

L/DAH/lmz

ORIGINALDecision 89-04-089

APR 26 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on)
 the Commission's own motion into Pacific)
 Gas and Electric Company's gas gathering) I-88-11-012
 operation, including the reasonableness) (Filed November 9, 1988)
 of its charges and how it shall structure)
 and offer the service in the future.)

ORDER MODIFYING DECISION 89-02-030
AND DENYING REHEARING

On February 8, 1989, we issued Decision (D.) 89-02-030 which modified in certain respects the parameters of the cost-study proposed in I-88-11-012. In addition, in response to SB 1937 (Chap. 733, Stats. 1988), the decision ordered Pacific Gas and Electric Company (PG&E) to modify its gas transportation tariffs to make its gas gathering charges subject to refund, and to establish a memorandum account which would track those refunds if and when they are ordered.

A number of parties have petitioned the Commission for modification and rehearing of that order. The Gas Producers Gathering Group (GPG), the Division of Ratepayer Advocates (DRA), PG&E, and the City of Palo Alto filed petitions to modify D.89-02-030. Amerada Hess Corporation (AHC), and a coalition of gas producer organizations (GPG, California Independent Petroleum Association (CIPA), and California Gas Producers Association (CGPA)) filed timely applications for rehearing.

This order modifies D.89-02-030 and directs PG&E to eliminate the \$.34 gas gathering transportation surcharge effective immediately to comply with SB 1937. It also makes other minor clarifications. However, after reviewing all of the allegations of error raised in the applications for rehearing, we are of the view that legal error

has not been shown and the applications for rehearing should be denied. Furthermore one application is moot as we have addressed the question of interpretation of SB 1937 elsewhere in this order.

I. GPG and Palo Alto Petitions for Modification

In its petition, GPG argues that SB 1937 requires immediate elimination of the \$.34 gas gathering surcharge because the imposition of any additional charge on the transportation of California gas discriminates against gas produced in this state. GPG further maintains that the Commission's interim solution has left uncertainty about the future of California gas prices which is damaging to the industry. In addition, GPG takes issue with the Commission's characterization of the gathering surcharge amounts as part of PG&E's revenue requirement.

In the absence of an order directing PG&E to eliminate the \$.34 surcharge, GPG requests certain clarifications regarding the terms of the surcharge collections which are subject to refund.

Palo Alto's position is similar to that of GPG. Palo Alto's petition also objects to the Commission's interim order allowing collection of the surcharge to continue subject to refund, and urges that SB 1937 requires immediate elimination of the charge.

PG&E, DRA, and TURN have all filed oppositions to GPG's petition. These parties argue that collection of the surcharge subject to refund is an adequate interim solution until cost-based gathering rates are established. PG&E emphasizes that absent the gathering surcharge ratepayers will bear the cost of gathering facilities used exclusively by the producer. PG&E has also specifically opposed Palo Alto's petition.

In response to GPG's and Palo Alto's petitions, the Commission has reconsidered its interpretation of SB 1937. After reviewing the parties' arguments, the legislative history, and the plain language of the statute we conclude that the statute requires elimination of the \$.34 gas gathering surcharge.

SB 1937 plainly prohibits charging, "a higher rate for the transportation of gas produced in this state than for the transportation of gas from any other source." (Pub. Util. Code §785.7 (a)). Relying on section (b) of the statute, which allows certain charges to be imposed based on actual expenses, we assumed in D.89-02-030 that a cost-based gathering charge was acceptable under the statute. We therefore decided to allow PG&E to retain the charge subject to refund until actual expenses were determined at the conclusion of the OII.

Upon further consideration, we now conclude that SB 1937 does not allow any type of gathering charge to be added to the price of transporting California gas. Section (b) of the statute only allows charges to recoup the costs of processing and of certain new facilities. Nothing in the statute permits a gas corporation to add a gathering charge to the rates for transporting California gas through existing facilities.

In light of this reconsideration of SB 1937 we are modifying D.89-02-030 to direct PG&E to eliminate the \$.34 gathering charge effective immediately. In addition, we concur with GPG that PG&E will suffer no revenue shortfall as a result of the elimination of the surcharge, because PG&E recovers its gathering expenses through its base rates. Today's order supersedes Part II of our earlier opinion, and related findings.

Our decision leaves the issue of the disposition of the surcharge amounts already collected by PG&E unresolved. This issue is best decided at the conclusion of the OII after the amounts of other expenses are determined. Until that time PG&E should retain those amounts in a memorandum account accruing interest as it has been doing since the last decision.

II. PG&E and DRA Petitions to Modify

Both PG&E and DRA object to the Commission's characterization of the gathering surcharge amounts as part of PG&E's revenue requirement. DRA also requests certain clarifications regarding the scope of any eventual refund. Neither petition is opposed.

All issues raised by PG&E and DRA are made moot by the modifications we are making in response to GPG's and Palo Alto's petitions. For this reason the arguments raised by PG&E and DRA need not be addressed.

III. GPG, CIPA, CGPA Joint Application for Rehearing

The gas producers' application for rehearing asserts essentially the same arguments regarding elimination of the \$.34 surcharge as those presented in GPG's petition for modification. Because GPG's petition will be granted, the gas producers' application is moot. We therefore deny the application for rehearing.

IV. AHC's Application for Rehearing

In an unrelated application, AHC contends that the Commission mischaracterized its position on the gas gathering cost study and that the cost study should be revised in certain respects. PG&E and DRA have opposed AHC's application. AHC filed a motion for leave to file a reply to PG&E's opposition. We deny AHC's motion.

We agree that we slightly mischaracterized AHC's position in D.89-02-030. That opinion stated that AHC proposes the same cost study suggested by DRA. In fact AHC's proposed cost study is the same as DRA's except for three minor variations. We will modify the decision to correct the inaccuracy.

AHC assumes that the minor inaccuracy in the decision permits it to reargue the larger issue of the structure of the cost study. However, the mischaracterization does not amount to legal error. Because AHC has not demonstrated that the Commission committed any legal error in directing PG&E to undertake the proposed cost study as ordered, the application for rehearing is denied.

V. Conclusion

Today's decision supersedes Part II of D.89-02-030 and all findings relating to implementation of SB 1937. Part I of the decision will remain in effect with one modification.

Our decision to eliminate the gas gathering surcharge does not mean that we are any less interested in issues remaining in our investigation. We still intend to consider the following issues:

- o whether existing gas gathering operations should be divested or made part of a separate subsidiary;
- o whether new gas gathering operations should be treated the same as existing operations, made part of a separate subsidiary or not offered at all by PG&E;
- o the appropriate level and allocation of gas gathering costs, whether they remain within the utility's operation or are made part of a separate subsidiary;
- o the treatment of "processing" costs for purposes of allocation and rate design; and
- o the actual cost of PG&E's gas gathering operations for sequencing purposes.

Findings of Fact

1. GPG, DRA, PG&E, and Palo Alto have filed petitions to modify D.89-02-030.
2. GPG, CIPA, and CGPA filed a joint application for rehearing of D.89-02-030.
3. The amounts PG&E has collected under the gathering surcharge are not part of its revenue requirement.
4. PG&E will suffer no revenue shortfall when the \$.34 gathering surcharge is eliminated.
5. Imposition of the \$.34 gas gathering surcharge results in higher rates for the transportation of California produced gas.
6. The previous decision slightly misstated AHC's position on the cost study which is the same as DRA's with three minor variations.

Conclusions of Law

1. SB 1937 prohibits a gas corporation from charging a higher transportation rate for the transportation of California produced gas.

2. SB 1937 prohibits the imposition of a gathering surcharge for the transportation of California produced gas.

3. PG&E must eliminate the \$.34 surcharge effective immediately to comply with SB 1937.

4. PG&E should retain the amount collected from the effective date of D.89-02-030 to the effective date of this order in a memorandum account accruing interest pending Commission order regarding the disposition of those funds.

5. Parties who have applied for rehearing have failed to demonstrate legal error.

6. The arguments raised by PG&E and DRA in their petitions for modification are made moot by the modifications made in response to GPG's and Palo Alto's petitions.

ORDER

IT IS ORDERED that:

1. PG&E shall within five (5) days file revised tariff sheets which eliminate the \$.34 per decatherm gathering charge for the transportation of California gas.

2. PG&E shall retain the gas gathering surcharge amounts it has collected from the effective date of D.89-02-030 to the effective date of this order subject to refund in a memorandum account accruing interest pending Commission order regarding the disposition of those funds.

3. The first sentence in section D on page 4 of D.89-02-030 is modified to read, "AHC proposes the same cost study suggested by DRA with some minor variations."

4. AHC's motion for leave to file a reply to PG&E's opposition is hereby denied.

5. Rehearing of D.89-02-030 as modified herein is hereby denied.

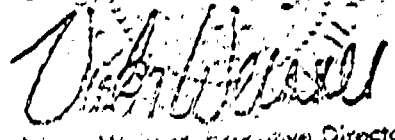
6. In all other respects the petitions to modify D.89-02-030 are denied.

This order is effective today.

Dated April 26, 1989, at San Francisco, California.

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

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



Victor Weissert, Executive Director

AS

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