

(Mailed

'FEB 27 1990

Decision 90-02-039 February 23, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on)
the Commission's own motion into)
implementing a rate design for)
unbundled gas utility services)
consistent with policies adopted)
in Decision 86-03-057.)

I.86-06-005
(Filed June 5, 1986)

Order Instituting an Investigation)
by rulemaking into proposed)
refinements for the new regulatory)
framework for gas utilities.)

R.86-06-006
(Filed June 5, 1986)

ORIGINAL

O P I N I O N

On October 27, 1989, the Division of Ratepayer Advocates (DRA) filed a petition for modification of Decision (D.) 86-12-009. That decision permitted gas utilities to enter into long-term gas transportation contracts with enhanced oil recovery (EOR) producers at discounted rates. Contracts with terms of five years or longer were to be reviewed through the advice letter process.

In its petition for modification, DRA recommends that the Commission place a moratorium on new long-term contracts between utilities and EOR customers. Alternatively, DRA recommends that the authority to seek approval of long-term EOR contracts through the advice letter process be withdrawn. DRA makes this recommendation because it believes the discounted EOR contracts are requiring other customers to subsidize EOR customers. This subsidy, according to DRA, exists because the gas utilities are in need of new pipeline capacity.

Pacific Gas and Electric Company (PG&E) objects to DRA's proposed modifications. According to PG&E, a moratorium would prejudice customer choice by leaving only an interstate pipeline to serve EOR customers. This result would be inconsistent with

Commission policy established in D.87-05-046. That decision found that California utilities should "serve the EOR market even [sic] at rates which fail to collect embedded costs" associated with uneconomic bypass.

PG&E is also uncomfortable with DRA's alternative proposal to require an application be filed for consideration of EOR contracts. PG&E states such a procedure would delay the process resulting in a "death knell" to the contracting process.

Discussion

Our natural gas transportation policies, like all Commission policies, naturally evolve as conditions change. Our goal in considering DRA's petition is to provide ourselves with procedural options sufficiently flexible to give detailed review to proposed contracts because they (1) raise substantive issues of fact or (2) require us to formulate new policies or to change existing policies because conditions have changed. We are mindful, though, of the delays and extra resources that attend the full applications process when compared to the more streamlined advice letter review. We believe that the appropriate compromise is to require the utilities, until further order, to file applications for approval of new or changed long-term EOR contracts because these proposals raise substantive factual issues and/or new policy questions.

Furthermore, our recent decision encouraging construction of additional pipeline capacity to California and the development of a capacity brokering program should contribute substantially to the creation of a market in pipeline capacity. The kind of procedure appropriate to review capacity contracts (or even whether we need to review such contracts) will depend very much on how that market develops.

In the specific instance before us, as DRA points out, circumstances have changed since the issuance of D.86-12-009. Since that time, full pipeline capacity is in short supply as

evidenced by the testimony in several of our proceedings. In its response to DRA's petition, PG&E recognizes this capacity constraint.

PG&E is correct that we encouraged the utilities to negotiate contracts with EOR customers even if rates had to fall below embedded costs in order to serve those customers. We did so in order to assure that PG&E and its ratepayers would benefit from some contribution. We did not, however, approve rates falling below marginal costs. To the contrary, D.86-12-009 stated:

"...rates in long[-]term contracts should never fall below the utilities' short run marginal cost during the time period up until the utility forecasts a need to construct additional capacity. After the point at which capacity additions are project(ed) to be necessary, the floor transmission rate should be the long run marginal cost."

DRA comments that several estimates for the cost of new capacity have been presented in pending Commission proceedings. Those estimates are much higher than the volumetric rates included in over a dozen EOR long-term contracts. Although we have not issued any findings regarding the cost of new capacity, the proposed estimates raise concerns about future EOR customer contract discounts.

As we have stated many times, we do not wish to preclude opportunities for utilities to retain or increase load which would be economic to serve. We continue to believe the utilities should negotiate contracts with EOR customers as long as those contracts provide clear benefits to the utility and its other ratepayers.

Because long run marginal costs are likely to have changed with the need for new pipeline capacity, we share DRA's concern that EOR contracts require greater scrutiny before they are approved.

Accordingly, we serve notice that we regard our present EOR long-term contract policy as insufficiently settled to allow

for advice letter treatment of proposed contracts until our policy is further developed. Until further order, we expect proposed EOR long-term contracts to be filed as applications.

Findings of Fact

1. The Commission has permitted the utilities to use the advice letter process when seeking approval of contracts with EOR customers. This process was adopted in D.86-12-009 at a time when the utilities had excess pipeline capacity.

2. Circumstances have changed since the issuance of D.86-12-009. DRA and PG&E agree that the utilities no longer have excess pipeline capacity.

3. DRA, in its petition for modification, recommends the Commission either place a moratorium on new contracts between the utilities and their EOR customers or require the utilities to file applications for approval of such contracts.

Conclusions of Law

1. DRA's petition to modify D.86-12-009 should be granted to the extent provided for in this order.

2. The utilities should be required to file applications rather than advice letters when seeking approval of EOR long-term contracts.

O R D E R

IT IS ORDERED that:

1. The Division of Ratepayer Advocates' petition to modify Decision (D.) 86-12-009 is granted to the extent provided for in this order.

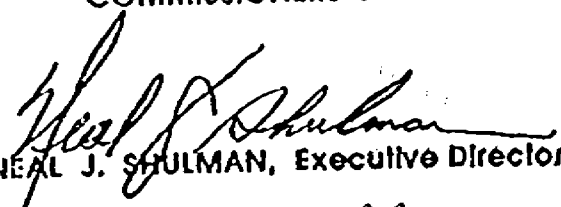
2. D.86-12-009 is modified to require the utilities, until further order, to file applications rather than advice letters when seeking approval of new or changed EOR long-term contracts.

This order is effective today.

Dated February 23, 1990, 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


NEAL J. SHULMAN, Executive Director

PB