

Decision 83 11 063 NOV 22 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND)
ELECTRIC COMPANY for authority to)
adjust its electric rates effective)
August 1, 1983.)

Application 83-04-19
(Filed April 7, 1983)

(See Decision 83-08-057 for Appearances.)

ORDER CLARIFYING DECISION 83-08-057
AND CORRECTING CLERICAL ERROR

On September 1, 1983, Toward Utility Rate Normalization (TURN) filed a Petition for Modification of Decision (D.) 83-08-057 requesting modifications in three specific areas: (1) Purchased Power Quantities, (2) Staff Accounting Adjustment, (3) Chevron LSFO Contract. On November 9, 1983 TURN filed an Amendment to its Petition for Modification limited to the first item ("Purchased Power Quantities"). The order we issue today addresses only the Chevron LSFO contract issue raised by TURN in its September 1, 1983 petition.

The issue TURN raises is our decision's seemingly ambiguous treatment of TURN's proposal regarding further Commission review of the Pacific Gas and Electric Company (PG&E)/Chevron LSFO contracts. TURN proposed that our decision include the following ordering paragraph:

"Proposed Ordering Paragraph

"PG&E shall immediately file a report with this Commission and serve copies on all interested parties if there are any significant developments in the negotiations with Chevron. Any agreement that requires PG&E to pay money to Chevron shall contain the following clause: 'This agreement shall not become effective until the California Public Utilities Commission has authorized PG&E to recover in rates all payments provided herein.'" (Page 21, Concurrent Opening Brief of TURN.)

In D.83-08-057 we discussed this proposal on pages 18 to 19, in part, as follows:

"TURN asks that we order that any agreement which requires PG&E to pay money to Chevron shall contain the following clause: 'This agreement shall not become effective until the California Public Utilities Commission has authorized PG&E to recover in rates all payments provided therein.' The general purpose of this proposal is meritorius [sic] as there are outer limits to the recovery that will be allowed. One possible option the Commission may choose to explore in the future is the proviso that in future reasonableness review periods purchases under the renegotiated Chevron contract will be compared with purchases of LSFO on the spot market, plus the extra carrying costs for the longer lead times for deliveries of spot purchases. Other options may be equally attractive and these matters should be addressed in the next reasonableness review proceeding.

"While we will adopt TURN's proposal, we are mindful that the record on this point in the proceeding culminating in D.82-12-109 (which was incorporated into the record by D.83-04-089) may still prove to be valuable to the ultimate resolution of this issue. Therefore, we will incorporate that record into PG&E's next reasonableness review proceeding." (Emphasis added.)

TURN maintains that this discussion and the comments of the assigned Commissioner at the decision conference signaled that the Commission was adopting TURN's recommendation. TURN then points to the absence of its proposed ordering paragraph in the decision, and questions whether PG&E is under order to include the suggested clause or not. Finally TURN, stating that logic indicates its proposal was adopted, requests that this confusion be clarified by amending D.83-08-057 to include the language proposed as Ordering Paragraph 4.

We now clarify the issue TURN has raised. Our omission of TURN's proposed ordering paragraph was intentional. The decision at pages 18 to 19 comments that "The general purpose of this proposal is meritorius [sic] as there are outer limits to the recovery that will be allowed." To that end, we commented on certain options for review available to us in future reasonableness proceedings. It was not our intent to commit ourselves to a specific proposal; indeed, this unwillingness to foreclose future ratemaking options is reflected in Finding of Fact 5 and Conclusion of Law 6 in D.83-08-057.

Unfortunately, a typographical error on page 18 of D.83-08-057 has obscured this original intent. In D.83-08-057 we did not adopt TURN's proposal although the text in the last paragraph on page 18 erroneously indicated the opposite. The public comments at the decision conference reflected confusion generated by this typographical error.

This order relates to an emergency situation and is added to the Commission's agenda under Public Utilities Code § 306(b) as the issue decided herein is related to a complaint for injunctive and declaratory relief now pending in the United States District Court for the Northern District of California. (Chevron U.S.A. v Public Utilities Comm. of the State of Calif. et al. No. C 83-4638 MHP.)

Therefore, good cause appearing,

IT IS ORDERED that:

1. D.83-08-057 is modified to correct the typographical error appearing in the text of the first sentence in the last paragraph beginning on page 18, mimeo., and extending to page 19, by inserting the word "not" between the words "will" and "adopt". The corrected sentence reads as follows: "While we will not adopt TURN's proposal, we are mindful that the record on this point in the proceeding culminating in D.82-12-109 (which was incorporated into the record by D.83-04-089) may still prove to be valuable to the ultimate resolution of this issue."

2. TURN's request that D.83-08-057 be amended to include the language proposed by TURN as Ordering Paragraph 4 is denied.

3. The other issues raised in TURN's Petition for Modification of D.83-08-057, and the Amendment thereto, will be treated in a subsequent order to be issued by this Commission.

This order is effective today.

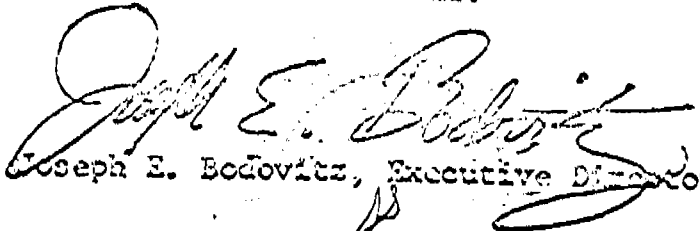
Dated NOV 22 1983, at San Francisco, California.

LEONARD M. CRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. CREW
WILLIAM T. BAGLEY
Commissioners

Commissioner Donald Viel, being necessarily absent, did not participate.

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


Joseph E. Bodovitz, Executive Director