L/ bjk *

Decision 89-10-034 OCT 12 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pacific Gas and Electric Company Authorized to Implement a Long-Term Transportation Contract With Mojave Cogeneration Company. Advice Letter 1522, Filed January 30, 1989. (U 39 G)	Application No. 89-06-013 (Filed June 9, 1989)

ORDER MODIFYING RESOLUTION G-2876 AND DENYING REHEARING

Pacific Gas & Electric has filed an application for rehearing of Resolution G-2876. We have considered all the allegations of error in the application and are of the opinion that good cause for rehearing has not been shown. However, although no legal error has been shown, after reconsideration we will order unconditional approval of the contract. The ratemaking condition in Resolution G-2876 will be removed. We do this based on the likelihood of ratepayer benefits over the term of the contract. We acknowledge, however, that PG&E should have made a stronger showing of ratepayer benefits. Nevertheless, the Commission discerns that the near term benefits and benefits over the life of the contract seem to outweigh the likelihood of later subsidies.

In our judgment, ordering rehearing to more convincingly establish such benefits would unreasonably delay approval of the contract, with the risk that Mojave will bypass PG&E or lose the opportunity to meet its qualifying facility milestones. However, we will protect against the probability that this situation will occur in the future, as follows:

Information Requirements

It was necessary to impose the condition protecting ratepayers in Resolution G-2876 in the absence of sufficient data demonstrating ratepayer benefits. To approve long-term special sales contracts, we require enough information to judge whether or not ratepayer benefits exist. In the future, we expect PG&E and other utilities to support any request for contract approval with enough data to form a basis for an informed judgment. At a minimum, such information should include: (1) annual contract revenues over the term of the agreement, (2) annual revenues derived from default tariff rates in the event the customer does not bypass, (3) long-run marginal costs, (4) support for the credibility of bypass by the customer, and (5) a showing that the agreement reaches the highest rate that could be negotiated with the customer. The first three items will necessarily include price forecasts over the term of the agreement. Marginal cost forecasts could be those adopted in other Commission proceedings or estimates where other forecasts are not available.

From this data, estimates of likely ratepayer benefits can be constructed, and the sensitivity of the benefits to variations in price forecasts, especially the forecast of marginal costs, can be determined.

Contract Approval Guidelines

We intend to continue to apply a risk-reward standard to special sales agreements. On this score we agree with PG&E, which has itself stated:

> "We believe and endorse the concept of risk allocation, risk sharing. The entity that takes the risk is entitled to the reward, but must pay the price when the risk turns sour." (PG&E v. Dow, et al., C. 85-02-014, Tr. 103-104)

The primary requirements for approval are convincing showings that substantial ratepayer benefits exist and that no better deal is possible for ratepayers. If the likelihood of substantial benefits over the life of the contract greatly outweighs the risk of subsidies paid by ratepayers, then special sales contracts should be approved unconditionally. The calculation of ratepayer benefits should explicitly consider the two uncertainties of bypass credibility and marginal cost forecast accuracy. It would be imprudent for the Commission to assume that every threat of bypass will be executed.

If demonstrated benefits do not clearly establish ratepayer value, then we intend to condition approval of agreements. The form of such conditions will depend on the circumstances. Possibilities are imputed floor prices, such as the condition in Resolution G-2876, explicit floor prices, memorandum accounts to track benefits and subsidies, and so on.

If special contracts are invalidated by such conditions or if no ratepayer benefits are found, then the burden is on the contracting parties to renegotiate to resolve the Commission's concerns or accept the risks themselves. So long as ratepayers are protected against unreasonable risks, we are indifferent to whether that risk winds up with the utility or the customer.

Findings

1. Over the term of the contract, it is likely that substantial ratepayer benefits will exist.
2. The contract should be approved unconditionally.
3. DRA's protest to Advice Letter 1522-G should be denied.

Conclusion of Law

Because further delay in approval would harm the parties to the contract, this order should be effective immediately.

THEREFORE,

IT IS HEREBY ORDERED:

1. Resolution G-2876 is modified as follows:

   A. Summary Paragraph 2 is deleted.

   B. The third sentence of Discussion, Paragraph 6 and Discussion Paragraphs 7 and 8 are deleted.

   C. Findings 1, 4, 5, and 6 are deleted.

   D. Ordering Paragraphs 1 and 2 are deleted.

2. The long-term gas transportation contract between Pacific Gas and Electric Company and Mojave Cogeneration Company that is the subject of Advice Letter 1522-G is approved.

3. Rehearing of Resolution G-2876, as modified herein, is denied.

This order is effective today.

Dated October 12, 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.

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

L/MMA/bjk HEX-2

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In our judgment, ordering rehearing to more convincingly establish such benefits would unreasonably delay approval of the contract, with the risk that Mojave will bypass PG&E or lose the opportunity to meet its qualifying facility milestones. However, we will protect against the probability that this situation will occur in the future, as follows:

The primary requirements for approval are convincing showings that substantial ratepayer benefits exist and that no better deal is possible for ratepayers. If the likelihood of substantial benefits greatly outweighs the risk of subsidies paid by ratepayers, then special sales contracts should be approved unconditionally. The calculation of ratepayer benefits should explicitly consider the two uncertainties of bypass credibility and marginal cost forecast accuracy. It would be imprudent for the Commission to assume that every threat of bypass will be executed.

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If special contracts are invalidated by such conditions or if no ratepayer benefits are found, then the burden is on the contracting parties to renegotiate to resolve the Commission's concerns or accept the risks themselves. So long as ratepayers are protected against unreasonable risks, we are indifferent to whether that risk winds up with the utility or the customer.

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