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Decision No. 82224

ORIGINAL

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 and August 13, 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.
Thomas W. Lynch, Associate General Counsel, for Amerada Hess Corporation (special appearance).

O P I N I O N

In this application Pacific Gas and Electric Company (PG&E) seeks authorization to increase its gas rates to offset the effects of increases in the cost of California gas amounting to $19,422,000 and of Canadian gas amounting to $27,401,000, both on a 1973 test year basis. Initial hearings on this application were held before Examiner Gilman in San Francisco on May 21, 22, and 23, 1973. Following these hearings, the Commission issued Decision No. 81590 on July 10, 1973 authorizing a refundable interim rate increase to offset $17,954,000 of the increased cost of Canadian gas, pending completion of the Commission staff's study of the cost of service of PG&E's Canadian subsidiary. The decision noted that the California increase and a minor component of the Canadian increase were temporarily stayed by the Price Freeze Executive Order issued by the President on June 13, 1973 and denied relief for those cost increases. The decision indicated that PG&E should renew the relevant portions of its application when it was able to make reasonably accurate predictions as to the timing and the amount of expected cost of California increases under final price freeze regulations. On August 13, 1973 PG&E filed a second amendment to Application No. 53866 showing that the California cost increases would become effective in full on August 13, 1973 and requesting authorization to make offset rates for California increases effective on that same date. A decision as to the second amendment is still pending.

The second phase of hearings on this application was held on September 24, 25, 26, and 27, 1973 on a common record with PG&E's Application No. 54127 whereby PG&E sought to increase its gas rates to offset increases in the cost of gas purchased from the El Paso Natural Gas Company, allegedly amounting to $15,065,000 annually on a 1973 test year basis.1/

1/ A rate increase in that proceeding was authorized in Decision No. 82137 issued November 13, 1973.

Reasonableness of Canadian Natural Gas Prices

There are no grounds to seriously challenge the reasonableness of the new price levels achieved by the Canadian producers in the latest round of price negotiations with Alberta and Southern Gas Company, Ltd. (Alberta and Southern), PG&E's wholly owned Canadian subsidiary.

Both the Canadian national government and the Alberta provincial government have policies relating to the timing and level of natural gas price negotiations. The new price levels agreed to by Alberta and Southern are "...from significantly below to marginally within government-endorsed levels and on average, approximate the minimum level".2/ The California consumer could not realistically ask for more effective bargaining on his behalf, or expect a lower price.

Consequently, PG&E must be authorized to pass on to its customers cost increases mandated by a foreign government.

One of the principal issues in this proceeding is whether PG&E has met the special burden of proof imposed on it by Decision No. 80794 in Application No. 53552; that decision declared:

> "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."

2/ 1973 report of the Alberta Energy Resources Conservation Board.

In this proceeding, the evidence shows that for a short period prior to the most recent price increase, Alberta and Southern had received from the California consumer substantially more than was necessary to meet its cost of purchasing gas and its costs of operation and its fair return, because of Canadian gas pricing policies.3/ As a result of the recent increases, Alberta and Southern's revenues now fail to cover the new costs of Canadian gas by approximately 0.4 cents per Mcf. We believe that this revenue deficiency may be legitimately considered as an offset to whatever claims the California consumer might assert against PG&E as the parent of Alberta and Southern as a result of past over-collections. We will require PG&E to update the reports made herein in compliance with above-quoted paragraph in its next rate increase case. These reports should include a statement of any accrued revenue deficiencies incurred by Alberta and Southern as a result of the last round of producer price increases.

Since Alberta and Southern is not at present over-collecting, the issues raised by Decision No. 80794 have no bearing on the amount of PG&E's offset rates.

Reasonableness of California Natural Gas Price Increases

PG&E obtains approximately 25 percent of its natural gas from California gas producers. Under its contracts with those producers, the previous pricing period ended June 30, 1973. Well prior to that date, PG&E had instituted its normal renegotiation process under which it conducts simultaneous negotiations with several of its major California producers. When it has agreed upon a price with one of these majors, that price is then adopted by PG&E and all the other producers for the remaining California gas supplies. This process produced a uniform price increase of 8 cents per Mcf for 1,000 Btu gas delivered on a 33-1/3 percent load factor basis (appropriate adjustments are made for varying Btu content and for deliveries at other load factors).

3/ The funds thus accumulated were used by Alberta and Southern to stimulate exploration and development activities to increase the reserves available to the California consumer.

PG&E contends that under its contracts with all California producers it is obligated to pay the fair market value for California gas, that the agreed-upon new price is not in excess of the fair market value, and that the increase in the price of California gas represents a reasonable and necessary expense to PG&E.

The California Gas Producers Association contends that PG&E's purchases of California-produced gas are a bargain to PG&E and its consumers and that the exploration for, and production of, these low-cost supplies should be encouraged. It also argues that a comparison with the California border price for PG&E's purchases of interstate and Canadian gas supplies is a legitimate and practical way of determining the reasonable market value of PG&E's California gas purchases.

Staff contends that we should not consider the price of foreign, or interstate gas, or the price of alternate fuels in determining the reasonableness of the California gas prices. It points to Decision No. 78973 in Application No. 52565 which contains the following statement:

> "We place applicant on notice that if the anticipated events above do not come to pass, applicant must carry its burden of proof as to the reasonableness of 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 cents per Mcf of California gas that the border price is the criteria for pricing northern California-produced gas."

Staff claims that, in determining reasonableness, we should examine the underlying costs experienced by the producer, or in the alternative determine whether the "usual safeguards of bargaining and competition" are present.4/ The staff notes that the producers have been unwilling to supply PG&E with cost data. Staff further argues

4/ Lakewood Water and Power Co. (1957) 55 CPUC 508.

that the fact of a 17 percent price increase in 1971 coupled with a 26 percent increase this year indicates that PG&E's negotiating practices do not fully protect the consumer interest; it claims that PG&E should be willing to negotiate with each producer rather than allowing all producers to obtain the same price. The consumerist groups claim that the reasonableness of California prices cannot be determined until producer cost data are available. They contend that the uniformity of California prices indicates that PG&E did not pursue its negotiations with sufficient vigor. They further contend that PG&E's stockholders should be compelled to absorb the difference between old and new costs until the Commission has determined whether or not the producers are California public utilities under Sections 216(c) and 222 of the Public Utilities Code and whether anticompetitive conditions exist in the market for California natural gas (Northern California Power Agency v PUC (1971) 5 Cal 3d 370).

PG&E's witness on this issue described the contracts which PG&E has with California producers, the included pricing provisions, the history of the prices that PG&E has paid for California gas, and the basis for the California increase to a range of 35 cents per Mcf at 100 percent load factor to 43 cents per Mcf at 33-1/3 percent load factor. He pointed out that negotiations took place within the framework of a general energy shortage throughout the United States and that such specific factors as individual producer demands, border price of gas, cost of alternate fuels, and competition for new gas supplies from large industrial users were considered in arriving at his judgment that the price finally settled upon represented the fair market value of California gas. He also discussed the prices paid by other California utilities for their natural gas supplies, as well as the prices which PG&E pays for foreign and interstate gas and the general trend in gas prices. He stated that the PG&E-California producers' contracts contain an arbitration clause to settle disputes over the fair market value price.

He testified that, compared with the negotiated price of 35 cents per Mcf for 100 percent load factor gas, Southern California Gas Company was paying 43.27 cents per Mcf for intrastate gas as of April 1973; that PG&E would be paying about 48 cents per Mcf for El Paso gas and 45 cents per Mcf for Canadian gas by the year's end; that the average price of gas sold by interstate pipeline companies was 46.43 cents per Mcf at the end of 1972; that prices paid for intrastate gas were going as high as 76 cents per Mcf; that the cost of low sulfur fuel oil is about 80 cents per decatherm;[5] and that synthetic and liquid natural gas prices will probably range from 105 to 200 cents per decatherm.

He also testified that one of PG&E's large industrial customers has contracted with a California producer for the delivery of about 60 million cubic feet of gas per day. He further indicated that, as PG&E's level of service to large interruptible customers declines with increasing curtailment, it is likely that other such customers will increasingly compete with PG&E for California reserves by attempting to purchase gas directly.

We have no jurisdiction to order PG&E to breach any of its producer supply contracts, nor to relieve it of the civil obligations created thereby. Even if we were to find the basic contract or the new prices unreasonable, the most we could do is to disallow the unreasonable portion of the resulting cost thus shifting a part of the economic burden from the consumer to PG&E's stockholders (<u>Pacific Tel. & Tel. Co. v PUC</u> (1950) 34 Cal 2d 822).

We can find no authority under which California consumers could claim a right to less than fair market value prices for California gas. We find therefore that the basic contract which includes a fair market value test is not unreasonable; we also find that a

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5/ A decatherm is the energy equivalent of one Mcf of 1,000 Btu gas.

provision for arbitration to fix that value is not unreasonable.

Since we have found that the contract price determination mechanism is not unreasonable, we think the only appropriate test for determining whether the negotiated rates are reasonable is to see if they are substantially above what a hypothetical arbitrator might have awarded. In determining this question, any evidence which such an arbitrator might have considered is relevant and any evidence which he would have disregarded is irrelevant. We will therefore reject the claim that producer cost data should be provided. We know of no precedent which would justify an arbitrator acting under a fair market price standard to consider cost evidence. In such an arbitration proceeding, a producer could not claim that extraordinarily high costs justified an award of more than the market price; conversely, PG&E could not contend that low-cost gas should be sold at lower than fair market price.

If any arbitration had been conducted before PG&E had made its just agreement with a single producer, an arbitrator would certainly have considered the border price of both foreign and interstate gas. We think he would also have considered the prices paid by other California utilities for California gas and the expected costs of alternate fuel sources. We know of no evidence which would persuade a hypothetical arbitrator that the new California price should be substantially less than the 35-cent to 43-cent per Mcf range.6/ We therefore find that the agreed upon price is not in excess of the fair market value.

Once PG&E had settled with one of the producers, the agreed-upon price level would have almost certainly been adopted as the best

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6/ In a recent arbitration proceeding involving intrastate gas for the California market, the arbitrator's award was based on a finding that the fair market value of gas was four times the existing contract price level. That award is now being challenged in court proceedings, in which this Commission is appearing. (Cf. El Paso Natural Gas Co. v Sun Oil Co. et al., Civ. No. 1761-73, U.S. Dist. Court, District of Columbia.)

and most persuasive evidence in any subsequent arbitration between PG&E and any other producer. Therefore, we conclude that once PG&E has reached a satisfactory agreement with one of its producers it has no duty to attempt to obtain a lower price from any of its other producers; such further negotiations would be almost certainly an exercise in futility.

It has been claimed that PG&E has no strong motive to negotiate aggressively with the California producers since its officers could assume that full offset relief would be available. It is obvious, however, that no officer of PG&E could lightly make such an assumption. There are a wide range of circumstances (one of which occurred in this proceeding) under which PG&E stockholders could be left to absorb, at least temporarily, all or a portion of the cost increase. We think it obvious that PG&E has a very strong motive indeed to obtain the lowest possible price from the California producers.

The record justifies a finding that the price levels achieved by PG&E in its latest round of negotiations with California producers are not unreasonable. Therefore PG&E is entitled to offset the full amount of the increase attributable to California gas.

Motion - Utility Status of Producers

Consumer Federation of California, and the other parties represented by Ms. Siegel, moved that the Commission initiate an investigation to determine whether PG&E's gas suppliers are public utilities under Sections 216(c) and 222, Public Utilities Code. (See Richfield Oil Corp. v PUC (1960) 54 Cal 2d 419, Richfield Oil Corp. v PUC (1961) 55 Cal 2d 187.) One of the terms of the motion was that all rate relief for California costs should be withheld until the investigation was completed. The motion was supported by San Francisco Consumer Action.

PG&E contended that the motion was inequitably dilatory. It further contended that if such an investigation were launched, it should be on a statewide basis and not tied to this proceeding or limited to PG&E's suppliers. The staff also took the position that any investigation should be on a statewide basis. Amerada Hess Corporation, one of PG&E's suppliers, filed a special appearance in opposition to the motion; California Gas Producers Association likewise opposed the motion.

Under the Richfield doctrine a gas producer may be a public utility under Sections 216(c) and 222, Public Utilities Code, if it sells gas to a public utility for resale to the public. However, those statutes cannot be read literally; they are subject to an implicit limitation, i.e., the dedication rule. That rule was originally devised as a rule of constitutional significance (Thayer v California Development Co. (1912) 164 C 117) to distinguish between those activities which could, and those which could not, be subjected to governmental regulation. After Nebbia v New York (1933) 291 U.S. 502, the dedication rule lost its constitutional significance. Under the Richfield doctrine it survives, however, as a rule of statutory interpretation applicable to those parts of the Public Utilities Code enacted prior to Nebbia.

We note that the Richfield case is worthy of consideration in other aspects. It pointed out the practical difficulties inherent in regulating only a portion of the gas production industry. It suggested that a regulatory structure that did not cover sales of gas to private users might encourage the diversion of a uniquely valuable natural resource to less desirable uses. It also pointed out the difficulties of regulating gas but not oil production.

We think that the Richfield cases read as a whole contain an implicit suggestion that the question of whether to regulate California gas production is fundamentally a legislative rather than a judicial question. If the Commission were to institute the proposed investigation, it would have to consider the issues in a purely judicial manner; it would have to determine as a matter of law what definition of dedication to use in this context, and make findings to determine whether or not individual producers had, in fact, dedicated their reserves to a public use. The ultimate result would be the same regardless of whether or not the outcome would be favorable or unfavorable to the overall public interest. The Commission would be compelled to exercise whatever jurisdiction it has even if, for example, there were a clear showing that regulation would discourage exploration and development for new supplies. If it found that only one or a few producers had dedicated, it would be required to regulate them regardless of the problems that would arise when unregulated enterprises are left to compete directly with regulated businesses. At this present juncture, however, this is a matter in which we can exercise discretion, since this issue is whether to commence a proceeding on our own motion, and whether to commit our staff's resources to it.

We think it unlikely that the major portion of the relevant market could be brought under regulatory control. We think partial regulation would disadvantage, rather than protect, the customer. Nor do we believe that regulation under traditional utility concepts will protect the consumer interest in ensuring adequate supplies at the lowest possible price.

We do not think it would be a sound exercise of our discretion to institute the proposed investigation.

Motion - Antitrust Issues

San Francisco Consumer Action, supported by the other consumerist groups moved for an exercise of the Commission's sua sponte powers to determine whether the California prices were influenced by anticompetitive activities of the California producers. The California Gas Producers opposed the petition, arguing that Northern California Power Agency, supra, was inapposite, or that it should be applied to permit private purchasers of natural gas a better opportunity to compete with PG&E. It further claimed that the doctrine of conscious parallelism[7/] is inappropriate for a market where pricing is largely influenced by a near monopsony such as PG&E. PG&E claims that the Northern California Power Agency doctrine is applicable only to certification proceedings. It further points out that PG&E is facing increasing private competition for California gas. It claims the uniformity of price is a direct result of the basic contracts which uniformly provide for a fair market price.

This market is not like the freely competitive market contemplated by antitrust statutes. PG&E is still a near-monopsony, capable of achieving a uniform price structure for both new and flowing gas. We see no reason to believe that this monopsony power is not justified by an overriding public interest, or to believe that increased competition in the market will not be adverse to significant public interests. There is no evidence of record which would suggest that PG&E has either motive or opportunity to exercise its monopsony power in a manner adverse to the public interest. Nor is there even a hint of evidence that the producers have engaged in anticompetitive conduct. The uniformity of price is not evidence of producer misconduct; rather, it is the natural and probable consequence of PG&E's forceful use of a monopsony power which is a product of its lawful status as a monopoly public utility. There is no indication that the exercise of our sua sponte powers would further the public interest. The motion should be denied.

California Gas Rate Spread

The staff recommended a novel rate spread for California gas. It took the position that the additional revenues required to offset the cost increase of the minimum contractual volumes of

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7/ Conscious parallelism can be defined as identical behavior by competitors, each knowing what the others are doing. Such conduct in a conventional market is circumstantial evidence of a violation of Section 1 of the Sherman Act (Theatre Enterprises Inc. v Paramount Film Distributing Corp. (1954) 346 US 537).

California gas should be spread on a uniform cents per therm basis; however, it urged that additional costs associated with "overproduction"[8] of California gas should be assigned to the company's own steam plants. It contends that the completely uniform rate spread proposed by PG&E unfairly burdens the gas consumer with costs that equitably should be borne by the electric customer. It asserts that the overproduction of intrastate gas is a direct consequence of the curtailment of interstate gas imposed by the Federal Power Commission, and that if PG&E had not compensated for this supply deficiency by purchasing more than the minimum volumes of California gas, its own steam plants would have been the first customers to be interrupted. The staff sought an order that PG&E develop a plan for spreading the additional cost to its electrical customers.

PG&E contends that it would be illogical to adopt the staff rate proposal; it asserts that while the steam plants may be the primary beneficiaries of the increased take of California gas, the electrical customer also bears the primary burden of the El Paso curtailment. It also contends that the staff recommendation could not consistently be adopted without assigning non-steam plant customers a higher proportion of the El Paso rate increase. It suggests that an internally consistent rate spread which considers the full impact of both curtailments and price increases for all sources of gas might result in a lower rather than a higher proportion of the increases being assigned to the steam plants and, consequently, to the electrical consumer.

The California Producers Association opposes adoption of the staff rate spread. It points out that the staff proposal would allow PG&E immediate relief for only a portion of the total California increase, leaving PG&E to absorb nearly $500,000 per month until a final plan is adopted. It also contends that the staff witness' estimate of the amount of overproduction is challengable. It further

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8/ The staff used this term to indicate that PG&E was purchasing more than its minimum contractual obligation of California gas.

contends that adopting this proposal would be administratively difficult since the amount of PG&E's deliverability rights varies from day to day. Finally, it argues that the Commission should not adopt the principle of assigning certain sources of supply to certain customers even for rate-making purposes.

The California Ammonia Company supports the retention of a pure uniform cents per therm rate spread, and claims that a rate spread which distinguishes between classes of customers would be inequitable.

It should be noted that the PG&E proposal treats the company's own steam plants as customers to which the cents per therm rate spread would be applied rateably.

PG&E is correct in contending that we could not logically consider the staff's rate proposal while ignoring the offsetting impact of the El Paso increase on non-steam plant customers. The staff will have an opportunity to make a full presentation on all aspects of rate design in PG&E's general rate case. Since this rate spread is, in essence, a temporary adjustment pending the final outcome of the pending general rate case, we will reject the staff proposal and utilize the uniform rate spread customary in offset cases. This action is taken without prejudice to the staff's right to make a similar proposal in PG&E's general rate case which is now pending.

Cost and Revenue Requirements

As can be seen from the accompanying table, both staff and PG&E are in close agreement in total revenue requirements needed to offset the California and Canadian price increases. Staff's higher unit increase figures reflect its prediction that PG&E will be able to buy less El Paso gas and that, consequently, its revenue requirement will have to be covered by a smaller total sales volume.

COST OF GAS AND OFFSET REVENUE REQUIREMENT
RESULTING FROM INCREASES IN PRICE OF GAS
FROM CALIFORNIA AND CANADIAN SOURCES

Item	Units	California Gas		Canadian Gas	
		Company Estimate	Staff Estimate	Company Estimate	Staff Estimate
Increase in Cost of Gas	M$	19,450	19,450	27,441	27,441
Less Net Adj. for Stor. Injection, Franchises, & Uncoll.		28	32	40	44
Offset Rev. Requirements		19,422	19,418	27,401	27,397
Sales Subject to Incr.	Mdth	994,597 1/	979,299 2/	994,597 1/	979,299 2/
Unit Increase	¢/therm	0.195	0.198	0.276	0.280

1/ Based on purchases from El Paso Natural Gas Co. of 343,090 MMcf.

2/ Reflects reduction in El Paso purchases from 343,090 to 328,855 MMcf as estimated by El Paso in FPC Docket No. RP73-104, effective November 2, 1973.

PG&E estimate of total increase 0.471¢/therm.
Staff estimate of total increase 0.478¢/therm.

The record contains evidence to support an even more pessimistic prediction of 1974 deliveries of El Paso gas. Since our best estimate of El Paso sales is 311,000 MMcf per year, the appropriate unit increases should be readjusted upwards.9/ We will adopt the slightly lower staff estimate of revenue requirements and apply it to the total sales of 960,110,000 decatherms resulting in a 0.202 cents per therm increase for California gas and a 0.285 cents per therm increase for Canadian gas.

9/ This is the figure adopted in Decision No. 82137 in Application No. 54127 as the basis for calculating revenue requirements.

Effect of Prior Decision

The rate increase granted by Decision No. 81590 as modified by Decision No. 81609 was interim in nature. The relief authorized herein is final and supersedes the prior rate increase which will be canceled when this increase is actually put into effect.

Findings

1. PG&E since July 1, 1970 has experienced an increase of at least $27,441,000 annually in the cost of Canadian gas as a result of price increases negotiated between its wholly owned Canadian subsidiary and Canadian gas producers. Such increased costs would be offset by a revenue increase of $27,397,000.

2. The government of the Province of Alberta and the Canadian national government indirectly regulate the price of exported natural gas.

3. The new price levels referred to in Finding 1 are considered by the Alberta government to be at the lower end of its range of acceptable prices.

4. The increased costs borne by PG&E for Canadian gas are not unreasonable.

5. On August 13, 1973 PG&E experienced an increase in the cost of gas purchased from California producers in the amount of $19,450,000 annually; this cost increase can be offset by a revenue increase of $19,418,000.

6. The price PG&E pays for California gas is determined under contracts which require that PG&E pay, and the producer receive, the fair market value of the gas sold, and which provide for arbitration if the parties fail to agree upon the fair market value. PG&E, when renegotiating California gas prices, makes offers to several major producers; when a settlement has been made with one such producer, that price becomes the basis for settlements with all other California

producers; as a result, all of California gas at a particular load factor has a uniform price on a per therm basis. In light of the prices paid for natural gas in other markets, the price paid for natural gas from foreign and interstate sources in the California market, the price paid by another California utility for California natural gas, and the price of alternate fuels, the new prices achieved by PG&E in its latest round of renegotiations with the California producers are not significantly above what would have been awarded by an arbitrator. The uniformity of price would not support an inference of unlawful conduct by producers, but is the product of aggressive bargaining by a near monopsony.

7. PG&E has a strong motive to negotiate aggressively with the California producers and to make final offers which are at or below the amount it predicts would be awarded by an arbitrator. Utility contracts which call for periodic renegotiation of prices for natural gas at a fair market value are not unreasonable; it is not unreasonable in such a contract to provide for arbitration to determine the fair market value.

8. The new price levels for California gas are the product of arms-length bargaining, are not in excess of fair market value, and are not unreasonable.

9. An increase of .487 cents per therm in PG&E's present gas rates will offset the increase prices PG&E pays for California and Canadian natural gas. An increase of .487 cents per therm will not increase PG&E's rate of return above 8 percent. PG&E's present gas rates are unjust and unreasonable; if increased by .487 cents per therm, they will be just and reasonable.

10. It is reasonable to spread this rate increase uniformly on a cents per therm basis to all of PG&E's customers and to PG&E's own steam plants.

Conclusions

1. In light of Finding No. 6, it would not be a sound exercise of our discretion to initiate an investigation of alleged anti-competitive effects in the market for intrastate natural gas.

2. It would not be a sound exercise of our discretion to institute an investigation to determine whether California natural gas producers or any of them have dedicated their property to a public use.

3. PG&E is bound by contract to pay the fair market value for intrastate gas. Cost data are irrelevant in determining fair market value.

4. PG&E is entitled to recoup the fair market value of California natural gas from its consumers unless there is a clear showing of a lack of arms-length bargaining. PG&E is likewise entitled to recoup its increased cost of Canadian gas.

O R D E R

IT IS ORDERED that:

1. Applicant Pacific Gas and Electric Company is authorized on or after the effective date of this order to increase its gas rates by 0.487 cents per therm; tariff filings to reflect this increase shall be made in accordance with General Order No. 96-A. The revised schedule shall apply only to service rendered on and after the effective date thereof.

2. The rate relief granted by Decision No. 81590 is rescinded concurrently with the tariff filings authorized herein.

3. All pending motions are denied.

4. Before submission of its next gas rate case, Pacific Gas and Electric Company shall update the reports made herein, concerning the results of operations of Alberta and Southern Natural Gas Company, as an exhibit in such proceeding.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 4th day of DECEMBER, 1973.

Vernon L. Sturgeon
President

William Symons Jr.

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Commissioners