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Decision 87-10-050 October 16, 1987

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion Into the Operations of All Gas Corporations Regarding the Transportation of Customer-owned Gas From the California Border to Industrial Facilities Within California.	I.84-04-079 (Filed April 18, 1984)
And Related Matters.	(I&S) Case 84-04-80 (I&S) Case 84-02-06 (I&S) Case 85-08-12 (I&S) Case 85-09-10 (I&S) Case 85-09-11

ORDER MODIFYING DECISION 87-05-069 AND DENYING REHEARING

On May 29, 1987, this Commission issued Decision (D.) 87-05-069, establishing a system of interutility gas transportation which would allow the owners of natural gas supplies to move those supplies completely across the systems of California's regulated gas utilities. D.87-05-069 did not require the major gas utilities to offer interutility transportation as a tariffed service; rather, the order acknowledged Pacific Gas and Electric Company's (PG&E's) arguments that the Commission lacked an adequate record to order this service on a tariffed basis. In order to allow the other parties an opportunity to address PG&E's arguments, D.87-05-069 deferred its resolution until the parties could submit briefs

on the issue of "whether interutility transportation can and should be offered as a tariffed service." See D.87-05-069, pp. 77-78, Conclusions of Law 13-15, Ordering Paragraph 7. In D.87-09-027, the Commission concluded that not only did the public interest require that interutility transportation be offered on a tariffed basis, but also that the Commission had the jurisdiction to so order.

PG&E and the Canadian Producer Group (CPG) filed applications for rehearing of D.87-05-069, before D.87-09-027 was issued. Southern California Gas Company (SoCal) and Western Gas Marketing Ltd. (WGM) filed responses in opposition to PG&E, PG&E filed a response in opposition to CPG, and Public Staff filed a response opposing both. We have considered all of the allegations raised, and are of the opinion that sufficient grounds for rehearing have not been shown. However, we will clarify and modify D.897-05-069 in several respects.

We first point out that PG&E's dedication arguments were raised prematurely, given that D.87-05-069 ordered the filing of briefs on a question which included that issue. However, that issue has now been disposed of in D.87-09-027. To the extent the two orders are contradictory on the dedication issue, D.87-09-027 controls.

We secondly address PG&E's arguments that the rates we have set are confiscatory, and the lack of a finding that such rates will not be confiscatory is a violation of Public Utilities Code Section 1705. We consider these arguments to be completely without merit. There is no question of confiscation in the absence of a forecast of sales and revenues, which we will not adopt until we issue our decision on the implementation phase of the gas OII. There is thus absolutely no basis for PG&E's speculative claim at the present time. Moreover, the rates we will set for interutility transportation will be set in the context of our entire

transportation program, and thus must be viewed in conjunction with the protections we adopted to ensure that the utilities have a fair opportunity to earn their margin (see D.87-05-064 in I.86-06-005). We do not intend to back away from such protections in the context of interutility transportation rates. Finally, while we view our findings as adequate to satisfy Section 1705, we will add several additional findings and conclusions to clarify the above position.

Thirdly, we consider CPG's policy argument that the Commission should require that any capacity available to third party shippers on the PGT system be deemed available for interutility exchange service. PG&E responds that such a request for more favorable treatment of third party interutility transactions goes beyond the scope of this proceeding, which did not consider the similarities or differences between conditions on the PGT and PG&E systems. Moreover, PG&E argues that CPG's position does not take into account such factors as constraints elsewhere on PG&E's system or possible off-system arrangements that PG&E may develop which are of benefit to ratepayers and/or shareholders.

We agree with PG&E on this issue. We have required the gas utilities to offer interutility service to any third party who requests it. It is obvious to us that if a third party has capacity on PGT's system, it is assured of interutility service in California if it wants such service. On the other hand, PG&E can require any third party who wants interutility service to demonstrate that it has capacity on PGT's system. At the present time, we do not believe any changes in this system are warranted.

We finally discuss CPG's policy argument that the Malin-Topock interutility transactions should be treated like EOR sales, i.e., as an incremental service which is entitled to lower rates. After careful consideration of CPG's position, we are not convinced that CPG has demonstrated that the Malin-Topock service is so

similarly situated to service to the EOR market as to justify similar treatment. We have previously discussed at great length our rationale for our treatment of the EOR market. The many reasons we have cited for treating that market differently from other retail markets, including treating EOR sales as incremental, simply do not apply to the Malin-Topock transactions. We will deny CPG's request.

IT IS THEREFORE ORDERED that D.87-05-069 is modified as follows:

1. New Finding 30 is added to read:

"There is no evidence on the record in this proceeding that the interim rates adopted herein, which are subject to revision in the implementation proceedings in I.86-06-005, will result in any shortfall to PG&E."

2. New Finding 31 is added to read:

"The implementation proceedings in I.86-06-005 will review and possibly revise the rates established for noncore retail transportation as well as for interutility transportation, based on the forecasts of sales and revenues from these transactions to be adopted in those proceedings."

3. New Finding 32 is added to read:

"The final interutility tranportation rates to be adopted in the implementation proceedings in I.86-06-005 will be part of an integrated regulatory program for gas transportation within California, and must be viewed in conjunction with the protections adopted in D.87-05-064 ensuring that under that program, the gas utilities have a fair opportunity to earn their margin."

4. New Conclusion 17 is added to read:

"Any claim that the interim rates set by this decision are confiscatory is speculative and without merit."

IT IS FURTHER ORDERED that to the extent D.87-05-069 is inconsistent with D.87-09-027 on the issue of dedication, the latter decision controls.

IT IS FURTHER ORDERED that rehearing of D.87-05-069 as modified herein is denied.

This order is effective today.

Dated October 16, 1987, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
Commissioners

Commissioner John B. Ohanian, being necessarily absent, did not participate.

I CERTIFY THAT THIS DECISION WAS APPROVED BY THE ABOVE COMMISSIONERS TODAY.

Victor Weisser, Executive Director

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Decision 87 10 050

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transportation program, and thus must be viewed in conjunction with the protections we adopted to ensure that the utilities have a fair opportunity to earn their margin (see D.87-05-064 in I.86-06-005). We do not intend to back away from such protections in the context of interutility transportation rates. Finally, while we view our findings as adequate to satisfy Section 1705, we will add several additional findings and conclusions to clarify the above position.

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IT IS THEREFORE ORDERED that D.87-05-069 is modified as follows:

(Several additional findings and conclusions on rates will be inserted)

IT IS FURTHER ORDERED that to the extent D.87-05-069 is inconsistent with D.87-09-027 on the issue of dedication, the latter decision controls.

IT IS FURTHER ORDERED that rehearing of D.87-05-069 as modified herein is denied.

This order is effective today.

Dated October 16, 1987 at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
Commissioners

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