

RESOLUTION NO. 83-508

RESOLUTION APPROVING AGREEMENT WITH
PACIFIC GAS AND ELECTRIC COMPANY

ASSESSMENT DISTRICT NO. 1982-5,
FROMM BUSINESS PARK

The City Council of the City of Pleasanton
resolves:

As a part of the proceedings for improvements
in Assessment District No. 1982-5, Fromm Business Park,
City of Pleasanton, Alameda County, California, this
Council approves that certain agreement between the City
of Pleasanton and Pacific Gas and Electric Company
entitled, "Agreement for Installation, Maintenance and
Operation of Gas Facilities, Commercial-Industrial
Development," dated November 22, 1983, and attached
to this resolution.

The Mayor is authorized to sign the agreement
and the City Clerk is authorized to attest its
execution.

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ORIGINAL

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the City Council of the City of Pleasanton, Alameda County, California, at a regular meeting thereof, held on the 22nd day of November, 1983.

AYES: Councilmembers Brandes, Mercer, Mohr, Wood and Mayor Butler

NOES: Councilmembers None

ABSENT: Councilmembers None

JAMES R. WALKER, City Clerk,
City of Pleasanton, Alameda
County, California

By *James R. Walker*

COPIES

GM 4348033
D&C 1264845

- ___ City
- ___ Division
- ___ District
- ___ Customer Accounting
- ___ Construction Accounting
- Commercial Department

AGREEMENT FOR INSTALLATION, MAINTENANCE
AND OPERATION OF GAS FACILITIES
COMMERCIAL-INDUSTRIAL DEVELOPMENT

THIS AGREEMENT made by CITY OF PLEASANTON, a municipal corporation (City) and PACIFIC GAS AND ELECTRIC COMPANY, a California corporation (PGandE).

RECITALS:

A. City, pursuant to the provisions of the Municipal Improvement Act of 1913, under its Resolution of Intention No. 83-67 adopted February 23, 1983, for the formation of a special assessment district designated Assessment District No. 1982-5, Fromm Business Park (District) to accomplish, among other things, the installation of gas distribution mains within the boundaries of the District as shown on the map entitled "Proposed Boundaries of Assessment District 1982-5, Fromm Business Park District, City of Pleasanton, Alameda County, California."

B. The gas facilities contemplated for construction within the District include all gas mains that are to be connected to PGandE's existing gas distribution system (Gas Facilities) as shown on the sketch marked Exhibit "A", copy attached and made a part hereof. The installation of the Gas Facilities does not include additions and modifications required to provide gas service at a later date when service locations and connected loads are finally determined.

D. The final design and installation of any additional Gas Facilities cannot be completed at this time since the gas loads and service locations cannot be determined until land is sold or leased in the District to various enterprises which may install gas loads and apply to PGandE for gas service.

E. The ownership of the Gas Facilities installed by PGandE shall vest in PGandE in accordance with the provisions of Sections 10109, 10110 and 10111 of the Streets and Highways Code of the State of California.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. PGandE shall furnish and install the Gas Facilities shown on Exhibit "A" in accordance with Section E.7 of PGandE's Gas Rule No. 15 (Gas Extension Rule), a copy of which is attached hereto and made a part hereof.

2. The Gas Facilities to be installed hereunder shall be designed to meet estimated gas loads within the District, as indicated by the City of PGandE.

3. City shall pay to PGandE upon demand and in advance of construction of the requested Gas Facilities a refundable amount of \$30,091 (Gas Extension Advance) which represents the total cost of the Gas Facilities (41,085) less a credit for the gas share of the trench of \$10,994, which trenching shall be performed by the City in accordance with PGandE's plans and specifications.

4. City shall, in accordance with PGandE's plans and specifications, furnish and install the bridge crossings as shown on Exhibit "A". After installation, City shall grant the bridge crossings to PGandE by a deed of conveyance.

5. In addition to the Gas Extension Advance paid by the City, City, in lieu of a monthly cost of ownership charge, shall also pay to PGandE \$43,543 (Gas Ownership Fund) representing the present worth of the annual costs to PGandE to own, operate and maintain the requested Gas Facilities, equal to 19.2 percent of the total cost of the Gas Facilities times the present worth factor of 5.52 based on 12.57 percent interest for a period of ten years. Such interest rate is equal to PGandE's authorized rate of return on the date of this agreement.

6. (a) In the event that PGandE shall make refunds of the Gas Extension Advance as provided for in Section 3 above, PGandE shall also adjust the Gas Ownership Fund. Refunds and adjustments of the Gas Extension Advance and Gas Ownership Fund will be made annually on the anniversary of the date service is first made available. For the purpose of this agreement, the first year shall end one year after the date PGandE is ready to supply gas service from the Gas Facilities as shown on Exhibit "A", as such date is established in PGandE's records.

(b) Interest at the rate of 12.57 percent annually will be added to the unamortized balance of the Gas Ownership Fund before the current year's Cost of Ownership charges have been deducted.

7. The total cost of the Gas Facilities (\$41,085) shall be subject to refund to the City, without interest, in the manner and as provided in the applicable section of the gas main extension rule in effect at the time service is established to each applicant in the District. Any unrefunded balance of the Gas Extension Advance will be retained by PGandE at the end of ten years after the date PGandE is ready to supply gas service. Any unused balance of the Gas Ownership Fund will be refunded to the City at the end of

such ten year period provided, however, that no refunds shall be due City after any termination of this agreement.

8. Any rearrangement, relocation, addition to or modification of the Gas Facilities as shown on Exhibit "A" after commencement of construction required for any reason other than the sole convenience of PGandE shall be paid for on demand and in advance by City.

9. City shall, upon the installation of the Gas Facilities, execute and deliver to PGandE a deed or deeds in the form attached hereto as Exhibit "B" conveying the Gas Facilities to PGandE.

10. All Gas Facilities installed hereunder shall be and remain the property of PGandE.

11. PGandE shall, subject to all the terms and conditions hereof, operate and maintain the Gas Facilities and provide gas service in accordance with PGandE's applicable rates and rules established by PGandE, from time to time, and on file with and authorized by the California Public Utilities Commission (Commission).

12. PGandE shall not be responsible for any delay in construction of the Gas Facilities resulting from shortage of labor or materials, strikes, labor disturbance, war, riots, weather conditions, governmental rule, regulation or order, including orders of judgments of any court or commission, delays in obtaining necessary rights of way, act of God, or any cause or condition of like or unlike characteristic which is beyond the control of PGandE. PGandE shall have the right, in the event it is unable to obtain supplies, materials or labor for all of its construction requirements, to allocate materials and labor to construction projects which, in its sole

discretion, it deems most important to serve the needs of its customers and delay in construction hereunder resulting from such allocation shall be deemed a cause beyond PGandE's control.

13. (a) In the event that City has not completed its obligations under this agreement within twelve (12) months following the date of this agreement, and PGandE is unable to proceed hereunder, PGandE shall have the right to terminate and/or supersede this agreement upon thirty (30) days' written notice to City and calculate any refundable or nonrefundable amounts that may be due based on that portion of the Gas Facilities then completed, utilizing the estimated costs developed by PGandE for this agreement. The superseding agreement, if any, shall be in the same form as this agreement, be executed by both parties hereto and shall provide that costs be allocated to the portion of the Gas Facilities then completed, if any, consistent with those costs estimated by PGandE for this agreement.

(b) If this agreement is terminated as set forth above, City further agrees to reimburse PGandE for any engineering, surveying, right of way acquisition and other associated expenses incurred by PGandE. If such reimbursable expenses are greater or less than the excess of the refundable and/or nonrefundable payments, City shall pay to PGandE or PGandE shall refund, without interest to City, as the case may be.

14. City hereby grants to PGandE all necessary rights of way and easements to install, operate, maintain, replace and remove the Gas Facilities on property within District along the routes shown upon the attached plans and specifications and City agrees to execute such other grants, deeds or documents as PGandE may require to enable it to record such rights of way and easements. If any part of the Gas Facilities is to be installed on property

owned by others, City shall, if PGandE is unable to do so without cost to it, first procure from owners thereof in the name of PGandE, all necessary permanent rights of way and easements for the construction, operation, maintenance and replacement of the Gas Facilities upon such property in a form satisfactory to PGandE and without cost to it.

15. This agreement does not provide for the installation of any gas service extensions extending from the Gas Facilities to any existing or proposed building within the District by PGandE other than as provided in the attached plans and specifications. The obligations of both the property owners and PGandE under PGandE's Gas Rule No. 16 on file with the Commission, relating to service installations, are not included in this agreement.

16. City shall indemnify PGandE, its officers, agents and employees, against all loss, damage, expense and liability resulting from injury to or death of person, including, but not limited to, employees of PGandE or City or injury to property, including, but not limited to, property of PGandE or City arising out of or in any way connected with the performance of this agreement, excepting only such loss, damage, expense or liability as may be caused by the sole negligence of willful misconduct of PGandE.

17. This agreement shall not be assignable, by operations of law or otherwise, unless PGandE first consents thereto in writing and the assignee, in writing, assumes and covenants to perform all of City's obligations hereunder.

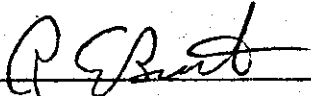
18. This agreement shall, at all times, be subject to such changes or modifications by the Commission as the Commission may, from time to time, direct in the exercise of its jurisdiction.

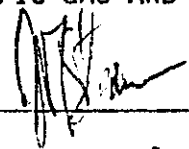
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first herein written.

DATED: November 22, 1983.

CITY OF PLEASANTON

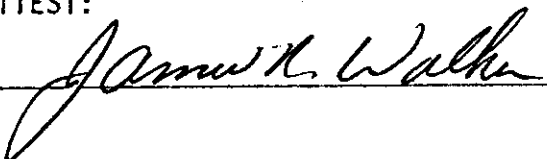
PACIFIC GAS AND ELECTRIC COMPANY

BY: 
ROBERT E. BUTLER
(Type Print Name)

BY: 
J. M. STEARNS
Manager, Commercial

Dept.
ITS: MAYOR
(Title)

*FC MARKS
JMS*

ATTEST:


Attachments:

Gas Rule No. 15
Exhibits "A" and "B"

Mailing Address

200 Bernal Avenue
Pleasanton, CA 94566

EXHIBIT "B"

DEED OF CONVEYANCE

CITY OF PLEASANTON, a municipal corporation of the State of California, for good and valuable consideration, does hereby grant, bargain, sell and convey to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, free and clear of all liens and encumbrances, those certain gas distribution facilities heretofore installed and constructed within Assessment District No. 1982-5, Fromm Business Park pursuant to proceedings conducted by the City of Pleasanton under Resolution of Intention No. 83-67, adopted February 22, 1983, in the approximate locations shown on the sketch hereto marked Exhibit "A" and composed of the materials more particularly described thereon.

DATED: _____, 19__.

ATTEST:

CITY OF PLEASANTON

City Clerk

BY: THIS EXHIBIT IS NOT TO BE SIGNED
Mayor

RULE NO. 15
GAS MAIN EXTENSIONS

Extensions of gas distribution mains necessary to furnish permanent gas service to applicants will be made by the Utility in accordance with the following provisions:

A. General

The Utility will construct, own, operate and maintain gas distribution main extensions only along public streets, roads and highways which the Utility has the legal right to occupy, and on public lands and private property across which rights of way satisfactory to the Utility may be obtained without cost or condemnation by the Utility.

B. Free Extensions to Individual Applicants for Priority P1 Service

1. Free Footage Allowances

Gas main extensions will be made by the Utility at its own expense provided the length of main required does not exceed the free length as determined from the following allowances:

a. Residential Use

For space heating equipment:

For the first 10,000 Btu per hr. input capacity.....	7 feet
Additional, per 10,000 Btu per hr. input capacity.....	5 feet
For each gas range customer.....	50 feet
For each automatic storage type gas water-heater customer.....	80 feet
For each gas refrigerator customer.....	10 feet
For each gas clothes dryer customer.....	10 feet
For air conditioning equipment of 10,000 Btu per hr. input capacity or more, per 10,000 Btu per hr. input capacity.....	20 feet
For each swimming pool heater customer.....	20 feet

b. Use other than Residential

For space heating equipment:

For the first 10,000 Btu per hr. input capacity.....	7 feet
Additional, per 10,000 Btu per hr. input capacity.....	5 feet
For cooking, per 10,000 Btu per hr. input capacity.....	7 feet
For incidental domestic water heater or refrigerator on commercial premises the allowances of B.1.a. apply.	
For all other equipment of 10,000 Btu per hr. input capacity or more, per 10,000 Btu per hr. input capacity.....	20 feet

2. Conditions

a. Seasonal, Intermittent and Standby Service

When an applicant will use gas service in establishments occupied seasonally or intermittently, as in seasonal resorts, cottages or other part-year establishments, one half of the allowance provided above will apply. No allowance will be made for equipment used for standby or emergency purposes only.

b. Length and Location

The length of main required for an extension will be considered as the distance along the shortest practical route, as determined by the Utility, from the Utility's nearest distribution main.

3. Main Extensions Beyond the Free Length

a. Advances

- (1) Extensions of mains beyond the free length will be made by the Utility provided applicants for such extensions advance to the Utility \$6.20 for each foot of main in excess of the free length. Such extensions will be owned, operated and maintained by the Utility.
- (2) In cases where more than one applicant is to be served from the same extension, the total free length thereof will equal the sum of the individual allowances made to each applicant as computed in accordance with Section B.1. The amount to be advanced by the members of the group shall be apportioned among them in such manner as they shall mutually agree upon.

(continued)

RULE NO. 15
GAS MAIN EXTENSIONS—Contd.

B. Free Extensions to Individual Applicants for Service—Contd.

3. Main Extensions Beyond the Free Length—Contd.

b. Method of Refund

The amount advanced in accordance with Section B.3 hereof will be subject to refund as follows:

- (1) Refunds of an advance will be predicated on connection of separately metered permanent Priority P1 load and/or customers; will be made without interest; and will be made within ninety days after date of first service to such load and/or customer, except that refunds may be cumulated to \$25.00 minimum or the total refundable balance if less than \$25.00 before each refunding.
- (2) For such load and/or customer the Utility will refund an amount based on the footage that the allowable free length under Section B exceeds the length of main (if any) required to serve, multiplied by the unit cost per foot specified in Section B.3.a.(1) applicable at the time the extension was originally constructed.
- (3) Refunds also will be made for the appliances and the load specified in Section B-1 permanently installed in excess of the load contracted for originally, when added within one year of first taking service. Such refund will be made within ninety days after the Utility receives notice of the addition by the customer.
- (4) Where there is a series of extensions, on any of which an advance is still refundable, and the Utility makes succeeding free extensions with excess allowances or where additional load or customers connect to succeeding extension, refunds will be made to repay in turn each of such advances which remain refundable beginning with the first in series from the original point of supply.
- (5) When two or more parties make a joint advance on the same extension, refundable amounts will be distributed to these parties in the same proportion as their individual advances bear to their total joint advance.
- (6) No payment will be made by the Utility in excess of the amount advanced by the applicant or applicants after a period of ten years from the date the Utility is first ready to render service from the extension, and any unrefunded amount remaining at the end of the ten-year period will become the property of the Utility.

C. Main Extensions to Serve Subdivisions, Tracts, Housing Projects and Multi-Family Dwellings

1. Advances

Gas distribution main extensions to and/or in subdivisions, housing projects, and multi-family dwellings will be constructed, owned and maintained by the Utility in advance of applications for service by ultimate users only when the entire estimated cost of such extensions, as determined by the Utility, is advanced to the Utility; however, the payment of the portion of such advance as the Utility estimates would be refunded within six months under other provisions of this extension rule shall be postponed for six months if the subdivider-builder furnishes to the Utility evidence that he has received state and local authorizations to proceed promptly with construction and that he has adequate financing, and provided further that the subdivider-builder agrees in writing in his contract for the extension to pay immediately at the end of six months all amounts not previously advanced which are not then refundable. At the end of such six-month period, the Utility shall collect all such amounts not previously advanced which are not then refundable.

2. Method of Refund

The amount advanced in accordance with Sections C-1 hereof will be subject to refund as follows:

- a. Refunds of an advance will be predicated on connections of separately metered permanent Priority P1 service load and/or customers; will be made without interest; and will be made within ninety days after date of first service to such load and/or customer, except that refunds may be cumulated to \$25.00 minimum or the total refundable balance if less than \$25.00 before each refunding.

(continued)

RULE NO. 15
GAS MAIN EXTENSIONS—Contd.

C. Main Extensions to Serve Subdivisions, Tracts, Housing Projects and Multi-Family Dwellings—Contd.

2. Method of Refund—Contd.

- b. For such load and/or customer the Utility will refund an amount based on the footage that the allowable free length under Section B exceeds the length of main (if any) required to serve, multiplied by the unit cost per foot specified in Section B.3.a.(1) applicable at the time the extension was originally constructed.
- c. Refunds also will be made for the appliances and the load specified in Section B-1 permanently installed in excess of the load installed originally when added within one year of first taking service. Such refunds will be made within ninety days after the Utility receives notice of the addition by the customer.
- d. Where there is a series of extensions, on any of which an advance is still refundable, and the Utility makes succeeding free extensions with excess allowances or where additional load or customers connect to succeeding extensions, refunds will be made to repay in turn each of such advances which remain refundable beginning with the first in series from the original point of supply.
- e. When two or more parties make a joint advance on the same extension, refundable amounts will be distributed to such parties in the same proportion as their individual advances bear to the total joint advance.
- f. No payment will be made by the Utility in excess of the amount advanced by the applicant or applicants nor after a period of ten years from the date the Utility is first ready to render service from the extension, and any unrefunded amount remaining at the end of the ten-year period will become the property of the Utility.

3. Extensions to Serve Individuals

- a. Extensions to serve individual applicants for service in real estate subdivisions will be made in accordance with Section B hereof.

D. Main Extensions to Applicants for Other than Priority P1 Service.

Extensions of distribution mains and/or enlargements of existing distribution main capacities to furnish service other than Priority P1 service will be installed, owned, and maintained by the Utility provided: (1) in the Utility's opinion, adequate supplies of gas are, and will continue to be available for Priority P1 service, and (2) the cost of such extension and/or enlargement does not exceed one times the estimated annual revenue as determined by the Utility. Any additional extension and/or enlargement required will be installed, owned, and maintained by the Utility provided the applicant pays to the Utility an amount of money equal to the estimated cost of that portion of such extension or enlargement necessary to supply the applicant's load in excess of that installed at the Utility's expense. The amount so paid will be subject to refund in accordance with Section B.3.b. herein. The Utility will require each applicant to execute an appropriate contract in the form which is on file with the Public Utilities Commission as part of the Utility's effective tariff schedules. The Utility will install, own, and maintain the necessary service regulators, meters, and services all in accordance with the provisions of Rules Nos. 16 and 20.

(continued)

RULE NO. 15
GAS MAIN EXTENSIONS—Contd.

E. Special Conditions

1. Contracts

Each applicant for service and persons requesting an extension in advance of applications for service will be required to execute contracts covering the terms under which the Utility will install mains at its own expense or contracts covering main extensions for which advance deposits will be made in accordance with the provisions of the tariff schedules. Such contracts shall be in the form on file with the Public Utilities Commission as part of the Utility's effective tariff schedules.

These contracts will provide, among other things, that applicant will install, commence using in a bona fide manner within six months after the date of the completion of the main extension and continue to so use for a period of three years, those appliances and items on which the Utility's allowances are based. Such contract will also provide that if any applicant fails to take service or fails to install one or more of the appliances or items contracted for, the Utility may calculate and bill the customer and the customer shall pay an amount according to the Utility's main extension rule in effect at the time the extension was made as though service had been requested on the basis of the actual appliances and equipment installed and utilized.

2. Periodic Review

The Utility will review its costs of construction of main extensions annually and shall prepare a contemplated tariff revision when such costs have changed by more than ten percent since the last revision of the charge for excess footage as used in Section B.3. Contemplated revisions shall be submitted to the Commission for review in proposed form when prepared and not less than thirty days prior to any contemplated filing date.

3. Alternative Routes

Where applicable laws or regulations prevent the utilization of what otherwise would be the shortest practicable route for main extensions for the purpose of delivering gas service to the applicant, the applicant shall, subject to the provisions of this rule, provide the Utility an alternative right of way satisfactory to it.

4. Rules Previously in Effect

Amounts advanced under the conditions established by a rule previously in effect will be refunded in accordance with the requirements of such rule.

5. Temporary Service

Extensions for temporary service or for operations of a speculative character or of a questionable permanency will not be made under this rule, but will be made in accordance with the rule pertaining to temporary service.

6. Service from High Pressure Transmission Mains

The Utility will tap a gas transmission main only where conditions in its opinion justify such a tap. The facilities which constitute a transmission tap are dependent upon the size of the load, pressure, and location of the tap, and will normally consist of a tap valve or Mueller tee, one or more stages of pressure regulation, pressure relief and shut off facilities plus a liquid separator or filter and heater or dehydrator if required. The estimated installed cost of such facilities will be converted to equivalent main extension length by dividing such cost by the price per foot specified in Section B.3.a.(1) hereof. The equivalent length so obtained will be added to the length of new main extension, if any, required to determine the total main extension length to which the regular provisions of this rule will then be applied.

7. Exceptional Cases

In unusual circumstances, when the application of this rule appears impractical or unjust to either party, the Utility or the applicant shall refer the matter to the Public Utilities Commission for special ruling or for the approval of special conditions which may be mutually agreed upon, prior to commencing construction.

(continued)

RULE NO. 15
GAS MAIN EXTENSIONS—Contd.

F. Definitions

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

Application: A written request to the Utility for gas service as distinguished from an inquiry as to the availability or charges for such service.

Branch Service: A service that is not connected to a gas main and has as its source of supply another service.

Company: (See Utility)

Company's Operating Convenience: The term refers to the utilization, under certain circumstances, of facilities or practices not ordinarily employed which contribute to the over-all efficiency of the Utility's operations; it does not refer to customer convenience nor to the use of facilities or adoption of practices required to comply with applicable laws, ordinances, rules or regulations, or similar requirements of public authorities.

Family Dwelling Unit: A group of rooms; such as a house, a flat, or an apartment which provides complete family living facilities in which the occupant normally cooks meals, eats, sleeps, and carries on the household operations incident to domestic life.

Housing Project: A building or group of buildings located on a single premises and containing residential dwelling units for which master metering of gas service at one location has been requested.

Intermittent Service: Service which, in the opinion of the Utility, is subject to discontinuance for a time or at intervals.

Main Extension: The length of main and its related facilities required to transport gas from the existing facilities to the point of connection with the service piping.

Permanent Service: Service which, in the opinion of the Utility, is of a permanent and established character. This may be continuous, intermittent, or seasonal in nature.

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. Automobile parking lots constituting a part of and adjacent to a single enterprise may be separated by an alley from the remainder of the premises served.

Priority: See Rule No. 21.

Public Utilities Commission: The Public Utilities Commission of the State of California.

Residential Use: Gas service for use at family dwelling premises.

Rules: Tariff sheets which set forth the application of all rates, charges, and service when such applicability is not set forth in and as a part of the rate schedules.

Seasonal Service: Gas service to establishments which are occupied seasonally or intermittently, such as seasonal resorts, cottages or other part-time establishments.

Service Pipe: All pipe, valves, and fittings from and including the connection at the main up to and including the stop-cock on the riser.

Service Pipe Extension: Consists of the service as above defined when provided for a new customer at a premises not heretofore served in accordance with the service extension rules.

Stub Service: A lateral pipe, including valves and fittings, from and including the connection at the main to a dead end near the curb or property line of the street in which the main is located.

Tariff Schedules: The entire body of effective rates, rentals, charges, and rules, collectively, of the Utility, as set forth herein, and including title page, preliminary statement, rate schedules, rules and sample forms.

Tariff Sheet: An individual sheet of the tariff schedule.

Temporary Service: Service for enterprises or activities which are temporary in character or where it is known in advance that service will be of limited duration. Service which, in the opinion of the Utility, is for operations of a speculative character or the permanency of which has not been established, also is considered temporary service.

Tract or Subdivision: An area for family dwellings which may be identified by filed subdivision plans or as an area in which a group of dwellings may be constructed about the same time, either by a large scale builder or by several builders working on a coordinated basis.

Utility: Pacific Gas and Electric Company.