

ORIGINAL

Decision No. 81590

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for authority to revise its gas service tariff to offset the effect of increases in the price of gas from California sources and Pacific Gas Transmission Company.
(Gas)

Application No. 53866
(Filed February 28, 1973;
amended May 15, 1973)

John C. Morrissey, Malcolm H. Furbush, and Robert Ohlbach, Attorneys at Law, for applicant.
James J. Cherry, Attorney at Law, for San Francisco Consumer Action; and Mrs. Sylvia M. Siegel, for Consumer Federation of California, Consumers United, Inc., Diablo Valley Consumer Action, and Alameda County Consumer Action; protestants.
Daniel K. Green, for P.P.G. Industries, Inc., Works 15, Fresno; Arthur R. Ramirez, for Valley Nitrogen Producers; Brobeck, Phleger & Harrison, by Robert N. Lowry, Attorney at Law, for California Manufacturers Association; William L. Knecht, Attorney at Law, for the California Farm Bureau Federation; Robert K. Booth, Jr., Attorney at Law, for the City of Palo Alto; Thomas M. O'Connor, City Attorney, and Robert Laughead, for the City and County of San Francisco; and Henry F. Lippitt, II, Attorney at Law, for California Gas Producers Association; interested parties.
Walter H. Kessenick, Attorney at Law, and Colin Garrity, for the Commission staff.

O P I N I O N

Pacific Gas and Electric Company (PG&E) seeks to increase its gas rates to offset increases in the cost of gas purchased in California and in Canada. It asserts that increases in field prices effective July 1, 1973 will cost it an additional \$19,422,000 for California gas, and \$27,401,000 for Canadian gas. Applicant proposes to pass this cost increase on to consumers by a uniform 0.471 cents per therm offset rate increase.

On December 19, 1972, this Commission (in Decision No. 80878 in Application No. 53110), based on a 1973 test year, found a rate of return of 8.0 percent reasonable for PG&E's gas department. The test year estimates did not include an allowance for increased gas prices. If PG&E were to absorb these increases its rate of return would allegedly be reduced to 5.66 percent.

PG&E purchases about 25 percent of its natural gas from California producers; PG&E had offered them 8 cents per Mcf over the present price. In Decision No. 78973 in Application No. 52565, we placed PG&E on notice that "...applicant must carry its burden of proof as to the reasonableness of the cost to it of California produced gas when requesting authorization to raise its rates. We specifically disclaim, in accepting for purposes of this proceeding the reasonableness of 35¢ per Mcf of California gas, that the border price is the criterion for pricing northern California produced gas."

PG&E obtains about 35 percent of its natural gas from Canada. It originally alleged that a Canadian field price increase would amount to 6.3 cents with an additional 1 cent per Mcf to compensate Alberta & Southern Gas Co., Ltd.'s^{1/} activities in support of exploration activities in Canada. In subsequent testimony PG&E asserted that its original prediction had been unduly optimistic and that the unanticipated cost increases had absorbed all but 0.1 cent per Mcf of the additional 1 cent.

In Decision No. 80794 in Application No. 53552, we stated: "Although the evidence in this record shows that the increase in the price of Canadian gas will not profit at this time PG&E or either of its subsidiaries, to insure that the pricing of Canadian gas will not result in windfalls for PG&E or its subsidiaries, or permit evasion of regulation, PG&E is placed on notice that the books and records of Alberta shall be made available for examination by the staff upon request and that in its next gas rate case involving Canadian gas prices it will be required to make a complete showing of Alberta's results of operation and the disposition of all money resulting from revenues in excess of Alberta's cost of service."

The matter was assigned to Examiner Gilman for hearing; on April 27, 1973 he issued a prehearing ruling dividing this proceeding into two phases. The first phase was to consider the size of both cost increases and whether and in what manner they might be passed on to the consumer; the second phase was to finally determine those issues left unresolved in the above-quoted decisions.

Hearings were held on Phase I on May 21 through 23, 1973 before the assigned Examiner.

^{1/} Alberta & Southern Gas Co., Ltd. is a wholly owned subsidiary of PG&E. Its cost of service is flowed through to PG&E via Pacific Gas Transmission Company which transports the gas from the Canadian border to PG&E.

PG&E's vice president of Rates and Valuation testified concerning the impact of the increased costs on PG&E's results of operations and revenue requirements; its vice president of Gas Supply testified concerning California gas markets and pricing. A vice president of Alberta and Southern Gas Co., Ltd. testified concerning Canadian gas markets and regulation. At the end of those hearings PG&E moved for interim rate relief subject to refund. Phase I was taken under submission as of June 11, 1973.

Position of the Staff

The staff indicated that it would not oppose an interim rate increase subject to refund, if limited to 0.338 cents per therm. This figure was developed by the staff engineering witness who testified that he had not been able to complete the full study which he felt was required, but that his limited inquiry supported an opinion that the California increase would probably be not less than 8 cents per Mcf. His limited inquiry into the cost of service of Alberta and Southern did not support an increase of 7.3 cents per Mcf for Canadian gas. His analysis, based on reported figures^{2/} for the six-month period ending in February 1973, indicated that Alberta and Southern's cost of service, including the anticipated field price increase, might well be no more than 36.0 cents, only 5 cents more than the 31 cents used in Decision No. 87808.

^{2/} These reports were required by Ordering Paragraph 4 of Decision No. 80794 in Application No. 53552.

Position of Other Parties

The California Manufacturer's Association was primarily concerned with the treatment of the extra 1 cent per Mcf attributable to Alberta and Southern's exploration support activities in Canada. It has, however, satisfied itself that other elements of Alberta and Southern's costs have increased to the point where virtually all of this allowance has vanished. Consequently, at the close of hearings the Association's counsel merely supported the use of the flat cents per therm rate spread.

The California consumer groups (Consumer Federation of California, Consumers United, Inc., Diablo Valley Consumer Action, and Alameda County Consumer Action) contended that an increase of this size should not be treated on an offset basis, and that interim increases subject to refund were unfair to consumer interests. They took the position that any relief should be deferred until after all of the substantive issues, including the status of the California producers, can be finally determined.

The California consumer groups moved for a Commission investigation of those California gas producers which supply PG&E on the grounds that they are public utilities (Sections 216(c) and 222, Public Utilities Code; cf. Richfield Oil Corp. v PUC (1960) 54 C 2d 419). Those groups contended that the Commission should not grant relief to PG&E until it is determined whether the producers are utilities and consequently whether their charges can be increased without Commission approval.

PG&E and Amerada Hess Corporation^{3/} filed responses in opposition to the motion.

San Francisco Consumer Action contended that no action on the application should be taken until an Environmental Impact Report is filed and until the California producers are brought in as parties, and until all of the substantive issues are resolved. It also contended that a staff proposal to conserve California gas by restricting use of gas by interruptible customers was properly one of the substantive issues in this proceeding. The city of San Francisco did not affirmatively oppose an interim increase, based on the staff estimate. It contended that if a refund is ultimately required, it should be with interest.

Counsel for the California Farm Bureau Federation conceded that he was hard pressed to find any cogent arguments against interim relief in light of the apparent seller's market for California and Canadian gas.

The city of Palo Alto purchases gas for resale to general residential customers and small commercial and business firms located in the city's gas service area. Palo Alto is PG&E's only gas resale customer. It objected to spreading any offset on a uniform cents per therm basis, claiming that this form of offset rate spread would place a squeeze on the city's operating margin.

Is an EIR Required on the Application?

Leaving aside the question of whether any rate increase is a project^{4/}, we are of the opinion that this proceeding is not subject to the provisions of CEQA.

^{3/} Amerada Hess made a special appearance.

^{4/} This question was, at time of submission, under review on petition for rehearing in other proceedings, principally in Case No. 9452. Subsequently, Decision No. 81484 in that proceeding reaffirmed the view that rate cases are not projects.

The Canadian producers are not required to obtain approval from any arm of this State to increase gas prices. The question before us is simply whether and to what extent PG&E should absorb or pass on these costs to consumers.

Since PG&E seeks to act as nothing more than a mere conduit for changes occurring in markets not regulated by California, there is no project within the meaning of Section 21065(c), Public Resources Code.

It is also questionable whether there is a new project (Section 21169, Public Resources Code). The gas in question was committed to the California market, and the rate spread established, long before CEQA became effective. The practice of offsetting gas increases on a cent per therm basis was also established long before CEQA. Such a rate spread is environmentally neutral; it has no different effect than if the producers were to impose the increase on the consumers directly rather than through an intermediary.

We need not reach the question of whether an EIR would be required if some other form of rate spread were to be considered.

Impact of the Price Freeze

On June 13, 1973 an Executive Order was issued by the President prescribing freeze prices for services and commodities (cf. Section 140.10, Title 6, Ch. 1, Code of Federal Regulations). Under this regulation the California producers will temporarily be unable to raise their prices, and any PG&E rate increase based on California prices would necessarily be stayed until the expiration of the freeze. It is possible that subsequent price control regulations may limit either or both producer and utility prices, and it is therefore impossible to predict what, if any, changes will occur in the pricing of California gas in the immediate future. It therefore appears appropriate not to consider California gas increases in Phase I, without prejudice to applicant's right to renew that portion of its application whenever it is able to make reasonably accurate predictions as to the timing and amount of expected cost increases.

Action on the California producer status question will likewise be deferred and will be the subject of a subsequent order.

The regulations (Section 140-14, supra) permit importers and each reseller of imported commodities to pass on price increases on imported commodities on a "dollar-for-dollar basis." Since there is no question that the revised Canadian contracts will become legally effective on July 1 and that these increases will be passed on to PG&E, we cannot reasonably compel PG&E to absorb them.

The requirement that the increases be on a dollar-for-dollar basis eliminates rate spread as an issue at this stage in the proceedings; the Commission could not adopt a rate formula which spreads the impact of the import increase on any basis other than that on which it is imposed (i.e., a uniform cent per therm basis) to all classes of consumers.

Amount of Interim Increase

Our staff has not yet had the opportunity to make the full-scale investigation of Alberta and Southern's cost of service and exploration support activities contemplated by Decision No. 80794. It seems unlikely, however, that the results of that study would support a requirement that PG&E or its subsidiary should absorb all of the field price increase. On the other hand, there is a real dispute about a portion of PG&E's costs for Canadian gas. Now that the freeze has eliminated many of the issues from this proceeding we can expect that the staff study will be completed and presented without unusual delay. Consequently, we will allow an interim rate increase for that portion of the sought increase not presently opposed by staff, subject to refund, i.e., 5 cents per Mcf.

The staff based its estimates of total revenue requirements on the estimates of volumes used in Decision No. 87808. However, PG&E has sufficiently shown that those estimates are no longer reliable, and we will adopt the higher estimates presented by PG&E.

The formula we use will make no allowance for additional uncollectibles or franchise tax payments. The dollar-for-dollar rule in the price freeze regulations requires PG&E to absorb any tax costs since those dollars are not exported. Likewise, an allowance for extra uncollectibles would require those consumers who do pay their bills to assume a part of the additional costs which should be borne by others. The dollar-for-dollar rule prohibits any redistribution of import costs between consumers. The dollar-for-dollar rule would also prohibit any allowance for compressor fuel consumed for transmission of this gas within the United States.

TABLE I

Cost of gas increase ^(a)	\$18,110,000
Less, effect of gas to underground storage ^(b)	<u>156,000</u>
Net increase	\$17,954,000
Offset rate ^(c)	0.187¢ per therm 1.973¢ per Mcf
(a) 362,195 MMcf at 5¢ per Mcf.	
(b) 8,304 MMcf at 1.874¢ per Mcf.	
(c) Based on sales volume of 9,945,970,000 therms.	

Findings

1. As of July 1, 1973 PG&E will pay at least 5.0 cents more per Mcf for gas imported from Canada.
2. A rate increase of 0.187 cents per therm uniformly applicable to all classes of consumers will compensate applicant for a Canadian gas price increase of 5.0 cents per Mcf.
3. A rate increase of 0.187 cents per therm will not increase applicant's gas department rate of return to more than 8 percent.

4. If this rate increase is insufficient to fully compensate PG&E for the actual increases in costs of Canadian gas, applicant will be unable to recoup any difference between predicted and experienced costs incurred before final decision herein. If the predictions are unduly pessimistic, a refund will reasonably protect consumer interests.

5. A refundable increase of 0.187 cents per therm will be just and reasonable until final order herein, and applicant's present gas rates are for the future unjust and unreasonable.

6. The rate spread adopted herein passes Canadian gas price increases on to consumers on the same basis as they are imposed in Canada.

7. We cannot now predict whether, where, or in what amount California gas producers will be able to raise their prices to PG&E.

Conclusions

1. A proceeding determining whether and to what extent Canadian producer gas price increases shall be passed on to consumers is not a new project under the California Environmental Quality Act, at least insofar as the increased costs are flowed through on an equal basis to all classes of consumers.

2. No issues concerning possible future cost increases of California gas should be considered until applicant amends its application to allege the date and amount of such increases expected under post-freeze price controls.

3. PG&E should be authorized to increase its gas rates, subject to refund, by 0.187 cents per therm.

4. The increase authorized is exempt from the findings required by Rule 23.1 because it falls within the exception set forth in paragraph (E)(1) of the rule as a pass-through of fuel costs which do not increase PG&E's aggregate annual revenue by more than one percent.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company is authorized on or after the effective date of this order to increase its gas rates by 0.187 cents per therm; tariff filings to reflect this increase shall be made in accordance with General Order No. 96-A. The revised schedules shall apply only to service rendered on and after the effective date thereof.

2. Such increase shall be subject to refund if required by further Commission order.

3. Applicant's motion for an interim increase to offset increased costs of California gas is denied.

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

Dated at San Francisco, California, this 10th
day of JULY, 1973.

Vernon L. Sturgeon
President

[Signature]
[Signature]
Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

[Signature]

[Signature] Jr., Commissioner.