

ORIGINAL

Decision 89 11 060 NOV 2 2 1989

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)

In the Matter of the Application of )  
Southern California Gas Company for )  
Modification of Resolution G-2762 )  
re. Compensation for Overdeliveries )  
of Gas for Interutility )  
Transportation. )

Application 88-03-021  
(Filed March 7, 1988)

O P I N I O N

This decision addresses petitions for modification of Decision (D.) 89-04-080 filed by Pacific Gas and Electric Company (PG&E), Salmon Resources, Ltd. and Mock Resources, Inc. (Salmon/Mock), California Industrial Group and California League of Food Processors (CIG), and Southern California Gas Company (SoCal).

D.89-04-080 addressed a number of gas procurement issues in this ongoing rulemaking. Specifically, it permitted gas utilities to market excess core supplies under certain conditions, required gas utilities to adjust core-elect prices on a monthly basis, and permitted the gas utilities to offer a firm 30-day supply portfolio. PG&E's and SoCal's petitions for modification request certain changes to the adopted implementation of program elements. Salmon/Mock and CIG request that we reverse major policy determinations in that order.

I. PG&E's Petition for Modification

PG&E's petition for modification, filed June 5, 1989, requests that we change D.89-04-080 to:

- o Permit PG&E to base monthly core-elect rates on forecasted gas costs;
- o Reaffirm the definition of "short-term" gas supplies in previous Commission decisions;
- o Permit certain core-elect customers to withdraw from core-election for a specified period.

The Division of Ratepayer Advocates (DRA), CIG, SoCal, Toward Utility Rate Normalization (TURN), and Salmon/Mock responded to PG&E's petition.

A. Determination of Monthly Core-Elect Rates

PG&E requests that it be permitted to set monthly core elect rates based on forecasted gas costs rather than its actual recorded core portfolio WACOG with a 60 day lag, as D.89-04-080 provides. PG&E states that core-elect rates would better reflect market prices under its proposed forecasting method and that it used this method successfully for establishing noncore prices.

SoCal believes PG&E's alternative is preferable to that adopted by the Commission but does not consider the issue important.

CIG opposes this change on the grounds that a similar approach has caused substantial swings in monthly noncore prices and may result in bumping of third-party gas by the utilities. CIG comments that it would support PG&E's proposal if the utilities are put at risk for the difference between the forecasted and actual core-elect WACOG. TURN agrees with CIG that this change may be subject to manipulation by the utilities.

DRA opposes the proposed rule change on the grounds that core-election is a long run choice that will not be affected by

short-run price changes. If the Commission disagrees, DRA proposes that a 30-day rather than a 60-day price lag is appropriate.

We share CIG's concern that forecasted pricing may result in larger swings in energy prices. Forecasts could also be used to affect customer decisions in ways which do not conform to regulatory objectives. We will therefore not permit PG&E to use forecasted core-elect prices. We will, however, adopt DRA's suggestion to permit a 30-day price lag, which should improve pricing signals to core-elect customers. As TURN points out, this may require some forecasting since the new core-elect WACOG would have to be priced before the end of the prior month. However, since forecasting will only be needed for a short period at the end of each month, we do not believe it will lead to serious problems.

**B. Definition of "Short-term" Gas Supplies**

PG&E's petition requests clarification of "short-term" gas supplies, commenting that D.89-04-080 changes the definition of the term from that adopted in previous Commission decisions.

D.89-04-080 defines "short-term" supplies as those which are priced according to contract terms of six months or less. D.86-12-010 and D.87-03-044 defined short-term supplies as those with floating price terms determined at the time of delivery. PG&E proposes that the Commission retain our previous definition of short-term gas.

DRA, TURN, and CIG support this change to D.89-04-080. DRA points out that the criterion for short-term gas should be the lack of price certainty. The length of a contract term should be irrelevant if prices under the contract fluctuate from month to month. DRA cites D.86-12-010 in this proceeding in which the Commission stated its expectation that long-term gas supply would be reliable to meet core peak needs.

SoCal's response to PG&E's petition for modification and its own petition for modification also address this issue. SoCal agrees with PG&E that D.89-04-080 appears to change the definition of short-term supplies but states it has interpreted earlier orders

differently from PG&E. SoCal states that short-term gas has been defined as gas which is priced monthly and must not include any costs for failure to purchase beyond a one month period.

PG&E is correct that the definition of short-term gas in D.89-04-080 inadvertently conflicts with earlier definitions. We will modify the decision accordingly. We concur with the interpretation of DRA that short-term gas is that which is priced monthly. We agree with SoCal and TURN that El Paso commodity gas should not be considered short-term gas as long as Account 191 is in effect, since monthly prices billed may not reflect the ultimate price of that gas.

C. Withdrawal from Core-election

PG&E requests that certain customers be permitted to withdraw from core-election for a specified period since the new pricing adjustment was imposed after they had signed or renewed their core-elect agreements, and they were therefore unaware of pricing provisions which would apply to them. PG&E's proposal would apply to 200 customers who elected into the core prior to May 1. Those customers would have two weeks following the effective date of a Commission order to change their status.

CIG supports this change on the grounds of fairness and recommends a 30-day period after the effective date of a Commission order for core-elect customers to reevaluate their decision.

DRA opposes PG&E's request because core-elect customers should realize that gas regulation presents some risks along with benefits. Core-election is more expensive to customers now than it was prior to PG&E's recent ACAP decision, so, according to DRA, PG&E wants to offer core-elect customers an "out" which should not be permitted. In general, DRA claims PG&E's request exemplifies the gamesmanship that can occur with core-election.

We concur with DRA's view that core-elect customers should not be permitted to opt out of core-election at this time. The rate design change we adopted in D.89-04-080 is unlikely to

affect the total revenues core-elect customers are likely to pay over the course of the year, nor will it affect their prices in the long run. We also believe that core-elect customers, as sophisticated energy consumers with competitive alternatives, should recognize that minor regulatory adjustments may occur in any program from time to time. We will deny PG&E's request for this change.

## II. Petitions filed by Salmon/Mock and CIG

Salmon/Mock filed a petition for modification of D.89-04-080 on June 7, 1989. Its petition requests that our order be changed to:

- o Eliminate the provision permitting the gas utilities to market excess core supplies and
- o Eliminate the provision permitting the utilities to offer a 30-day firm supply portfolio for noncore customers.

CIG's petition, filed June 16, also requests that we eliminate these provisions and also that which requires the utilities to adjust core-elect rates on a monthly basis.

Both CIG and Salmon/Mock restate arguments presented in comments in this proceeding. Both are mainly concerned that the firm 30-day supply portfolio and utility sales of excess core supplies will dampen market competition. We have considered these views and addressed them in D.89-04-080. We need not address them further here.

Similarly, we considered the effects of monthly core-elect pricing and the concerns raised by CIG in its petition for modification and will not reverse our findings in D.89-04-040.

PG&E filed a protest to Salmon/Mock's petition for modification which was rejected by the Docket Office as late. The Docket Office took correct action in rejecting the protest. We

will, however, grant PG&E's motion for leave to file its protest late, and will, therefore, accept PG&E's comments.

### III. Petition Filed By SoCal

SoCal requests three modifications to D.89-04-080:

- o Transfers of gas from the long-term gas purchase account to the noncore portfolio be made at the long-term WACOG, not the noncore (short-term) WACOG with no retroactive accounting changes.
- o A utility should be permitted to include one-month firm supplies in the noncore default portfolio unless and until the utility exercises its option under D.89-04-080 to offer an additional one-month firm portfolio to noncore customers.
- o Definitions of long-term and short-term supply that have been in effect since D.86-12-010 was issued should remain in effect.

PG&E, DRA, and TURN filed responses to SoCal's petition.

#### A. Transfers of Gas from the Long-term Purchase Account to the Noncore Portfolio

D.89-04-080 permits gas transfers from the long-term gas purchase account to the noncore portfolio under certain circumstances. That transfer is to be made at the noncore WACOG. SoCal points out that if the noncore WACOG is below the core WACOG such transfers would be made at a loss to core customers, contrary to the Commission's intent. SoCal suggests that under such circumstances the higher long-term supply WACOG should be borne by noncore customers.

PG&E objects to SoCal's proposal and states that the Commission has considered the issue after extensive litigation.

TURN agrees with SoCal and points out that sales to the noncore which occur because of a supply shortfall are only to be

made when the utility discovers that past recorded monthly noncore sales exceeded purchases. At that point, there is no way to prevent the transaction. The issue is how to price the transaction. TURN states the only pricing mechanism which would not leave core customers worse off is to price the transfer at the highest incremental cost of gas to the core portfolio for the month. This method is sensible, according to TURN, because it reflects the fact that noncore customers would have been curtailed absent core portfolio supplies to draw upon. It is therefore like a standby charge. TURN supports SoCal's request that the Commission not require any retroactive change in a utility's accounting for such transfers since the Commission's order was unclear.

We continue to believe that our decision is internally consistent. We required transfers from the core portfolio to the noncore portfolio to be priced at the long-term WACOG and stated our intention that such transfers should not make core customers worse off. In order to assure that core customers are not harmed by transfers to the noncore and thus address SoCal's concern, we will adopt TURN's suggestion to price transfers at the highest incremental cost of gas. Since noncore customers would create the incremental demand, they should pay the incremental cost of gas. We will not impose any retroactive adjustments to the utilities' accounts for this change.

**B. Gas Supply Contained in the Default Noncore Portfolio**

SoCal requests that it be permitted to include one-month firm supplies in the noncore default portfolio unless and until the utility exercises its option to offer a one-month firm portfolio to noncore customers.

PG&E does not understand the decision to exclude the existing obligation to serve noncore customers with a "best efforts" portfolio or to prohibit 30-day supplies from being placed

in that portfolio if the supplies meet the short-term definition. According to PG&E, however, the language in the decision conflicts with the definition of short-term gas purchase account adopted in D.86-12-010. PG&E recommends the rules adopted in D.89-04-080 be modified to be consistent with the prior rule.

TURN concurs with the proposed change.

We will adopt PG&E's proposed change to the language in the rules in D.89-04-080 since we did not intend to change the previously-adopted rules on the noncore portfolio. These changes should address SoCal's concerns.

### C. Definition of Short-term Supply

We have already discussed SoCal's proposed definition of short-term supply in the section addressing PG&E's petition for modification.

#### Findings of Fact

1. Basing core-elect monthly rates on the actual cost of gas, with a 30-day lag rather than a 60-day lag will provide more accurate price signals to core-elect customers.
2. Forecasted core-elect monthly prices may be used to influence customer decisions in ways which are contrary to regulatory objectives.
3. The Commission has already considered the implications of the policies which are the subjects of petitions for modification of CIG and Salmon/Mock.
4. D.89-04-080 required that transfers from the core portfolio to the noncore portfolio be priced at the noncore WACOG. It also required that such transfers not make core customers worse off. These two requirements are inconsistent.
5. When transfers from the core portfolio to the noncore portfolio take place, noncore customers generally create the incremental demand and should therefore pay the highest incremental cost of gas for the month.



Conclusions of Law

1. D.89-04-080 unintentionally changed definitions of short-term gas supplies adopted in previous Commission orders.

2. The petition to modify D.89-04-080 filed by CIG should be denied.

3. The petition to modify D.89-04-080 filed by Salmon/Mock should be denied.

4. Since the utilities may have reasonably been confused by the language in D.89-04-080 regarding transfer prices, they should not be required to retroactively change their accounts to reflect pricing policy changes adopted in this decision.

5. Except as set forth in this decision, the petition to modify D.89-04-080 filed by PG&E should be denied.

6. Except as set forth in this decision, the petition to modify D.89-04-080 filed by SoCal should be denied.

7. The modifications to Appendix A of D.89-04-080, attached as Appendix A to this decision, should be adopted.

ORDER

IT IS ORDERED that:

1. California Industrial Group's petition to modify Decision (D.) 89-04-080 is denied.

2. Salmon Resources Ltd. and Mock Resources, Inc.'s petition to modify D.89-04-080 is denied.

3. Pacific Gas and Electric Company's petition to modify D.89-04-080 is denied except as set forth in this decision.

4. Southern California Gas Company's petition to modify D.89-04-080 is denied except as set forth in this decision.

R.88-08-018 et al. ALJ/KIM/cac

5. Appendix A of this decision is adopted and replaces Appendix A of D.89-04-080.

This order is effective today.

Dated NOV 22 1989, at San Francisco, California.

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

I will file a written concurring opinion.

/s/ G. MITCHELL WILK  
President

I will file a written concurring opinion.

/s/ FREDERICK R. DUDA  
Commissioner

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

*Wesley Franklin*

WESLEY FRANKLIN, Acting Executive Director

APPENDIX A  
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ADOPTED RULES: CORE PROCUREMENT GUIDELINES, PRE-APPROVAL,  
SEQUENCING, MARKETING OF EXCESS CORE SUPPLIES

**CORE PROCUREMENT GUIDELINES.** Utilities shall undertake to procure for their core procurement customers a supply portfolio which reasonably results in certainty of supply availability to serve core peak requirements, and which attains this objective at the lowest possible cost. As a secondary goal, the utilities should seek to purchase core supplies which offer price security greater than can be achieved by relying totally on spot or other market price sensitive supply sources. The core portfolio should generally contain some percentage of spot or short-term market-responsive supplies.

Utilities must aim for flexibility in obtaining gas with a combination of fixed and variable pricing terms. We direct the utilities generally to balance the potential cost of periodic run-ups in price with the potential benefits of periodic soft markets. Supply contracts with provisions for price renegotiation must permit the utilities' core customers a fair opportunity to benefit from falling gas prices. Any contracts purchasing gas under fixed price arrangements should be vintaged to hedge the risk of rising or falling prices. The utilities shall include in their ACAP applications information regarding intended portfolio construction and sequencing guidelines for the test period.

**REASONABLENESS REVIEWS.** There shall be an annual reasonableness review of a utility's gas purchases to serve core procurement needs. This review will include the utility's decisions in sequencing the purchase of core supplies. Gas acquisitions from affiliated entities will receive the closest scrutiny because of the obvious potential for "self dealing" at the expense of core ratepayers. Our current and longstanding standards of review for reasonableness proceedings shall continue to apply.

**ADVANCE CONTRACT APPROVAL.** The utilities may seek approval, under a procedure similar to the Expedited Application Docket (EAD) Procedure, for contracts with terms of five years or longer, and for contracts with their affiliates. All contracts submitted for advance review must contain a "regulatory out" clause which will ensure that if the Commission does not approve the contract under the EAD, pre-approval process, the utility will be relieved from the terms and conditions of the contract without penalty.

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**CORE-ELECT RATE CHANGES.** The utilities shall, beginning July 1, 1989, change their core-elect and wholesale rates on a monthly basis to reflect the actual core weighted average cost of gas, with a 30-day lag.

**MARKETING EXCESS CORE SUPPLIES.** The utilities may market excess core supplies through the noncore portfolio under the following conditions:

1. Excess core supplies may be marketed through the noncore portfolio only when the sale of this gas will enable the utility to avoid a gas inventory charge, take-or-pay obligation, or other type of minimum purchase obligation. The only exception to this rule will be sales due to unexpected shortfalls in the availability of short-term supplies for the noncore portfolio.
2. The price at which excess core volumes are sold must never be lower than the net incremental cost of making the sale, including the impact of any take-or-pay, minimum bill, or gas inventory charge obligations which would result if the gas is not purchased.
3. Sales of excess core gas, both on- and off-system, shall be at the prevailing noncore WACOG. The highest incremental cost of gas to the noncore portfolio for the month shall be the price at which the excess gas is transferred from the long-term purchase account to the noncore portfolio.

**30-DAY FIRM SUPPLY PORTFOLIO.** The utilities shall establish a "best efforts" noncore portfolio, and shall file cost-based tariffs offering procurement service from these portfolios. They may revise the tariff for service from the "best efforts" portfolio upon five days' notice, but no more frequently than twice in any calendar month. The rate for purchases from the 30-day firm portfolio shall be fixed for the entire month. All gas sales from either of these portfolios shall be at the estimated weighted average cost of gas (WACOG) for the portfolio in that month. The WACOG of the "best efforts" portfolio may be adjusted to true-up inaccuracies in the previous month's WACOG estimate for that month.

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The utilities shall endeavor on a best efforts basis to purchase a supply of spot gas or short-term gas for the "best efforts" noncore portfolio. The tariff for this portfolio may not impose a minimum purchase obligation on customers. In addition to noncore customers who nominate service from the "best efforts" portfolio, the utilities shall provide gas from this portfolio to those noncore customers which have not signed procurement contracts but which receive utility gas.

Noncore procurement customers may divide their loads between the "best efforts" portfolio and the "30-day firm" portfolio.

If a utility establishes a "30-day firm" portfolio, it will enter into firm monthly contracts with suppliers of spot or short-term gas in a volume to match noncore customers' nominations from this portfolio. The utility shall attempt to obtain some flexibility of takes from the suppliers to this portfolio; the minimum take obligation of customers purchasing from this portfolio should mirror the degree of flexibility which the utility obtains collectively from its suppliers. If, in any month, the utility incurs no take-or-pay liability to suppliers of "30-day firm" gas, the utility shall not impose take-or-pay charges on customers who buy from this portfolio.

**REASONABLENESS REVIEWS FOR NONCORE PROCUREMENT.** There will be an annual reasonableness review of each utility's noncore procurement activities. This review will focus on purchases of noncore supplies from utility affiliates, on the impact of noncore procurement activities on core customers, and on compliance with the Commission's accounting rules.


(END OF APPENDIX A)

R.88-08-018, et al.  
D.89-11-060

G. MITCHELL WILK, Commissioner, concurring:

Many commentators at our November 1st natural gas En Banc hearing severely criticized the decision (D.89-04-080) that we are modifying in this order. I sympathize with some of these criticisms. Unfortunately, I do not think that this order will satisfy the critics.

However, the En Banc hearing also made clear that any restructuring of our natural gas program will require careful coordination to ensure consistency and balance. The follow-up that we plan based on our En Banc hearing will provide a better basis for such restructuring than do these petitions for modification. Accordingly, while I concur in today's order, I emphasize that I do so without prejudging any of the solutions urged at the En Banc hearing.

  
G. MITCHELL WILK, Commissioner

November 22, 1989  
San Francisco, California

R. 88-08-018, et al.  
D. 89-11-060

Frederick R. Duda, Commissioner, concurring:

My concurrence with this clarification of Decision 89-04-080 should not be interpreted as long-term support for the underlying policies of the original order. I am concerned about the problems raised by the many comentators at our November 1 natural gas en banc and believe the changes made in this order may be appropriate only for the short term.

I am particularly interested in potential changes to our gas policy framework that address the problems raised in the recent en banc. While the petitions to modify (D. 89-04-080) are denied in this order, I trust that the Commission will soon revisit the issues raised by these petitioners and by participants in the recent en banc.

I am primarily concerned about the Commission's original goal in restructuring the gas industry that natural gas procurement increasingly benefit from competitive forces. This has not been achieved.

Accordingly, I concur with today's order but do so without prejudicing any future solutions which may be developed in response to the recent en banc.



Frederick R. Duda, Commissioner

November 22, 1989  
San Francisco, California