

Mailed

NOV. 26 1990

Decision 90-11-061 November 21, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

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

ORIGINAL

Order Instituting Rulemaking on the)
Commission's own motion to change)
the structure of gas utilities')
procurement practices and to)
propose refinements to the)
regulatory framework for gas)
utilities.)

R.90-02-008
(Filed February 7, 1990)

O P I N I O N

This decision proposes rules for an experimental program which would permit core customers to consolidate core loads for purposes of purchasing transportation services from gas utilities. We seek comments from the parties by January 16, 1991.

Background

On December 21, 1989, the School Project for Utility Rate Reductions (SPURR) filed a petition for modification of Decision (D.) 86-12-010. The petition asks that the Commission permit gas loads to be aggregated for the purpose of qualifying for transportation services under certain conditions. Specifically, SPURR proposes that D.86-12-010 be modified to provide that a non-profit corporation may aggregate loads on behalf of member organizations to reach the minimum volume requirement for transportation. Under SPURR's proposal, the corporation would also perform several administrative functions, including balancing and billing.

Pacific Gas and Electric Company (PG&E) and Southern California Gas Company (SoCalGas) protested SPURR's petition. PG&E

opposes SPURR's petition on the ground that the change could result in small core customers being left without fuel because under SPURR's proposal the core customer would not have the highest supply security. PG&E questions whether it is possible to assign transportation rights to individual or aggregated core customers because capacity brokering programs are not in place. PG&E argues that if a core customer buying transportation were to be left without supplies, it might "lean" on the gas utility, resulting in an increased reliance on spot gas for the core portfolio and increased prices.

SoCalGas argues that the utilities are in a better position than core customers to take on the responsibility of providing supply security at the lowest cost. SoCalGas believes that if core customers do not have to obtain supplies from the serving utility then the utility should be freed of its obligation to provide supplies to all core customers. SoCalGas suggested the issue should be considered only in the context of the Commission's overall program, which at the time was to be reassessed following an en banc hearing.

The assigned administrative law judge (ALJ) issued, on April 20, 1990, a ruling directing PG&E and SoCalGas to propose rules for implementing SPURR's proposal for the Commission's consideration, and invited other parties to comment. The ALJ consolidated Order Instituting Rulemaking (R.) 86-06-006 with the Commission's rulemaking, R.90-02-008, in order to consider SPURR's proposal in the context of the overall regulatory procurement and transportation program, and changes to it which the Commission might later adopt.

PG&E and SoCalGas filed proposals and further comments on July 27, 1990.

SoCalGas' Program Proposal

SoCalGas generally opposes the development of a program for several reasons. It believes consideration of the program is

premature because, at the time, the Commission had not adopted rules in R.90-02-008. Most of its comments in this regard concern matters which the Commission addressed in that rulemaking in D.90-09-089. SoCalGas also believes that core customers are not sophisticated enough to make appropriate gas supply decisions.

In response to the ALJ ruling, SoCalGas proposes the following program, which would be offered on an experimental basis for three years:

Customers would be required to make a 12 month commitment to transportation-only service. The rate would be the applicable sales rate less the estimated annual core weighted average cost of gas (WACOG). SoCalGas would continue to bill customers directly.

Responsibility for reliability of supply and payment for transportation imbalances would be shifted to core customers' suppliers, who would be eligible for participation subject to Commission-adopted standards for creditworthiness. Suppliers would be charged administrative fees.

Customers would be admitted on a first-come, first-served basis in the first year, with the program to be initiated the first May after the rules adopted in D.90-09-089 are implemented.

PG&E's Program Proposal

PG&E makes comments similar to SoCalGas regarding the uncertain relationship between the final rules adopted in R.90-02-008 and SPURR's proposal. It proposes the following rules:

Core transportation service would be available initially to only 100 customers whose aggregated volumes are at least 250,000 therms per year. They would be required to commit to a contract term equal to that required for noncore customers with firm transportation service.

The transportation rate will be the applicable core rate for the facility minus the adopted core (WACOG). PG&E will bill to each end-user.

Nomination rules applicable to noncore transportation would apply to the core transportation customers. Standby services would be firm and priced accordingly.

SPURR's Response

SPURR comments that the service it seeks has been successfully implemented in other states without the dire consequences SoCalGas and PG&E predict.

On the subject of SoCalGas' proposal, SPURR comments that the annual commitment period should begin during the storage injection season so that SPURR may take advantage of the associated reliability. SPURR states the utilities' concerns about reliability will be moot if it is able to store gas up to the capacity associated with its allocated cost.

SPURR does not object to imposition of reasonable imbalance penalties or standby charges but does object to other fees proposed by SoCalGas which are unwarranted and would undermine the competitiveness of supply alternatives for core transportation customers.

SPURR believes PG&E's proposal offers little prospect for success, largely because of the high fees and the limitation of 100 on-residential core facilities. SPURR objects to the storage fee proposed by PG&E on the grounds that core transportation rates, which would be imposed, include an allocation of storage costs.

Division of Ratepayer Advocates' (DRA's) Response

DRA supports the development of rules which would permit core customers to consolidate loads for transportation-only service. It proposes specific rules which are modeled after those proposed by SoCalGas and PG&E. DRA's proposed rules would provide for a pilot program with wider application than PG&E proposes, an option for core customers to have agents billed but, unlike SoCalGas' proposals, end-users would be ultimately responsible for billings. DRA recommends against the Commission being the arbiter

of contract disputes between the utilities and core customers, as SoCalGas suggests.

DRA strongly argues against new service fees because they are already included in core rates. DRA recommends workshops to establish program guidelines. It also recommends that the rules adopted for core consolidation customers be applied also to single core transport-only customers.

Finally, DRA believes SoCalGas' comments about problems with the SPURR proposal which relate to potential loss of market, back-up supply problems, and ability to compete have already been addressed by the Commission in its development of rules for noncore procurement.

GasMark's Response

GasMark believes the Commission should approve a program such as that proposed by SPURR. It suggests the utilities screen brokers and provide storage. GasMark argues against non-performance penalties because the customer would already be paying for full service.

Access Energy Corporation's (Access) Response

Access also supports SPURR's proposal and points to the success of similar programs in other states. It argues against new administrative fees but recognizes that a standby fee may be reasonable if it is based on costs. Access strongly opposes SoCalGas' proposal to control and oversee marketers and brokers as unnecessary and inconsistent with principles of regulatory law.

SunPacific Energy Management and Sunrise Energy Company's (SunPacific) Response

SunPacific supports SPURR's proposal. It opposes the rules submitted by PG&E as unnecessarily restrictive and costly. It supports the thrust of SoCalGas' proposal, including provisions for creating a class of "qualified suppliers," and protecting the utility from increased costs.

Discussion

SPURR's proposal asks the Commission to permit core customers to aggregate loads for purposes of using transportation services. D.86-12-010 already permits large core customers to transport gas to a single facility. The issue here is whether core customers should be permitted to aggregate loads from various facilities in order to be eligible to transport gas as a single core customer. From this standpoint, SPURR's request is not a major departure from existing policy.

Our gas regulatory program is designed to permit the development of a more competitive natural gas industry and to take advantage of market efficiencies. Our primary concern is to keep gas costs low, even if as a result of more competitive gas markets demand for utility services may fall. SPURR's proposal may deprive gas utilities of market share for gas procurement. We do not, however, foresee additional costs for core ratepayers or the gas utilities if SPURR's proposal is properly implemented. The only substantial difference between noncore customers who purchase their own gas and core customers that may aggregate loads to transport their own gas is that core customers will require a higher level of transportation reliability. This does not appear to be a difficult barrier to the program SPURR proposes.

We appreciate the utilities' efforts at developing rules for implementing SPURR's proposal. In general, the proposals provide a good framework for considering how core aggregation might be implemented. We will propose today a set of rules which combine the utility proposals with DRA's proposed rules and considering the rules we have recently adopted in R.90-02-008, our gas procurement rulemaking.

Our proposed rules eliminate certain elements of the utilities' proposed rules. We agree with the parties who suggest that additional fees are inappropriate. As DRA points out, the utilities currently collect customer charges from customers and

additional administrative costs do not appear likely because of probable offsetting cost savings.

We also decline to include as part of our proposed rules SoCalGas' suggestion that the Commission arbitrate disputes between core transportation customers and the gas marketers they select. Our general approval of SPURR's proposal today is premised in part on an assumption that core customers which aggregate loads are sophisticated enough to determine reliable sources of gas. Moreover, we have no jurisdiction over either nonutility gas marketers or core customers. Neither will we agree at this time to place burdens on marketers which are not presently placed on noncore transport customers' agents because we do not want to discourage the development of more competitive markets for core customers that can aggregate loads.

We agree with the utilities that SPURR's proposal should be initially established as a pilot program which would be subject to review and reconsideration after three years.

Our proposed rules are presented in Appendix A. We seek parties' comments on them and will subsequently issue a final decision on rules governing core aggregation transportation customers. Because we seek to implement a program concurrently with the program adopted in D.90-09-089, we will endeavor to issue a final decision by June. Accordingly, comments on the proposed rules should be filed by January 16, 1991.

Findings of Fact

1. SPURR filed a petition seeking modification of D.86-12-010 to permit core customers to consolidate load so that they may qualify as transportation-only customers.
2. By ALJ ruling dated April 20, 1990, SoCalGas and PG&E were directed to propose rules which would implement a program to permit core customers to consolidate load in order to qualify for transportation-only services.
3. SoCalGas and PG&E filed proposed rules on July 27, 1990.

4. In their comments, the utilities oppose SPURR's proposal on the grounds that administrative costs will increase and core ratepayers will be harmed.

5. The effect on the utilities of permitting core customers to consolidate load for purposes of qualifying for transportation-only services is substantially similar to the effect of permitting other large core customers to elect transportation services only and purchase their own gas supplies.

6. The effects of reduced utility gas procurement operations have been the subject of other decisions, and have not been found to be harmful to ratepayers.

Conclusion of Law

The Commission should seek comments on the rules proposed in Appendix A of this decision.

O R D E R

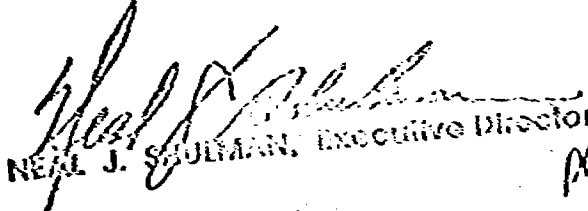
IT IS ORDERED that the parties to this proceeding may file comments on the rules proposed in this decision and attached as Appendix A. Comments on the proposed rules shall be filed and served on all parties no later than January 16, 1991.

This order is effective today.

Dated November 21, 1990, at San Francisco, California.

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

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


NEAL J. SAULTMAN, Executive Director

Commissioner Frederick R. Duda,
being necessarily absent, did not
participate.

APPENDIX A
Page 1

PROPOSED RULES

1. (a) Initially, for administrative purposes, core transport-only service shall be available to the first 100 core end-users or group of end-users who request such service, or 10% of the total retail core requirements of the serving utility, whichever is lower. (A group of customers shall be considered as one unit if they elect to be served by a single gas supplier and shall be counted as one (1) towards the 100 total.) Customers who desire core transport-only service will be given an opportunity to participate in this program during an "open season." Successful participants will be chosen by lottery if the 100 or 10% level is surpassed. The open season will be held in February 1991.
 - (b) Following the close of the open season and the choice of successful participants in the core transport program, the serving utilities will accept future participation requests for core transport-only service. The requests for future core transport service shall be processed on a first-come, first-served basis (FCFS). Each serving utility shall time-stamp the requests and keep a FCFS log of those requests. Such a log shall be open for public inspection. The position of new requests on the FCFS log will be behind those established by the open season lottery.
 - (c) During the third year of the program, the Commission should consider under what conditions the program should continue or be expanded.
2. Individual end-user volumes or groups of end-users aggregated volumes must meet the minimum transport volume requirement as specified below.
 3. The minimum aggregated volume requirement to qualify for transport-only service shall be 250,000 therms per year. The Commission retains the right to alter this requirement, on a prospective basis, at any time.

APPENDIX A

Page 2

4. (a) Participating core customers would be required to execute a contract on similar terms and conditions consistent with that required for service level 1 transportation, as set forth in D.90-09-089.
 - (b) At the time of contract execution, the core customer may elect to have the serving utility bill him or his eligible agent/marketer directly.
 - (c) The serving utility will continue to read the customers meter on its current billing cycle and will continue to provide all other authorized service to that customer.
5. Charges for standby procurement services, balancing, or other such related costs as determined appropriate by the Commission will be billed to either the individual end-users or their agent. If the billing is to go to the agent/marketer, this entity shall be able to aggregate the positive and negative imbalances between the various members of his pool before an imbalance charge is imposed. Further, the agent or the individual end-user(s) should be allowed to trade imbalances. The billing selection must be made when the contract discussed in Rule 4 above is entered into.
 6. The transportation rate for each end-user facility served shall be the otherwise applicable core rate schedule for the specific facility minus the adopted core procurement/portfolio price. Aggregation with other loads does not change the otherwise applicable rate schedule for the specific facility.
 7. Nomination rules applicable to noncore transportation shall apply to the end-user, end-user group or pool. The group or pool entity shall act as the agent for the individual end-users for nomination purposes.
 8. (a) Core transport-only customers shall be subject to standby service rules for other (noncore) transportation customers as set forth in D.90-09-089, except that core transport-only customers shall have first priority for standby services.

APPENDIX A
Page 3

- (b) Balancing services will be provided to core transport-only customers on the same terms and conditions as for noncore transport customers.
9. The Commission shall order the serving utilities to provide notice to the prospective participants in the core transport-only service of the possible risks and charges associated with this service, and that disputes between agent/marketers and their core transport-only customers shall not be subject to the Commission's jurisdiction.
 10. Individual core end-users or groups of core end-users, as defined in Rule 1.(a) above, shall be able to participate in the storage banking program. Their participation shall be governed by the same rules and procedures applicable to the noncore participants in that program except that they may designate their eligible agents/marketers to participate on their behalf.
 11. Individual core end-users or groups of core end-users, as defined in Rule 1.(a) above, shall be able to participate in any capacity brokering program developed by the Commission and implemented by their serving utility. Their participation shall be governed by the same rules and procedures applicable to the noncore participants in that program except that they may designate their eligible agents/marketers to participate on their behalf.

(END OF APPENDIX A)