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Decision 92-05-034 May 8, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| Order Instituting Rulemaking into natural gas procurement and reliability issues. | R.88-08-018 (Filed August 10, 1988) |
| 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) |

ORDER DENYING REHEARING OF DECISION 91-11-025

On February 10, 1992, the Commission issued Decision (D.) 92-02-042, which resolved nine applications for rehearing of D.91-11-025, the decision which had adopted rules for natural gas utility brokering of interstate pipeline capacity. California Industrial Group, jointly with California Manufacturers Association and California League of Food Processors (collectively referred to as CIG), had filed one of those applications for rehearing. CIG also filed a document entitled "Supplemental Application of [CIG] for Rehearing of Decision 91-11-025" the same day it filed its original application for rehearing.

The Supplemental Application was properly docketed; however, it was apparently not distributed as a separate document but was stapled to CIG's original application for rehearing. An unexplained consequence of this was that the Supplemental Application was not received by the Commission's Legal Division in due course along with the other applications for rehearing of D.91-11-025. The Legal Division only became aware of the Supplemental Application when on February 21, 1992, the attorney for CIG inquired of one of the Legal Division attorneys why it had not been acted on with the other applications in D.92-02-042. Given the delay which has ensued, it might behoove CIG in the future to file

for rehearing in the orthodox manner, in order to avoid problems similar to those described above.

In its Supplemental Application, CIG requests that the Commission grant rehearing "and modify" the decision in three respects: 1) delete language regarding discounts of interruptible rates, since the language is "a highly prejudicial view of any discounts for interruptible service and completely mischaracterizes the settlement on this issue", would violate longstanding Commission policy on discounted rates in violation of Public Utilities Code Section 1708, and would prejudge an issue deferred to the implementation phase; 2) delete language in the decision regarding value-based rates, because such rates are inconsistent with the Commission's direction to develop cost-based rates based upon long-run marginal costs; and 3) delete language indicating a prejudgment of the stranded cost issues, because this prejudgment denies the parties due process. We have reviewed all of the above allegations of error and are of the view that insufficient grounds for granting rehearing or modifying the decision have been shown.

First, on the matter of discounts of interruptible rates, we are of the view that a modification we made to D.91-11-025 in D.92-02-042 resolves CIG's primary objection. In D.92-02-042, we stated that our intent, as expressed in Conclusion of Law 20 of D.91-11-025,[1] was to defer the issue of revenue shortfalls to the implementation phase, and that our failure to delete language to the contrary had been an inadvertent error. See D.92-02-042, at pp. 21-22, 29. D.91-11-025 requires no further modification.

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1 Conclusion of Law 20 in D.91-11-025 states: "Revenue shortfalls arising from intrastate transportation rate discounts to noncore customers and stranded costs associated with noncore transportation services should be considered in a later phase of this proceeding. Revenue shortfalls associated with noncore services should also be considered in a later phase of this proceeding." D.91-11-025, p. 74.

Secondly, with regard to value-based rates, despite our policy preference for such rates in certain contexts, we have said nothing in D.91-11-025 to suggest that we are about to abandon long-run marginal cost-based rates, nor do we intend to do so in the foreseeable future. We do hold the view, however, that the two are not necessarily mutually exclusive.

Finally, we disagree with CIG's arguments that we are prejudging the stranded cost issues. As with discounts of interruptible rates, we have deferred these issues to the implementation phase, where they have been fully litigated. See Proposed Decision of ALJ Malcolm in the implementation phase of R.88-08-018, issued April 30, 1992.

For the reasons stated above, we will deny CIG's application for rehearing. Therefore,

**IT IS ORDERED** that the Supplemental Application for Rehearing of D.91-11-025 filed by California Industrial Group, California Manufacturers Association and California League of Food Processors is hereby denied.

This order is effective today.

Dated May 8, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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

NEAL J. SHULMAN, Executive Director