR customers with whom it had existing contracts. According to SoCalGas, in the instant case, if this line of reasoning is followed, PG&E will not have enough capacity to serve McAllister Ranch. McAllister Ranch aside, each utility can serve its own customers without interfering with the other. PG&E customers are all located well south of Panama Lane and can be served without encroachment upon SoCalGas' new service territory along Panama Lane. SoCalGas has no objection to PG&E's service territory claim along Buena Vista Road and Taft Highway.

10. In another related matter, the Commission, in D.88-12-090, granted Southwest Gas Corporation's [SouthWest] request to extend its service into open territory in California which was contiguous with those of PG&E and SoCalGas. The Commission rejected the latter two utilities' protests and stated that SouthWest could most economically serve the area. D.88-12-090 declared that the test to be used in determining whether to certify a portion of open territory to a particular utility is whether that utility can most economically serve the area. This test is usually met by customer commitment to one utility over another.

11. Finally, JLM & Associates, a developer, which has an agreement with SoCalGas to provide service to McAllister Ranch, wrote a letter to the Commission on September 30, 1996 urging support for SoCalGas AL 2345.

12. The Energy Division notes that the two parties have not followed the guidance in D.62681 to meet biennially to review developments during the previous years and to develop proposals for changes or modifications in boundary lines. It is unclear from their filings who was first in finishing its pipeline construction and who was ready to serve earlier. This behavior on the part of the two utilities has created an unfortunate circumstance, with a customer ready to be served but no one to serve it. The dispute has the potential of delaying residential and commercial development. The Energy Division recommends that in the instant case the Commission rely on the customer's choice to decide which company is eligible to serve. The clear choice in this case is Southern California Gas Company.

13. Following D.62681's guidance to PG&E and SoCalGas to meet every two years to mark their open service territories, the Energy Division recommends that the two utilities meet immediately after the effective date of this Resolution and within 45 days file a joint Advice Letter with the Commission realigning their service areas.

FINDINGS

1. Pacific Gas and Electric Company [PG&E] and Southern California Gas Company [SoCalGas] filed separately to revise their service area in Kern County, California, by Advice Letters 1859-G and 2345 filed on June 29 and August 18, 1994, respectively.

2. PG&E and SoCalGas have installed gas mains in the open territory described in D.62681, and both claim the right to serve the McAllister Ranch development area.

3. PG&E claims the area because it finished its gas main earlier than SoCalGas. SoCalGas claims the area because its gas main has higher pressure and is closer to the development, and the customer prefers SoCalGas to PG&E.

4. SoCalGas and PG&E protested each other's advice letters.

5. SoCalGas and PG&E have not had the 2-yearly regular meetings, as stated in D.62681, to discuss territorial rights in Kern County.

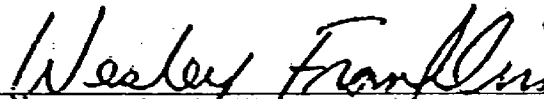
6. Awarding the gas service territory of the McAllister Ranch development area to SoCalGas is reasonable.

February 5, 1996

THEREFORE, IT IS ORDERED that:

1. Southern California Gas Company request in Advice Letters 2345 and 2345-A to serve the McAllister Ranch development is granted.
2. Pacific Gas and Electric Company's request in its AL 1859-G and its protest of Southern California Gas Company Advice Letter 2345 are denied.
3. Pacific Gas and Electric Company and Southern California Gas Company shall jointly file an Advice Letter showing their service area maps of Kern County, California, within 45 days after the effective date of this Resolution, conforming with Ordering Paragraph #1 above, and shall meet every two years to delineate their open territories.
4. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on February 5, 1997. The following Commissioners approved it:



WESLEY FRANKLIN
Executive Director

P. Gregory Conlon, President
Jessie J. Knight, Jr.
Henry M. Duque
Josiah L. Neeper
Richard A. Bilas
Commissioners

Jessie J. Knight, Jr. will file a concurring opinion.

P. Gregory Conlon, will file a concurring opinion.