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Decision 91 02 046 FEBRUARY 21, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

ORDER MODIFYING DECISION 90-12-100 AND DENYING REHEARING

Decision (D.)90-12-100 modified the Commission's final rules for gas procurement and transportation, which had been adopted in D.90-09-089. A number of applications for rehearing and petitions for modification had been filed in response to D.90-09-089, and D.90-12-100 disposed of most of the petitions for modification. The applications for rehearing and any remaining issues for modification were dealt with in D.91-02-022.

Toward Utility Rate Normalization (TURN), California Gas Producers Association (CGPA), Southwest Gas Corporation, and the City of Long Beach have filed applications for rehearing of D.90-12-100. Various parties have filed petitions for modification, most of which raise the same issues as are raised in the applications for rehearing. The Division of Ratepayer Advocates (DRA) has responded in support of some of the petitions for modification.

We have reviewed all of the allegations raised in the applications for rehearing, and have determined that insufficient grounds have been presented to warrant granting rehearing. However, we are of the view that D.90-12-100 should be modified in several respects, which we discuss below.

Service Level 2 Surcharge

D.90-12-100 adopted a proposal by the Alberta Petroleum Marketing Commission (APMC) to credit to all transportation rates the revenues from the $.12 per decatherm surcharge on Service

Level 2 (SL-2) transportation. This treatment of the surcharge revenues differed from that adopted in D.90-09-089, which ordered revenues to be credited only to Service Levels 3 through 5. TURN and CGPA filed applications for rehearing on this issue. Indicated Producers, California Industrial Group (jointly with California League of Food Processors and California Manufacturers Association, hereafter referred to as CIG), Southern California Edison Company (jointly with Southern California Utility Power Pool and Imperial Irrigation District, hereafter referred to as Edison), and PG&E filed petitions for modification asking that the Commission reverse its decision.

TURN and CGPA argue that in adopting APMC's proposal, which had been presented for the first time in a response to a petition for modification, the Commission has violated Public Utilities Code Section 1708, because it has not provided the parties with notice and an opportunity to be heard on a proposed modification as that Code section requires. In addition, both parties present substantive policy arguments supporting a return to our original treatment of surcharge revenues. The partiespetitioning for modification present similar policy arguments in support of such a return.

We do not need to reach the merits of the legal issue because we find that the policy arguments presented by the above parties compel us to reconsider the position we took in D.90-12-100. These parties make several points. They argue that spreading the surcharge revenues to SL-2 rates will undermine the pricing signals to customers because their choices will not affect the differences between rates for the four service levels. Under the original rule, rates for firm service would increase, relative to interruptible services, as demand for firm service increased. This, according to the parties, is sensible because interruptible customers will be more frequently curtailed and should therefore pay a correspondingly lower rate.

In contrast, the rules adopted in D.90-12-100 would maintain a $.12 per decatherm differential notwithstanding the

demand for various service levels. CGPA and TURN argue that this $.12 differential was a crude estimate of the value of firm service. It was chosen under the assumption that it was only a starting point, and would change according to ultimate demand. CIG believes the low rate differential between firm and interruptible services will force most industrial users to subscribe to SL-2 transportation. Consequently, according to CIG, SL-2 will be oversubscribed, causing curtailments of service, especially in SoCal's territory where capacity is limited.

TURN, CIG and PG&E argue that, in addition to failing to provide appropriate price signals, the mechanism adopted in D.90-12-100 will dampen potential competition in Canadian gas markets. CIG and TURN explain that a relatively cheaper interruptible rate would enhance noncore customers' negotiating leverage with Canadian suppliers; conversely, they believe the relatively lower firm rate which will result from the methodology adopted in D.90-12-100 will probably dampen competition between Canadian producers and certain domestic producers by increasing the cost of interruptible transmission from the Southwest.

These three parties suggest there are better ways to establish some predictability in rates for noncore customers than retaining the $.12 differential between firm and interruptible services. They suggest the utilities forecast firm rate revenues by which they would establish a credit on interruptible rates. The credit would remain in effect until the next rate proceeding, and would be subject to change according to the revenues actually collected. PG&E submits it has proposed such a mechanism in its tariff filings in this proceeding.

APMC responds to the positions of CIG, TURN, PG&E, Edison and CGPA by stating that these parties seek to use transportation pricing to force down Canadian netbacks, thereby forcing Canadian producers to cross-subsidize Southwest supplies. APMC also argues that PG&E seeks to overturn the policy adopted in D.90-12-100 so that PG&E will not need to discount

interruptible rates because those rates will be low enough to not require discounting. APMC submits this would reduce PG&E's risk and is not in the public interest.

When we adopted APMC's proposal in D.90-12-100, we did so without the benefit of comments by other parties. The comments of PG&E, TURN, CIG, Edison and CGPA convince us that we should reverse the rule change adopted in D.90-12-100 and provide that surcharge revenues will be used to credit only Service Levels 3 through 5. We make this decision for several reasons. First and foremost, the $.12 differential is not, to our knowledge, based on any forecast of the value customers may place on firm service over interruptible service. Indeed, such a forecast would probably have been a futile undertaking prior to the first round of bidding by customers for services. We adopted the differential as a reasonable estimate with the intention of adjusting the differential according to demand for various service levels.

We agree with the parties who state that D.90-09-089 provides a "self-correcting" mechanism by providing changes in relative prices according to resulting demand. This mechanism will promote rate levels which reflect, more or less, the value of service to customers in each service level. Customers whose reliability is low because of high demand for firm service will pay relatively lower rates for service. Such a mechanism is more consistent with our goal of fostering a competitive gas market with a full range of transmission options.

We do not reconsider our decision because we wish to deprive Canadian producers of high netbacks, as APMC suggests. Rather, we seek to promote pricing structures which will reflect the relative value of transportation options and thereby promote gas-to-gas competition. Rebating surcharge revenues solely to interruptible services will promote competitive pricing between Canadian and Southwest gas supplies.

We do not favor any producing region over another in formulating our gas program. We seek fair and open competition

between all suppliers seeking to serve the California market, with a minimum of regulatory interference. However, as we progress through the transition to our goal, obviously certain of the changes we implement will benefit or hinder certain parties more than others. The choice we face in allocating the Service Level 2 surcharge presents such a dilemma. We would only repeat our intention to achieve an overall balance which is fair to all parties, and note that other decisions we have made, such as agreeing to settlement provisions that limit direct sales to California end users from the Alberta & Southern producer pool to 25% of the capacity on PGT, provide substantial benefits for Canadian producers not available to domestic suppliers.

One consequence of the rebate mechanism originally adopted in D.90-09-089 may be, as APMC suggests, to reduce some risk to PG&E because PG&E will face less pressure to discount interruptible service rates. We would not, however, reject a sensible pricing structure on the sole basis that it would reduce utility risk. There are numerous other aspects of our program which may be viewed as increasing utility risk.

While APMC responds to the arguments of CIG, TURN, PG&E, Edison and CGPA, it fails to demonstrate any benefit associated with its proposal other than rate predictability. A substantial level of predictability, however, may be achieved by other means. We will direct the utilities to provide estimates to their transportation customers of rebates they may receive at the end of the ratemaking period, based on demand for various transportation services. Alternatively, as PG&E suggests, they may credit interruptible rates immediately based on forecasted demand, subject to adjustment at the end of the ratemaking period.

We finally stress that while we believe that crediting the surcharge revenues to Service Levels 3 through 5 is most in keeping with the goals of our program at the present time, we intend to carefully review the actual impact of this treatment. We reserve the right to reconsider our policy as part of our

complete examination of rate design in the LRMC proceeding, I.86-06-005, and to make appropriate changes to it should circumstances warrant doing so.

Transportation Options for Enhanced Oil Recovery (EOR) Steamflood Customers

D.90-12-100 reversed the provision adopted in D.90-09-89 which limited EOR steamflood customers' transportation options. Specifically, D.90-09-89 found that all P-5 customers, including EOR customers, should not be permitted to nominate more than 65% of their gas requirements in Service Levels 2 and 3. D.90-12-100 modified this rule to provide that only UEG customers would be subject to this 65% limitation.

On January 25, 1991 Edison, TURN, SCUPP and IID filed a joint petition to modify D.90-12-100. The petition asks us to return to the rule adopted in D.90-09-089. It argues that the effect of permitting EOR customers to purchase Service Levels 2 and 3 transportation for all of their loads will be to increase curtailments to UEG customers. Petitioners comment that EOR steamflood customers receive services at discounted rates because their loads have traditionally been considered incremental. The discounted rates are substantially below the UEG default rate. They argue that the policy adopted in D.90-12-100 could cost electric ratepayers as much as $5 million a year because of the costs of curtailments.

The petition also seeks clarification as to whether D.90-12-100 intended that all UEG load, including demand formerly given higher priority, be subject to the 65% limitation. Petitioners believe the intent of D.90-12-100 was to impose the 65% restriction only on UEG P-5 load. California Cogeneration Council (CCC) responds that neither D.90-09-089 nor D.90-12-100 intended that the 65% limitation apply only to UEG P-5 loads. CCC argues that the limitation be applied to an UEG loads in order to promote competition.

Indicated Producers responded to the joint petition. It points out that the purpose of the 65% limitation was to limit the UEGs from tying up interstate capacity. Indicated Producers argues that EOR customers do not present a risk of dominating pipeline capacity.

Indicated Producers is correct that the purpose of the 65% limitation adopted in D.90-09-089 was to assure that UEG customers would not tie up interstate pipeline capacity. With that in mind, we specified in D.90-12-100 that the limitation would apply only to UEG customers. An unintended effect of this change, however, would be to give EOR customers priority over UEG customers even though EOR customers pay less than UEG customers for transportation services and to require electric ratepayers to, in effect, subsidize these lower rates by paying for higher fuel costs during periods of curtailment. Moreover, the change adopted in D.90-12-100 may undermine air quality objectives in the Los Angeles basin: if UEG customers are curtailed ahead of EOR customers, electric plants will to switch to oil in order that EOR steamflood customers may receive gas in areas of the state which do not have the air quality problems of Los Angeles. When we amended D.90-09-089 to permit EOR customers to nominate all of their loads in Service Levels 2 and 3, we did not foresee these results. EOR steamflood customers receive discounted rates because their loads are incremental. We therefore see no reason to grant them priority ahead of UEG customers especially in view of the potential effects on electric rates and air quality in the Los Angeles area. We will reverse our decision in D.90-12-100 and provide that the restrictions on UEG transportation options be imposed equally upon all P-5 loads, including those of EOR steamflood customers. Contrary to CCC's assumption, D.90-12-100 did not intend to impose the 65% restriction on UEG loads other than those designated as P-5.

Service Levels for Core Load of Wholesale Customers

D.90-12-100 set forth rules for providing service to wholesale customers of gas utilities. Among other things, the

rules established that core loads of wholesale customers would be offered Service Level 2 transportation. The City of Long Beach and Southwest Gas filed applications for rehearing on this issue. SDG&E and CP National filed petitions for modification. All of these pleadings argue that, based on the language of the decision and Commission precedent, wholesale customers should be offered Service Level 1 transportation for their core loads. DRA supports the substance of the pleadings.

We fully agree with the parties that the intent of D.90-12-100 was to provide wholesale customers with the highest level of service for their core loads, and in D.91-02-022, we corrected our rules accordingly. Consequently, this issue is moot.

Findings of Fact

1. The $.12 surcharge on firm transportation services is an estimate of the value of firm service. The estimate was not based on any forecast of actual or predicted customer behavior.

2. The $.12 surcharge on firm transportation services may not reflect the value of firm transportation relative to interruptible transportation. Crediting the surcharge solely to interruptible rates will reasonably reflect the value of firm service relative to interruptible services.

3. Because the $.12 differential between firm and interruptible transportation may not reflect the relative value of those services, crediting the $.12 surcharge revenues to all noncore transportation service rates may dampen gas-to-gas competition.

4. A substantial level of predictability of transportation rates may be achieved by requiring the gas utilities to forecast the rate differential either before or after the utilities have received bids for service from their noncore customers.

5. EOR Steamflood customers receive transportation rate discounts which are below the default transportation rates for UEG customers.

6. Permitting EOR steamflood customers to nominate all of their requirements from Service Levels 2 and 3 may require UEGs to be curtailed ahead of EOR customers, resulting in higher costs for electric ratepayers and potential negative effects on air quality in the Los Angeles basin.

Conclusions of Law

1. The Commission should reverse its decision in D.90-12-100 which provided that the revenues from the $.12 firm rate surcharge be credited back to all transportation rates. The utilities should be required to credit those revenues to Service Levels 3 through 5 only.

2. The Commission should order the gas utilities to provide to noncore transportation customers estimates of the differential between Service Level 2 transportation and the default rates for Service Levels 3 through 5. The estimates should be based on anticipated or actual demand for each transportation service level.

3. The issue of whether surcharge revenues should be credited before or after the end of the ratemaking period should be considered with other implementation issues in the advice letter filing process set forth in D.90-09-089.

4. The Commission should modify the rules adopted in D.90-12-100 to provide that UEG and other P-5 customers shall not be permitted to nominate more than 65% of their requirements into Service Levels 2 and 3 in the aggregate.

5. The issue raised by the City of Long Beach, Southwest Gas Corporation, SDG&E and CP National regarding the transportation service to be offered to wholesale customers is moot.

O R D E R

IT IS ORDERED that,

1. The petitions to modify Decision (D.)90-12-100 filed by Pacific Gas and Electric Company, Indicated Producers, the California Industrial Group, et al., and the Southern California

Edison Company et al., which ask the Commission to require firm transportation surcharge revenues be credited to Service Levels 3 through 5 only, are granted.

2. The gas utilities shall provide to noncore transportation customers estimates of the differential between Service Level 2 transportation and the default rates for Service Levels 3 through 5. The estimates shall be based on either anticipated demand or actual demand for each transportation service level. If the estimates are based on actual demand, customers shall be notified of the results no later than 30 days following the end of the subscription period. If the estimates are based on anticipated demand, customers shall be notified of the results no later than 30 days before the end of the subscription period.

3. D.90-12-100 is modified to provide that UEGs and other end-use priority P-5 customers shall not be permitted to nominate more than 65% of their requirements into Service Levels 2 and 3 in the aggregate.

4. Rehearing of D.90-12-100, as modified herein, is denied.

This order is effective today.

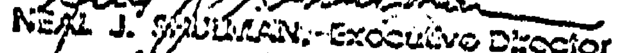
Dated February 21, 1991, at San Francisco, California.

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

I abstain.
DANIEL WM. FESSLER
Commissioner

I abstain.
NORMAN D. SHUMWAY
Commissioner

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



NEAL J. SHULMAN, Executive Director