Decision 89 03 014 MAR 8 1989 ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into natural gas procurement and system reliability issues.	R.88-08-018 (Filed August 10, 1988)
Order Instituting Investigation into natural gas procurement and system reliability issues deferred from D.86-12-010.	I.87-03-036 (Filed March 25, 1987)

(See Decision 88-11-034 for appearances.)

SECOND INTERIM OPINION: BROKERAGE FEES

This order addresses the issue of brokerage fees, proposed in our rulemaking proceeding (Order Instituting Rulemaking (R.) 88-08-018) to revise our policies governing the natural gas procurement activities of the California gas utilities. Today's decision rules on the broader policy questions of brokerage fees raised in this proceeding. As we stated in Decision 88-12-045, we will consider implementation of brokerage fees in a second phase of Pacific Gas and Electric Company's (PG&E) current Annual Cost Allocation Proceeding (ACAP), Application (A.) 88-09-032. Today's opinion is issued in an effort to allow those proceedings to go forward. We will address other procurement issues in a later order.

I. Background

In R.88-08-018, we proposed that brokerage fees should be unbundled from other utility transmission rates and should apply to all noncore procurement customers, both on- and off-system. We stated our preference for brokerage fees which could be negotiated downward from embedded costs. Our order invited comments on this and other issues raised in the rulemaking. Those comments are summarized below.

II. Discussion

The first issue to resolve is whether a brokerage fee should be established. Several parties oppose implementation of a brokerage fee for on-system sales. Southern California Gas Company (SoCal) and PG&E believe that implementation of a brokerage fee will provide them with an incentive to encourage customer purchases of utility gas at the expense of alternate procurement options. On this basis, Southern California Edison Company (SCE) also opposes brokerage fees.

Both SoCal and PG&E argue that the actual costs of utility procurement activities would be "trivial" and therefore not worth risking the potential disruption and costs of unbundling. PG&E believes a more limited program--applied to off-system sales only--would provide experience which could be used in developing brokerage fees for all sales.

Canadian Gas Producers (CGP) also opposes establishment of any brokerage fees on the grounds that they mainly serve the special interests of brokers who cannot match the utilities' economies of scale.

Other parties favor the brokerage fee concept. Salmon Resources and Mock Resources (Salmon/Mock) believes the unbundling of brokerage fees is necessary in order to eliminate noncore transportation customers' subsidization of utilities' marketing efforts. Contrary to the claims of the utilities, Salmon/Mock believes a brokerage fee will not provide an incentive for utilities to make procurement sales to customers. The utilities may either sell gas to recover marketing expenses or reduce marketing expenses by selling transport.

Salmon/Mock, the Department of General Services, the California Energy Commission, and the City of Long Beach (Long Beach) comment that the establishment of brokerage fees appropriately recovers costs from the customers who impose them, thus eliminating the subsidy from transport-only customers to procurement customers. Long Beach, however, would defer implementation of brokerage fees until transportation issues are resolved so that the utilities do not leverage their transportation access.

Toward Utility Rate Normalization (TURN) and California Industrial Group (CIG) do not appear to oppose brokerage fees, but CIG proposes that the issue of brokerage fees becomes moot if the utilities' gas merchant function are placed in a separate corporate entity, and recommends this approach in lieu of brokerage fees.

The disagreement between the gas utilities and brokers on this issue is not surprising. Salmon/Mock naturally supports brokerage fees in order that they may compete with the utilities on a more equal footing. The utilities object to the fees because those fees will increase the total price of their procurement services to customers.

Based on our review of the parties' comments, we will go forward with the policy proposed in R.88-08-018. Although CGP is correct that the implementation of brokerage fees benefits a small special interest, it will also serve the public interest. We see the development of brokerage fees as another step in the process of unbundling utility costs in efforts to promote more competitive markets and allocate costs to customers who impose them on the utility system. We see no reason at this time why transportation-only customers should continue to pay the costs of utility procurement.

The implementation of brokerage fees is likely to present little risk to ratepayers or utilities because, as the gas utilities point out, the costs associated with brokerage costs are likely to be low. For a small amount of risk, we may promote a more equitable procurement market.

We do not agree with the PG&E, SoCal, and SCE that brokerage fees will provide an incentive for gas utilities to more aggressively promote their procurement services at the expense of a more competitive marketplace. As Salmon/Mock points out, the utilities may choose instead to avoid incurring brokerage costs by selling transportation services only.

Finally, it is premature for us to determine whether the utilities should be required to spin off their procurement operations. Implementing a brokerage fee is a step in the right direction until we formally consider that issue.

Remaining issues concern the implementation of brokerage fees. PG&E recommends that, if the Commission adopts brokerage fees, PG&E be permitted to negotiate brokerage fees, without any constraint, with its noncore procurement customers. PG&E proposes this on the grounds that the market for brokerage is competitive. On the subject of costs, PG&E believes only incremental costs should be removed from transportation rates. These costs would have to be allocated to other customers.

TURN comments that marketing expenses are included in base rate conservation program costs, allocated mainly to the core market. As long as they are so classified, there may not be any significant costs to include in a brokerage fee.

We will not permit the utilities to negotiate brokerage fees without limitations at this time. Unlimited freedom to negotiate the fee is unreasonable as long as the major gas utilities retain their superior access to transportation. We are moving toward resolving some of the issues related to capacity and procurement in ways which will allow more efficient and equitable allocation of transportation. When those issues are resolved, we will consider again whether the utilities should be permitted to negotiate brokerage fees above a cost-based ceiling.

We will adopt the brokerage fee policies proposed in R.88-08-018. As we stated in that order, brokerage fees will be based on embedded costs and will apply to both on- and off-system sales. The utilities will be permitted to negotiate any brokerage fee up to a ceiling based on embedded costs. Also, the utilities will be at risk for recovery of these marketing costs.

We will order PG&E to provide appropriate cost information and tariff proposals in its pending ACAP. In doing so, we will ratify the assigned administrative law judge's ruling in A.88-09-032, dated February 17, 1989, which directs PG&E to mail testimony on brokerage fees on or before April 6, 1989. SoCal will be ordered to provide the same information in its first ACAP filing. As TURN's comments imply, related costs should not continue to be allocated to conservation accounts. The utilities' ACAP filings should present proposals for reallocating those costs to procurement customers by way of brokerage fees.

Findings of Fact

1. The Commission invited comments to its brokerage fee proposal addressed in R.88-08-018.

2. Establishment of a brokerage fee will provide more efficient price signals to procurement and transportation customers.

3. Establishment of a brokerage fee will not necessarily provide an incentive for the gas utilities to promote procurement services over transport-only services. The utilities may either recover brokerage costs through provision of procurement services, or avoid brokerage expenses through provision of transport-only services.

4. PG&E and SoCal retain superior access to transportation. Because of this, allowing them to negotiate any brokerage fee would provide them with an unfair competitive advantage over customers and competitors.

Conclusions of Law

1. The brokerage fee policies proposed in R.88-08-018 are reasonable and should be adopted.

2. PG&E and SoCal should be ordered to provide brokerage fee cost information and implementation proposals in their ACAPs. The information and proposals should be consistent with the program outlined in this order.

SECOND INTERIM ORDER

IT IS ORDERED that:

1. The brokerage fee policies proposed in R.88-08-018 are adopted.

2. Pacific Gas and Electric Company shall provide, on or before April 6, 1989, appropriate cost information and implementation proposals in its pending annual cost allocation proceeding, A.88-09-032, as directed by the assigned administrative law judge in that proceeding by way of a ruling dated February 17, 1989.

3. Southern California Gas Company shall provide appropriate cost information and implementation proposals in its first annual cost allocation proceeding application, scheduled to be filed March 15, 1989.

This order is effective today.

Dated MAR 8 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

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

V. A. Weisser

Victor Weisser, Executive Director

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Both SoCal and PG&E argue that the actual costs of utility procurement activities would be "trivial" and therefore not worth risking the potential disruption and costs of unbundling. PG&E believes a more limited program--applied to off-system sales only--would provide experience which could be used in developing brokerage fees for all sales.

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Remaining issues concern the implementation of brokerage fees. PG&E recommends that, if the Commission adopts brokerage fees, PG&E be permitted to negotiate brokerage fees, without any constraint, with its noncore procurement customers. PG&E proposes this on the grounds that the market for brokerage is competitive. On the subject of costs, PG&E believes only incremental costs should be removed from transportation rates. These costs would have to be allocated to other customers.

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We will not permit the utilities to negotiate brokerage fees without limitations at this time. Unlimited freedom to negotiate the fee is unreasonable as long as the major gas utilities retain their superior access to transportation. We are moving toward resolving some of the issues related to capacity and procurement in ways which will allow more efficient and equitable allocation of transportation. When those issues are resolved, we will consider again whether the utilities should be permitted to negotiate brokerage fees above a cost-based ceiling.

We will adopt the brokerage fee guidelines proposed in R.88-08-018. As we stated in that order, brokerage fees will be based on embedded costs and will apply to both on- and off-system sales. The utilities will be permitted to negotiate any brokerage fee up to a ceiling based on embedded costs.

We will order PG&E to provide appropriate cost information and tariff proposals in its pending ACAP. In doing so, we will ratify the assigned administrative law judge's ruling in A.88-09-032, dated February 17, 1989, which directs PG&E to mail testimony on brokerage fees on or before April 6, 1989. SoCal will be ordered to provide the same information in its first ACAP filing. As TURN's comments imply, related costs should not continue to be allocated to conservation accounts. The utilities' ACAP filings should present proposals for reallocating those costs to procurement customers by way of brokerage fees.

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