bw-alt.-LR **

Decision No. 85013

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY for authority to adjust its rates as necessary to provide funds to make the payments required under a certain Funding Agreement related to Northern Alaska Natural Gas. (Gas)	Application No. 55661 (Filed May 1, 1975)

ORDER OF REMOVAL FROM AGENDA

Pacific Gas and Electric Company (PG&E) seeks an increase in rates of approximately $275 million over a period of years in order to make payments to Exxon Company, U.S.A (Exxon) under a funding agreement entered into between PG&E and Exxon dated March 11, 1975 relating to the sale of natural gas from the Prudhoe Oil Pool in northern Alaska. The increase is required to pay the interest charges on a maximum sum of $166,440,000 which is assumed to be borrowed by Exxon, plus taxes, uncollectibles, and franchise fees. In return for this money Exxon is granting to PG&E the sole right to negotiate for the natural gas production attributable to an undivided 30 percent of Exxon's working interest in its gas reserves in the Prudhoe Oil Pool for a 20-year period.

This case presents a bizarre dilemma - a dilemma which was created by the Federal Power Commission (FPC) and which can only be resolved by that Commission. Earlier this year, the FPC approved an advance payment transaction involving the Atlantic Richfield Co. (ARCO) and Panhandle Eastern Pipeline Co., while disapproving three transactions involving Exxon. The Exxon transaction, though different

in form from the ARCO proposals, would actually have been less costly for consumers.[1/] Thus it is not apparent why the FPC treated the ARCO and Exxon arrangements differently. Two reasons are possible: first, that the FPC regarded the form of the transaction as more significant than its substance - which is to say the burden it places on consumers; second, that the FPC determined that ARCO was in need of ratepayer-financed capital, while Exxon was not. Since the ARCO transaction was approved without any statement of reasons, and the Exxon opinion suggested both of these lines of argument, it is difficult to discern which of the two was controlling.

We do not raise this question as a mere speculation into the mysteries of the regulatory process. It presents an acute and immediate problem for the California Commission. This Commission has been asked to decide, by October 31, whether or not to approve an

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1/ The actual dollar cost to the ratepayer of financing the instant proposal is less than it would be under an FPC 499 type plan, since under both the interest costs would be paid by the ratepayer, but under the 499 plan the principal amount would be included in rate base, thus requiring the ratepayer to also pay the authorized rate of return in addition to the carrying costs, which is not the case in the instant proposal.

The present worth of the monies to be paid by the ratepayer under the instant proposal is less than it would be under an FPC 499 type plan at any reasonable discount rate used to compute the present worth under the existing income tax laws, the present worth cost to the ratepayers of the instant proposal compared to an FPC 499 type plan is as follows:

Assumed Discount Rate	PG&E-Exxon Proposal	FPC 499 Type
	(in millions of dollars)	
9%	150	173
12.5%	133	147

advance payment transaction between PG&E and Exxon modeled on the proposals already rejected by the FPC. If we reject the transaction, we risk losing a vital supply of natural gas. If we accept it, we might fairly be seen as attempting to override federal policy. A third possibility would involve restructuring the transaction to parallel the ARCO-Panhandle deal approved by the FPC. This would involve raising costs to consumers for no purpose other than formalism.

In our recent decision involving ARCO's transaction with the Pacific Lighting Corporation (Re So. Cal. Gas Co. D.84729 dated August 1, 1975 in A.55599), we approved an advance payment scheme which, while extremely onerous, was less burdensome to consumers than the FPC program. We reasoned that as long as the FPC program was in effect, there was no realistic alternative to allowing California utilities to meet its terms. We state our opposition to the concept of advance payments, and our strong recommendation that the FPC abolish the program. In the FPC Exxon case, the problem is even more convoluted. We do not know what terms the FPC will set for Exxon - whether Exxon will be allowed to obtain more costly advance payments simply by filing in the conventional form, or whether Exxon will be refused participation in the program altogether. We are in the position of having to make a $275 million guess about future FPC policy. In our view, we cannot responsibly act on such guesswork.

Citing our request for suspension of the advance payment program, the FPC has set oral arguments on October 23, 1975 on the application of the advance payments program to Alaska. We urge both parties to this transaction to preserve the status quo until that decision is rendered. We urge Exxon to agree to an extension of the October 31 deadline to permit FPC resolution of this entire matter before that time. An absolute insistence on the October 31 deadline would have the effect of setting up this Commission as a forum competitive with the FPC. A transaction, which has not been approved by the FPC and which as a practical matter is in the process of

reconsideration by the FPC, is being submitted to the California Commission for independent judgment. We believe that insistence on the deadline, as a means of pressuring this Commission for a decision, heedless of federal policy, would be subversive of the Natural Gas Act and of the basic role of state regulation in a federal system. We urge the parties not to take any action which would have this effect. We reiterate our position that the advance payments program should be abolished and that refunds should be made in connection with North Slope commitments under Order No. 499. A program so susceptible to confusion and abuse should be ended forthwith.

Therefore, IT IS ORDERED that this application is removed from the Commission's Public Agenda to be reset at a later date.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 15th day of OCTOBER, 1975.

I abstain
William Symons, Jr.

President

Commissioners

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