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Decision 92-07-075 July 22, 1992

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 refinement to the regulatory framework for gas utilities.	ORIGINAL R.90-02-008 (Filed February 7, 1990)

O P I N I O N

This decision grants the petition for modification of Decision (D.)90-09-089 filed on March 13, 1992, by the California Cogeneration Council, California Gas Marketers Group, California Industrial Group, the California League of Food Processors, California Manufacturers Association, Meridian Oil, Inc., Union Oil Company of California, Texaco Inc., Conoco Inc., and the Cogenerators of Southern California (jointly, petitioners). We direct Pacific Gas and Electric Company (PG&E) to offer excess firm interstate natural gas pipeline capacity to all qualifying customers.

The Petition to Modify D.90-09-089

Petitioners claim that PG&E has been permitting its electric department to use firm interstate natural gas pipeline capacity without making the capacity available for use of other noncore customers. Petitioners claim the use of the capacity by PG&E's electric department is discriminatory and contrary to Commission policy.

Specifically, petitioners argue that PG&E's practice violates the Commission's explicit statements that (1) PG&E's electric department should be treated "like any other noncore customer" for purposes of receiving access to firm interstate capacity, (2) cogenerators should have an opportunity to compete on an equal footing with PG&E's electric department, and (3) PG&E's

electric department's access to firm interstate capacity should be limited to 65% of its forecasted demand.

Petitioners propose that the Commission direct PG&E to stop allocating firm excess capacity to its electric department or to make the capacity available to all noncore customers on a nondiscriminatory basis.

PG&E's Response

PG&E responds that its actions are consistent with Commission policy. PG&E states D.90-09-089 directed that it set aside 450 million cubic feet per day (MMcf/d) of its firm interstate capacity to serve SL-2 customers but did not preclude PG&E from using excess firm capacity to serve its electric department. PG&E states the capacity is held by it as a unified company which includes its electric department. It argues that it does not profit from its actions and that the use of the excess firm capacity saves electric ratepayers approximately $38 million annually.

PG&E argues that its actions do not violate principles of rate parity between its electric department and cogenerators because the rates in question are for interstate capacity and are set by the Federal Energy Regulatory Commission, which does not require rate parity.

Discussion

The issue before us is whether PG&E's electric department should have access to PG&E's excess firm interstate capacity rights which are not available to other noncore customers. We find that it should not.

D.90-09-089 never intended that PG&E's electric department would have access to firm interstate capacity which would not be similarly available to other noncore customers. D.90-09-089 set forth rules which were intended to improve noncore customers' access to interstate gas supplies by giving them improved service. To that end, the rules limited PG&E's electric

department's access to 65% of its annual forecasted load. We also found that PG&E's electric department should be otherwise treated like any other noncore customer.

When PG&E uses its excess firm interstate capacity rights for its electric department, it disregards the service level system adopted in D.90-09-089 and effectively creates a separate and superior system of service for its own use. PG&E's electric department's use of firm capacity denigrates the reliability of service to every other noncore customer on the PG&E's system. This is not what we intended.

It is of no moment that PG&E does not profit from its actions. As we stated in the Order Instituting Rulemaking 90-02-008 and D.90-09-089, PG&E's electric department's dominance of the interstate system has damaging effects on competition in gas markets. While we are concerned that PG&E's electric customers receive low-cost service, that objective cannot be met by compromising the structure of the gas industry and ignoring noncore customers who are competing for the cost savings PG&E has realized for its electric customers.

PG&E misunderstands the meaning of "parity" for cogenerators and its electric department. PG&E argues that it need not provide cogenerators with interstate rates or services equal to those available to its electric department. We remind PG&E, however, that it does not offer interstate service. It offers a bundled transportation service which includes interstate and intrastate service. We have found repeatedly that PG&E's electric department should not have access to transportation which is superior to the access offered to cogenerators.

We will direct PG&E to offer to use its excess firm interstate capacity rights on behalf of all qualifying customers. It should offer to use its capacity pursuant to the rules adopted in D.90-09-089, as modified, on a short-term basis. Its electric department may bid for the capacity like any other noncore customer

and is entitled to a pro rata share of the capacity. Any excess capacity that PG&E cannot utilize in this fashion may be used by its electric department.

Findings of Fact

1. PG&E's electric department has used PG&E's excess firm interstate capacity rights, and PG&E has not made the capacity available to use on behalf of other noncore customers.

2. D.90-09-089 found that PG&E's electric department should be treated like any other noncore customer for the purpose of receiving access to interstate pipeline capacity.

Conclusions of Law

1. D.90-09-089, as modified, did not intend that PG&E's electric department would have exclusive access to PG&E's excess firm interstate capacity.

2. PG&E should be directed to offer to use its excess firm interstate capacity rights on behalf of all qualifying noncore customers.

O R D E R

IT IS ORDERED that:

1. Pacific Gas and Electric Company (PG&E) shall not use its excess firm interstate natural gas pipeline capacity rights for its electric department unless it offers to use those rights on an equal basis on behalf of other qualifying customers, pursuant to Decision (D.)90-09-089, as modified, or unless its capacity rights are not used by other noncore customers after they have been offered by PG&E in an "open season."

2. PG&E shall offer to qualifying customers excess firm interstate capacity on a short-term basis using an "open season," pursuant to D.90-09-089, as modified.

3. The petition to modify D.90-09-089 filed by the California Cogeneration Council, California Gas Marketers Group,

California Industrial Group, the California League of Food Processors, California Manufacturers Association, Meridian Oil, Inc., Union Oil Company of California, Texaco Inc., Conoco Inc., and the Cogenerators of Southern California is granted to the extent set forth herein.

This order is effective today.

Dated July 22, 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