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Decision 91-03-019 March 13, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on)
the Commission's own motion to)
implement the Biennial Resource)
Plan Update Following the California)
Energy Commission's Seventh)
Electricity Report.)

I.89-07-004
(Filed July 6, 1989)

OPINION ON PETITIONS TO INTERVENE
AND ON PROTEST TO AVOIDED COST POSTING
FOR QUARTER COMMENCING NOVEMBER 1, 1990

Petitions to Intervene

Recon Research Corporation (Recon) filed a petition to intervene in this proceeding on November 29, 1990. Recon is presently on the "information-only" list but notes that this status does not assure Recon of receiving all documents filed in the BRPU.¹ Thus, Recon asks that its status be changed to "appearance." Recon makes an adequate showing under Rule 53 of the Commission's Rules of Practice and Procedure, so its petition is granted.

Environmental Defense Fund (EDF), by Daniel Kirshner, has also asked to be entered as an appearance in this proceeding. Kirshner is one of the originators of the production cost simulation model now known as ELFIN, which is widely used in this and other proceedings before the Commission. His participation

¹ Persons on the information-only list receive rulings and Commission decisions but do not normally receive documents prepared by a party (e.g., testimony, briefs) except by special arrangement with that party.

should be very helpful as ELFIN is refined to consider, e.g., power plant air emissions. Kirshner's request is granted.

Service by mail on Recon and EDF shall be made at the addresses shown in the appendix to this order.

Protest to PG&E Avoided Cost Posting

Santa Fe Geothermal, Inc. (Santa Fe), has filed a protest and motion regarding the final avoided energy cost posted by Pacific Gas and Electric Company (PG&E) on October 31, 1990, for the quarter running from November 1, 1990, through January 31, 1991.² This posting determines energy payments for the quarter from PG&E to Santa Fe and other operators of qualifying facilities (QFs) priced at the purchasing utility's short-run marginal costs. Santa Fe alleges that PG&E has wrongly applied certain data from Decision (D.)90-10-062. As a result, according to Santa Fe, PG&E has understated the operations and maintenance (O&M) component of its energy payments. We find that Santa Fe's protest is procedurally proper, but we deny the protest on the merits.

A. Timeliness of the Protest

D.82-12-120 (10 CPUC 2d 553, 623-24) describes our process for quarterly postings. Over the years, a two-step process has evolved that is uniform among the three big investor-owned electric utilities in California.

First, the utility makes a preliminary posting one month before the start of the new quarter. Our staff and other parties may protest by means of motions to adjust the price, identifying deficiencies in the preliminary posting and recommending solutions. Second, the utility makes a final posting

² On November 5, 1990, PG&E filed a nonsubstantive correction to its final posting. The correction is not material to this protest.

that may incorporate appropriate changes derived from new information, including the protests.

Absent Commission action, the price contained in the final posting goes into effect; however, that does not extinguish the protest. The price is subject to retroactive upward adjustment in the event that the protest is upheld.

Here, Santa Fe protests the final posting, not the preliminary posting. D.82-12-120 doesn't expressly address this situation. We hold that a party that fails to address an aspect of the preliminary posting is barred from attacking the same aspect in the final posting for that quarter. To allow such late protests would thwart our intent in D.82-12-120 to give ourselves and the utility an opportunity to consider the merits before the challenged price goes into effect.

However, the present protest addresses something unique to the final posting: specifically, changes made by PG&E to include new data from a Commission decision in PG&E's current energy cost adjustment clause proceeding, issued after the preliminary posting. We hold that Santa Fe's protest, in these circumstances, is timely.

B. Calculation of O&M Adder

Between the preliminary and final postings, the Commission issued D.90-10-062. That decision, among other things, revises the volume used to calculate the utility electric generation (UEG) gas rate, which in turn affects PG&E's energy price posting. Also, that decision adopts new values for PG&E's Incremental Energy Rate (IER) and O&M adder. PG&E's final posting reflects the new UEG gas rate but not the new IER or O&M adder.³

³ Santa Fe does not challenge PG&E's use of the most recent gas volume.

The protest concerns the propriety of using some but not all of the new data:

1. Santa Fe argues that PG&E's failure to apply the newly adopted O&M adder is wrong because the D.90-10-062 "expressly called for the use of the adopted O&M adder in this Quarter." (Protest, p. 2.) D.90-10-062 adopts a joint recommendation from parties that "the O&M Adder be set at 2.8 mills/kWh for a two-year period which, consistent with [D.88-03-026], will commence with the first quarter in which QF energy prices may be affected by a decision in this proceeding." (D.90-10-062, mimeo., Appendix B, p. 4.)
2. Santa Fe says that the quarter beginning November 1, 1990, is the first quarter in which QF energy prices may be affected by D.90-10-062.
3. PG&E argues that the O&M adder, which before 1988 was included in the IER calculation, should be updated on the same schedule as the IER. D.88-03-026, 27 CPUC2d 502, 504, says that "if the effective date [for IERs used in calculating variable QF payments] is less than 45 days from the next quarterly price revision date, then the new capacity value and IER will be included in the second quarterly revision following the ECAC [decision]." (Emphasis in original.)
4. PG&E claims that the IER and the O&M adder are linked and any decoupling should occur in the Biennial Resource Plan Update.
5. Santa Fe replies that simply because the O&M adder once was included in the IER does not preclude updating the adder on a schedule which differs from that of the IER.

All of the relevant decisions appear to have been cited by each side in favor of its own arguments; unfortunately, the

decisions give ambiguous guidance on when the O&M adder should be updated for purposes of QF energy prices.

On balance, PG&E's stated linkage between the IER and O&M adder seems consistent with the relevant decisions. For example, in D.89-09-093, 32 CPUC2d 478, where we adopted the method for calculating O&M costs for PG&E, we chose the QFs-in/QFs-out method for determining both IERs and avoided O&M costs because it provided "appealing consistency." (*Id.*) The method for determining these two values is linked, so the case for updating them at the same time is plausible.

In short, the decisions do not necessarily require the approach used here by PG&E, but the approach is nevertheless a reasonable response to such guidance as the decisions give. Moreover, the approach does not appear to systematically favor either the utility or the QF.

However, the original reason for disaggregating the O&M adder from the IER does not really have anything to do with the updating question. By disaggregating, we are able to distinguish between QFs' impact on two categories of utility costs: fuel savings and reduced O&M costs. Specifying the avoided O&M costs also allows those avoided costs to be excluded from the utility's O&M expenses in a particular general rate case test year.

Thus, although PG&E's approach is not wrong, there may be reasons to switch to the updating approach that Santa Fe favors for the O&M adder. The place to consider revisions to the updating rules laid out in D.88-03-026 is in Phase 3 of this proceeding, when we will take up methodology issues including revisions to short-run marginal cost pricing.

Any such proposed revisions to the updating schedule should try to improve the accuracy and transparency of the procedures and minimize opportunities for gaming. (See also D.88-03-026 for a discussion of the goals of updating.) We are concerned at the amount of resources that have gone into protests

of quarterly postings, and we would welcome suggestions for modifying the procedures in ways that might lessen these controversies.

Findings of Fact

1. Santa Fe did not protest PG&E's preliminary energy price posting for the quarter beginning November 1, 1990. However, Santa Fe protested an aspect of PG&E's final posting that was new to that posting.

2. PG&E's final posting does not use the new IER or O&M adder from D.90-10-062.

3. Before 1988, the O&M adder was included in the IER calculation.

4. PG&E's approach for updating the O&M adder does not appear to systematically favor either the utility or the QF.

5. The original reason for disaggregating the O&M adder from the IER does not have anything to do with the updating question.

Conclusions of Law

1. The requests of Recon and Environmental Defense Fund to intervene in this proceeding should be granted.

2. Under D.82-12-120, protests to quarterly energy price postings should generally be directed to the preliminary posting. The final posting is not independently subject to protest except to the extent that the final posting in some way alters the preliminary posting.

3. Santa Fe's protest is procedurally proper.

4. PG&E's stated linkage, for updating purposes, of the IER with the O&M adder is consistent with the relevant decisions.

5. Santa Fe's protest should be denied.

6. This order should be given immediate effect so that uncertainty regarding QF prices will be resolved as soon as possible.

O R D E R

IT IS ORDERED that:

1. The requests of Recon Research Corporation and Environmental Defense Fund to intervene in this proceeding are granted. Service by mail on those parties shall be directed as indicated in the appendix to this order.

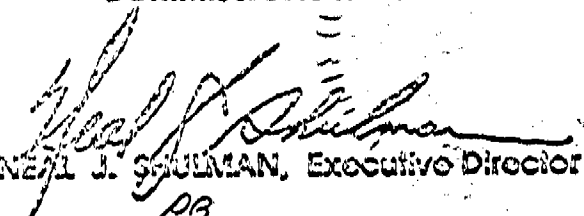
2. The protest of Santa Fe Geothermal, Inc. to the final avoided energy cost posted by Pacific Gas and Electric Company for the quarter beginning November 1, 1990, is denied.

This order is effective today.

Dated March 13, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
G. MITCHELL WILK
JOHN B. OHANIAN
DANIEL WM. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEIL J. SHULMAN, Executive Director
PB

APPENDIX A

The parties added by the foregoing order shall be served at the addresses listed below:

Recon

Recon Research Corporation
6380 Wilshire Blvd., Suite 1604
Los Angeles, CA 90048

Attn: William Meckling

EDF

Daniel Kirshner
Environmental Defense Fund
5655 College Avenue, Suite 304
Oakland, CA 94618

(END OF APPENDIX A)