

AUG 25 1988

Decision 88 08 058 AUG 24 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Expedited Application Docket)	
)	
Application of Pacific Gas and)	(EAD)
Electric Company for Accelerated)	Application 88-06-051
Approval of Electric Service)	(Filed June 28, 1988)
Agreement with Shell Oil Company)	
U-39-E.)	

OPINION

Summary

We approve the Electric Service Agreement (Agreement), between Pacific Gas and Electric Company (PG&E) and Shell Oil Company (Shell), for electric service delivered to Shell's Martinez Manufacturing Complex (MMC), Martinez, California, under negotiated rates.

Background

PG&E has negotiated a special rate agreement with Shell to prevent what PG&E believes would be uneconomic bypass of its system. The negotiated rate is based upon the estimated cost to Shell of building and operating its own generation facility. Purchases under the Agreement should leave Shell economically indifferent to its choice of energy options whereas PG&E will retain significant contributions to margin under the agreement.

On June 28, 1988, PG&E filed Application (A.) 88-06-051 requesting accelerated approval of the Agreement pursuant to Resolution ALJ-159 which adopted the Expedited Application Docket (EAD) to be used for utility requests for approval of special service contracts between the utility and its gas or electric customers. Although the EAD was established on an experimental basis until June 30, 1988, PG&E requests that this application be processed under the EAD.

PG&E also requests that the Commission treat certain specific elements of the Agreement's rate component values as confidential under Section 583 of the Public Utilities Code until the requested rates go into effect, which effective date is requested to be August 26, 1988. The data requested to be kept confidential are generally Shell's usage data, certain technical and economic details of the competitor cogeneration project, and certain other cost data which would allow a third party to calculate Shell's usage and expenditures.

On July 14, 1988, the Natural Resources Defense Council (NRDC) filed a protest to PG&E's request for approval of the Agreement on the basis that the application does not meet the conservation requirements of Decision (D.) 88-03-008, interim opinion in Commission's rulemaking proceeding in response to changing conditions in the Electric Industry (I.86-10-001).

On July 18, 1988, the Division of Ratepayer Advocates (DRA) filed its comments on the application. In its comments, DRA contends that PG&E has exaggerated its claims regarding the contribution to margin. However, DRA believes that there is sufficient contribution to margin to justify the approval of the Agreement. While DRA recommends the approval of the Agreement, it opposes PG&E's request for confidentiality. DRA also requests that in future applications, PG&E be required to provide a separate analysis using Commission-adopted marginal cost values if PG&E chooses not to use the adopted values in its analysis.

A workshop was held on August 4, 1988, to determine whether the application could be handled on an ex parte basis or should be set for hearing and to resolve DRA's concerns. During the workshop, NRDC withdrew its protest to the application. Also during the workshop, PG&E agreed to provide the additional analysis requested by DRA.

Agreement

The Agreement is very similar to the agreement between PG&E and USS-POSCO Industries which was approved by the Commission in D.87-07-089. In addition, it generally meets the guidelines of D.88-03-008. The negotiated rate applies up to the amount Shell would have received from the bypass facilities, 70 MW (Ordering Paragraph 1.b of D.88-03-008).

The negotiated rate applies to electricity delivered to Shell's MMC to be effective beginning on Shell's first regular meter reading date after the later of (1) the date the Commission approves this Agreement, or (2) Shell is deemed to initially qualify for electric transmission voltage service for a major portion of the MMC electric load, as defined in the Agreement, or (3) a separate Maintenance, Operation, and Construction document described in the Agreement is executed between PG&E and Shell. This date is termed the "Effective Date" in the Agreement. Deliveries before the Effective Date will be made at PG&E's standard tariffs.

Occurrences (2) and (3) above are expected to happen before August 26, 1988, 60 days from the date of this filing. This date reflects when Shell would have installed its own cogenerating facility, absent negotiations with PG&E. On entering negotiations, Shell made it clear to PG&E that it did not want to be prejudiced by the negotiations. So as an overlying premise to the negotiations, Shell required that the Agreement's Effective Date would have to be the date that Shell believed a cogeneration facility could have been installed and made operational at its MMC. The Effective Date of the Agreement reflects Shell's negotiating position (Ordering Paragraph 1.c of D.88-03-008).

The Agreement is effective for a term of five years (Ordering Paragraph 1.c of D.88-03-008).

The Agreement rate is designed to track the cost Shell would have incurred if it had proceeded with the bypass facility.

The rate is divided into four components: a flat customer charge, a peak demand charge, a maximum demand charge, and time differentiated energy charges (Ordering Paragraph 1.a of D.88-03-008).

The customer, demand and energy charges are taken directly from Schedule E-20T firm service. The customer and demand charges are indexed to charges in the GNP Implicit Price Deflator. The energy charge is indexed to charges in PG&E's ECAC proceedings. The price components are designed to give Shell the same financial benefit it would receive from on-site generation and at the same time reflect demand and time of use pricing required by the Commission.

The Agreement is subject to both floor and ceiling price limitations. The floor price, based on the Commission's guidelines, is equal to PG&E's marginal costs for capacity, transmission, and transformation, plus a \$0.005/kWh adder, i.e. the floor price covers PG&E's cost of service to Shell. The ceiling price is the otherwise applicable standard tariff, E-20T firm service or its successor (Ordering Paragraph 1.d of D.88-03-008).

As required by Ordering Paragraph 4 of D.88-03-008, PG&E and Shell have discussed Shell accepting conservation funding in the form of a monetary payment representing the net present value of the contract rate savings for Shell to implement various conservation options at Shell's MMC. However, Shell has decided that it is in its best interest to proceed with the negotiated rate as presented in the Agreement.

PG&E asserts that the ratepayers will receive a net present value of approximately \$21.6 million in contribution to margin under the Agreement over and above the contribution to margin which they would receive under the "build now" scenario, i.e. if Shell proceeds with the bypass facility.

Conditional Approval

In D.87-07-089 and D.87-09-082, the Commission approved the negotiated rate agreements filed by PG&E, subject to a condition which leaves open the ratemaking treatment and reasonableness of those contracts. Under this approach, the contribution to margin which PG&E would have received from Shell under full tariff rates but which will not be received under the Agreement will be made up as determined by the Commission in other proceedings.

PG&E believes that while the uncertainty associated with the above approach creates risks for PG&E, failure to retain Shell as its customer would result in major rate increases for its other ratepayers. PG&E also believes that it will have to take such a risk in order to receive timely approval of the Agreement. Therefore, PG&E requests that the Commission approve the Agreement subject to the condition that PG&E will be at risk for any ratemaking treatment of the Agreement that the Commission later determines to be appropriate.

DRA's Recommendation

Based on its analysis, DRA finds that a significant contribution to margin can be retained through the Agreement, and recommends that it be approved. However, DRA finds that PG&E's application and workpapers overstate the benefit that will be received from the contract.

DRA questions this analysis of benefits to ratepayers on two grounds. First, DRA finds that PG&E's analysis is based on marginal cost figures which are different than Commission-adopted figures. For this proceeding, however, DRA believes that PG&E used marginal cost figures that are fairly close to Commission-adopted figures. Second, DRA believes that PG&E in its analysis has overstated the "build now" scenario sales estimates. Use of DRA's conclusions would result in lower benefits to the ratepayers.

Despite the foregoing analysis, DRA supports approval of the Agreement because it believes that there is significant contribution to margin, relative both to marginal cost of service and to revenues under the "build now" scenario.

Discussion

Since NRDC has withdrawn its protest to the Agreement and DRA recommends its approval, we will approve the Agreement. Approval of the Agreement enables PG&E to provide electric service to Shell and to retain substantial contribution to margin. The terms and rates negotiated meet the guidelines established in D.88-03-008. The negotiated rates cover PG&E's costs so that other ratepayers are not forced to subsidize a discounted rate to Shell.

As requested by PG&E, we will defer the consideration of reasonableness of the Agreement at this time. PG&E will, however, be at risk for any ratemaking adjustment the Commission later determines to be appropriate.

Claim of Confidentiality

PG&E requests that certain elements of the Agreement's rate component values be kept confidential until the contract takes effect. The proposed effective date is August 26, 1988. The information for which confidentiality is claimed includes usage data, cost data, and technical and economic details of the proposed cogeneration facility. PG&E claims that the release of this information prior to the effective date would "seriously undermine" its negotiating efforts with other customers whose costs are higher than Shell's.

DRA requests that this information be released. According to DRA, PG&E made a similar request for confidentiality with respect to its contract with Chevron relating to electric usage at Chevron's Richmond refinery. DRA points out that the Commission ordered the disclosure of the rate components and all supporting workpapers in D.88-02-016 and requests a similar disclosure in this proceeding.

DRA disagrees with PG&E's claim that PG&E's negotiating posture with other potential special contract customers will be seriously impaired if the information is released prior to the effective date of the Agreement. DRA contends that no serious harm is caused by the disclosure of such information before the Agreement is approved because the rate components of the Agreement are dependent upon the particular customer's cogeneration costs. Therefore, DRA requests that PG&E be ordered to release this information in order that it is available for a public scrutiny.

Discussion

We note that under prior decisions, the rate components are to be disclosed when the customer first receives service under the negotiated rates. Since the rates in the Agreement are effective the day after Commission approval, the rate components would have been promptly disclosed. After reviewing the workpapers supporting the rate components, we do not find any need to keep this material confidential. These types of documents and rate calculations are typically disclosed in our proceedings. Since the negotiated rates will be disclosed immediately after our decision, there is no compelling need to keep the supporting workpapers confidential. Therefore, we order PG&E to make available for public inspection the documents for which PG&E seeks confidentiality.

Findings of Fact

1. PG&E has filed an application under the Expedited Application Docket seeking approval of a negotiated Electric Service Agreement with Shell.
2. The Agreement, if approved by the Commission, would be effective on August 26, 1988, which is the date Shell could have commenced operation of its own generation facility.
3. PG&E estimates that approval of the Agreement yields a net present value of \$21.6 million over construction of a cogeneration system at Shell's MMC.

4. DRA supports approval of the Agreement although DRA believes that PG&E's claimed benefits are overstated.

5. PG&E agrees to the approval of the Agreement subject to the condition that PG&E will be at risk for any ratemaking treatment that the Commission later determines to be appropriate.

6. The Commission has approved PG&E's recent service agreements with the condition that the reasonableness of the agreements will be determined in later proceedings.

7. PG&E requests that certain elements of the Agreement's rate components be kept confidential until the contract takes effect.

8. DRA requests that no information regarding the Agreement should be kept confidential.

9. There is no compelling need to keep any documents related to the Agreement confidential.

Conclusions of Law

1. The Agreement should be approved with the condition that PG&E will be at risk for any ratemaking treatment of the Agreement that the Commission later determines to be just and reasonable.

2. The workpapers and all other materials submitted with this application should be publicly available.

3. In order to allow PG&E to provide service at the negotiated rates starting August 26, 1988, this order should be made effective today.

ORDER

IT IS ORDERED that:

1. The Electric Service Agreement (Agreement) between Pacific Gas and Electric Company (PG&E) and Shell Oil Company (Shell) is approved subject to the condition that PG&E shall be at risk for any ratemaking treatment of the Agreement that the Commission later determines to be appropriate.

2. The workpapers and all other material submitted with the application shall be made available for public inspection.

3. PG&E shall file the Agreement 5 days before Shell first receives service under the Agreement as an advice letter pursuant to General Order 96-A. The Agreement shall be marked to reflect the effective date of this decision, and upon filing shall be available for public inspection upon request.

4. This proceeding is closed.


This order is effective today.

Dated AUG 24 1988, at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

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


Victor Weissert, Executive Director