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Decision No. 86764

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SISKIYOU VANGAS, a California corporation, for authority to increase its rates for gas service.	Application No. 55967 (Filed September 29, 1975)

Orrick, Herrington, Rowley & Sutcliffe, by James F. Crafts, Jr., Attorney at Law, for Siskiyou Vangas, applicant.
Peter Arth, Jr., Attorney at Law, Michael Galvin, and Vlado Bevc, for the Commission staff.

O P I N I O N

Statement of Facts

Siskiyou Vangas (applicant), a California corporation wholly owned by Vangas, Inc., 1/ is an operating public utility corporation as defined in Section 216(a) of the Public Utilities Code, and is subject to the jurisdiction of the Commission. It is an operating gas corporation engaged principally in the business of distributing propane gas vapor for domestic and commercial purposes to approximately 1,100 customers in its service areas in the northern California towns of Dunsmuir and Yreka. Applicant also conducts certain nonutility operations, including gas storage, transportation, and appliance sales and service.

Applicant acquired the public utility gas distribution systems, previously owned and operated by California-Pacific Utilities Company, in 1973 (Decision No. 81272 dated April 10, 1973 in Application No. 53817). The utility systems in the two towns have been in operation since the early 1930's, and today

1/ Vangas, Inc. distributes liquefied petroleum gas to more than thirty wholly owned subsidiaries. Vangas, Inc. itself is a subdivision of Suburban Propane Gas Corporation.

include two 30,000-gallon propane tanks at Dunsmuir and four 30,000-gallon propane tanks at Yreka, together with related vaporizers and propane air mixers. Gas is delivered to customers in the two towns through 28 miles of mains varying in sizes from 2" to 14". Applicant purchases all its propane gas from its parent company, Vangas, Inc., and uses its storage facilities in common with a nonutility sister company, Shasta Vangas.[2/]

Since acquisition of the utility in 1973, applicant has made substantial investments in equipment and other improvements, installing a new propane vaporizer and propane air mixer at Dunsmuir and new distribution mains, pumps, valves, and customer meters at both Dunsmuir and Yreka. In February 1975 it began installation of cathodic protection equipment designed to protect the entire metallic pipeline system - an installation it expects to complete by 1978. These improvements have been costly. In addition other operating costs have increased substantially. While increases in the price of purchased gas have been passed through to applicant's customers under provisions of a purchased gas adjustment clause in applicant's tariff, applicant's last general rate increase was in 1949. At that time a rate of return of approximately 4 percent was authorized (Decision No. 42677 dated April 5, 1949 in Application No. 29859). Since applicant acquired the utility in 1973 it has operated at a loss. Without rate relief the operational loss in 1976 is estimated by the applicant, exclusive of tax considerations, to be approximately $60,000.

By this application applicant requested authority to place into effect gas rates to its customers which would produce additional gross revenue of approximately $167,000 on an annualized

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2/ Shasta Vangas operates a bottled propane supply operation within Siskiyou County.

basis, and yield an 8.77 percent rate of return on investment. The percentage increase requested was approximatley 36 percent. A duly noticed public hearing on the application was held in Dunsmuir on June 15, 1976 and in Yreka on June 16, 1976 before Examiner John B. Weiss. After submission of briefs on July 19, 1976, the matter was submitted.[3] The hearing at Dunsmuir was but sparsely attended by the general public, although three customers made comments,[4] and the City Council passed a motion opposing the increase. There was no public representation at that portion of the hearing held at Yreka.

In preparation for the hearing financial and gas utility representatives of the Commission staff made extensive audits of applicant's books of account, and conducted field examinations of applicant's operations. Their review encompassed applicant's acquisitional accounting practices, depreciation practices, tax approaches, purchasing procedures, revenue and operating expense procedures, and managerial philosophy. Based upon this review, the staff representatives concluded that applicant's books were not maintained in conformance with the Commission's Uniform System of Accounts for Class C Natural Gas Companies. The staff took exception to numerous practices and procedures followed by applicant.

3/ Through inadvertence, Exhibits 1 and 2 were not formally admitted into evidence after identification, although both formed the basis for much of the application and staff analysis. By our own motion we take both exhibits into evidence.

4/ Two individuals asked for an explanation of the Btu multiplier factor used in applicant's billing, with one commenting further on the high cost of gas today and expressing her observation that applicant appeared to be employing more people than heretofore. Another individual delivered a number of misdirected bills (including that of the Dunsmuir Elementary School) which he had received in his most recent bill from applicant - pointing up an example of inefficiency by applicant. This latter individual also wanted assurances that costs derived from applicant's nonutility appliance business did not end up in the rates charged for gas.

Included among these exceptions were objections to applicant's handling in its books of account of the acquisition of the gas plant, its arbitrary capitalization of approximately $44,000 of expense items, the recording of propane gas purchase penalty charges as operating expenses, and pre-1975 reporting of applicant's service (nonutility business items) as operating revenue and expenses. Noting that applicant, after purchasing the gas plant at less than book value in 1973, constituted its capital structure in a mode at variance with that approved by the Commission, writing off the acquisition by a one-time credit to appropriate utility plant income and offsetting that to the account representing advances from its parent company, Vangas, Inc., the staff pointed out that this approach conflicts with the original cost concept adhered to by the Commission, and results in a material misrepresentation of the results of operations. Furthermore, applicant thereby is denied a rate of return based upon the original cost of the gas plant.[5/] After reconstructing the gas plant accounts and making other reclassifications of various operating expenses to reflect the requirements of the Uniform System of Accounts, the staff concluded that it would recommend as just and reasonable a rate of return of 8.92 percent, which, applied to an adjusted 1976 rate base of $880,000, would produce a net operating revenue of $78,496.

The 8.92 percent rate of return recommended by the staff would result in an approximate 33 percent increase in the system average rates over that in effect on January 1, 1976, raising the issue of what action is to be taken vis-a-vis lifeline rates under the Miller-Warren Energy Lifeline Act. Because of the competitive situation prevailing in this area options available to applicant

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5/ The desirable and equitable objective in ratemaking should be that the consumer pay, as nearly as may be, the cost of service received, plus a reasonable return upon investment (L.A. Ice & Cold Storage Co. (1921) 20 CRC 124, 133).

are very limited. However, the rates proposed by the staff give a smaller rate increase to the lifeline quantities than other quantities, and still allow the utility to compete with other energy sources in the area.

Finally, there is the question as to what role the Emergency Petroleum Allocation Act of 1973 (15 U.S.C.A. Sections 751 et seq. (1976 Supplement)) should play in this decision. This federal act gave the Federal Energy Administration (FEA) authority over petroleum products, including propane. The staff contends that inasmuch as the rates proposed would apparently exceed the maximum allowed by the FEA, before any increased rates are approved by this Commission to be placed into effect, applicant should be required to obtain documentation from FEA that such rate schedules are allowable. On the other hand, applicant contends that we should authorize just and reasonable rates in accord with our statutory duty under the Public Utilities Code and leave FEA to raise the question of its jurisdiction directly with applicant if it desires to do so.

Discussion

It is clear, as later discussion will evince, that this utility operated at a loss in 1974 and 1975. Furthermore, both applicant and our staff estimate that unless relief is granted the loss in 1976 will continue. A public utility is constitutionally entitled to an opportunity to earn a reasonable return on its investment which is devoted to the public use. (General Telephone Co. (1971) 72 CPUC 652, 654.) A rate which is too low to bring in a reasonable rate of return is said to be confiscatory and a taking of the utility's property without due process, something we cannot do constitutionally (Smyth v Ames (1898) 169 US 466, 526). In this context, a fair and reasonable rate of return applied to an appropriately derived rate base quantifies the earnings opportunity available to the utility after recovery of operating expenses, depreciation, and taxes. But in determining just and reasonable rates it is first necessary to establish the rate base which in turn involves ascertaining the correct original cost of the utility plant. As noted earlier, applicant's books are not maintained in accord with the Uniform System of Accounts and applicant sought to write off the excess of the original cost of the gas plant system over the amount which applicant paid for it, contending that its proposal was in accord with generally accepted accounting principles. The staff, on the other hand, disagreed with applicant's handling of the acquisition, contending that under the original cost concept adhered to by the Commission, and under the Uniform System of Accounts, the gas plant must be recorded at the cost incurred by the people who first devoted the property to public service. (While the Uniform System of Accounts does provide under some circumstances for amortization of acquisition adjustments, here, were those provisions adopted, the effect would materially overstate the net operating income.) The staff recommended that applicant dispose of the gas plant acquisition: (1) by adjusting its plant account to reflect the original cost, (2) by recording the accumulated depreciation applicable to the original cost, (3) by crediting the appropriate plant accounts for the unrecorded contributions in aid of construction, and (4) by recording the gas plant acquisition adjustment of $184,693 in the account for "other paid in capital". The staff approach avoids the material misrepresentation of the results of operations inherent in applicant's proposal, and also permits the utility to earn a rate of return based on the original cost of the gas plant. For purposes of this application the applicant elected to defer to the staff on the acquisition adjustment. We adopt the staff's recommendation on the acquisition items.6/

The staff also questioned capitalization in 1975 of $29,551 of expenditures for repairs and maintenance to plant in service, and $14,817 of expenditures for construction work in progress, as well as capitalization of numerous small tools and equipment. Applicant's managerial approach emphasizes the net income figure in evaluating overall efficiency of branch operations. Consequently, branch management tends to minimize overall operating expense by capitalizing any expenditures not specified otherwise. Staff review of a number of applicant's "Authorization for Expenditure" forms - used to cover expenditures for work of both capital and expense nature - showed, when carried further to embrace examination of back-up invoices and interviews with construction and maintenance personnel, repeated expenditures listed as "utility piping", etc., on the authorization forms, i.e., a capital category, which expenditures in reality were for labor and various small parts, i.e., expense items. The staff testimony

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6/ The gas plant acquisition adjustment should therefore be computed as follows:

Purchase Price	$273,011
Less: original cost	(705,995)
Add: accumulated depreciation	207,991
contributions in aid of construction	40,300
Gas plant Acquisition Adjustment	$184,693

(Red Figure)

in this regard was credible and withstood pointed cross-examination. Accordingly we will adopt the staff's designation of these two amounts as operating expense.7/

Similarly, applicant has been lax in recording retirements of gas plant assets replaced or abandoned. The staff recommended that transmission and distribution mains with original cost of $6,992 should have been retired through December 31, 1975. Applicant did not present any opposition to this recommendation. The staff's recommendation and consequent reclassification are adopted.

Having adopted the preceding staff recommendations, we arrive at the net effect of these adjustments as reflected in Table I herein: Adjusted Gas Plant Accounts at 12/31/74 and 12/31/75. We will direct applicant to adjust its accounts accordingly.

7/ Operating Expense Instruction No. 1C (pages 204-15) of the Uniform System of Accounts includes as maintenance costs "work performed specifically for the purpose of preventing failure, restoring serviceability or maintaining life of plant".

Gas Plant Instruction No. 8B (pages 204-11) of the Uniform System of Accounts states, in part: "Exclude from equipment accounts hand and other portable tools, which are likely to be lost or stolen or which have a relatively small value (for example, $50 or less) or short life, unless the correctness of the accounting therefor as gas plant is verified by current inventories."

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TABLE I
Siskiyou Vangas
Adjusted Gas Plant Accounts at 12/31/74 and 12/31/75

Item	Recorded 12/3/74	Adjustments to Original Cost	Contributions In Aid of Construction	Adjusted Balance 12/31/74	Net Additions 1975	Adjusted Balance 12/31/75
Intangible Plant						
Franchise & Consents	$ -	$ 2,116	$ -	$ 2,116	$ -	$ 2,116
Production Plant						
Land and Land Rights	3,950	3,269	-	7,219	500	7,719
Structures and Improvements	16,329	29,206	(8,825)	36,710	3,900	40,610
Liquefied Petroleum Gas Eqpt.	54,418	94,887	(27,283)	122,022	35,549	157,571
Other Equipment	-	5,603	(1,008)	4,595	-	4,595
Distribution Plant						
Mains	-	267,924	(3,184)	264,740	40,041	304,781
Services	-	279,253	-	279,253	77,164	356,417
Meters	-	68,776	-	68,776	1,254	70,030
General Plant						
Structures and Improvements	-	247	-	247	-	247
Office Furniture & Eqpt.	3,546	7,831	-	11,377	342	11,719
Transportation Eqpt.	23,588	7,285	-	30,873	5,997	36,870
Stores Equipment	-	1,309	-	1,309	-	-
Tools, Shop, and Garage Eqpt.	-	24,137	-	24,137	-	-
Lab Equipment	-	812	-	812	12,780	55,825
Power Operated Eqpt.	-	567	-	567	-	-
Communications Eqpt.	-	11,579	-	11,579	-	-
Miscellaneous Eqpt.	-	4,641	-	4,641	-	-
Utility Investment	355,758	(355,758)	-	-	-	-
General Equipment	20,700	(20,700)	-	-	-	-
Organization Costs	180	-	-	180	-	180
Gas Plant in Service	478,469	432,984	(40,300)	871,153	177,527	1,048,680
Less Acc. Prov. for Depreciation	(7,774)	(234,846)	-	(242,620)	(19,733)	(262,353)
Net Gas Plant in Service	470,695	198,138	(40,300)	628,533	157,794	786,327
Construction Work in Progress	25,640	-	-	25,640	13,043	38,683
Total Utility Plant	496,335	198,138	(40,300)	654,173	170,837	825,010

(Red Figure)

After adopting the adjusted gas plant accounts as proposed by the staff, we next turn to the income statements for years 1974 and 1975 to verify claimed operating losses. Again there are a number of further adjustments to be made to applicant's accounts to obtain a realistic and valid income statement which conforms to the Uniform System of Accounts. The major adjustments include the following:

1. As stated earlier, applicant obtains its propane from its parent, Vangas, Inc., which has a policy of assessing a penalty charge of 1.5 cents per gallon purchased each month, September through May, for purchases in excess of 2/3 of the quantity purchased during the summer months, June through August. This policy, designed to encourage sales during the summer, is contrary to this Commission's stated policy of promoting conservation of energy. Accordingly, we have disallowed these penalties, $16,432 in 1974, and $8,230 in 1975, as operating expenses, and reclassify them below-the-line to other deductions.

2. Applicant has also charged other operating expense accounts for nonutility expenses. In 1974, $2,825 was so charged for appliance merchandising,[8/] and $7,583 for appliance service labor. In 1975 $8,390 was charged to utility operating accounts for additional appliance service labor. We have reclassified these expenses to nonutility accounts.

3. Similarly applicant has charged all office space rental expense at Dunsmuir and Yreka to utility accounts. The space is used for nonoperating functions of selling and servicing appliances as well as utility general administrative purposes. Therefore, we will divide the expense, with 50 percent, $2,726 and $2,785, respectively, for 1974 and 1975, being reclassified to nonoperational expense.

8/ In 1975, applicant changed its practice, and now charges appliance merchandising to nonoperating accounts.

4. As a consequence of having adjusted the plant accounts to record the accumulated depreciation applicable to the original cost of the assets purchased, we must accordingly increase depreciation expense by $10,985 for 1974 and $4,228 for 1975.

5. Having reclassified the erroneous capitalization of 1975 expenditures of $44,368 for repairs and maintenance and construction work in progress to operating expense, this amount should be added to Field Repairs and Maintenance Account, an operating expense.

After completing these adjustments, we arrive at the Adjusted Income Statements for years 1974 and 1975 contained in attached Table II. These statements evidence a net loss of $55,929 for 1974, and $71,087 for 1975.

TABLE II
Siskiyou Vangas
Adjusted Income Statements
Calendar Years 1974 and 1975

Item	1974 Adjusted	1975 Adjusted
Operating Revenues		
Residential Sales	$207,429	$250,862
Commercial & Industrial Sales	217,965	252,747
Total Operating Revenues	425,394	503,609
Operating Expenses		
Purchased Gas	302,662	375,723
Field Salaries	27,571	18,928
Field Supplies & Expense	5,171	3,688
Field Repairs & Maintenance	4,402	49,313
Rent	2,725	2,784
Transportation	5,824	2,295
Office Salaries	23,537	24,686
Insurance	12,632	18,140
Utilities	9,578	12,333
Uncollectible Accounts	4,593	2,482
Misc. General Expenses	8,625	6,552
Depreciation	18,644	23,950
Taxes Other Than Income Taxes	26,429	23,374
Income Taxes	200	200
Total Operating Expenses	452,593	564,448
Operating Income (Loss)	(27,199)	(60,839)
Other Income	(5,551)	(3,299)
Other Income Deductions	(23,179)	(6,949)
Net Income (Loss)	(55,929)	(71,087)

(Red Figure)

Turning next to the rate base for test year 1976, we note substantial differences in the calculations submitted by applicant and the staff. We resolve these differences as follows. Applicant used pre-September 1975 data in estimating additions, accruals, and retirements, whereas the staff used subsequent data. Applicant used incorrect (containing copying errors) depreciation rates, did not delete contributions in aid of construction, did not record some additions and retirements, and capitalized $44,368 in items which should have been expensed. For these reasons we will adopt the staff's values for plant and depreciation reserve. The staff estimate for working cash was based upon two average months' operating expenses (excluding tax and depreciation) less one month's average purchased propane, whereas applicant used one half of the anticipated monthly operating expenses plus one month's cost of purchased gas. We adopt the staff estimate as being the more conservative. Applicant made no provision for materials and supplies or for the use of storage tanks in its rate base calculations, whereas the staff, recognizing that applicant and Vangas, Inc. share certain propane storage facilities owned by applicant (for which no charge to Vangas, Inc. is made), apportioned the propane inventory and removed the depreciated value of that portion of the storage tanks used by Vangas, Inc. from the rate base calculations. We concur with the staff's treatment. As mentioned in the Statement of Facts, applicant began a cathodic protection installation, a program which will require three years. However, when in the course of that installation defective or corroded pipeline is discovered, it is replaced or repaired, resulting in both capital expenditure and higher than normal repair expense. These higher than normal expenses are amortized over a five-year period, and the staff took 3/5 of that total, or $23,279, designated as Construction Work in Progress for rate base calculation in test year 1976. The staff also computed the investment credit on 1973, 1974, 1975, and estimated 1976 plant additions, and ratably normalized it over the life of the additions resulting in a $38,100 reduction from rate base. Lastly, applicant used straight-line depreciation in calculation of federal income tax, whereas the staff used liberalized depreciation with normalization (after recalculating depreciation by the straight-line system using applicant's 1973 and 1974 rates - necessitated because applicant had capitalized $44,238 of expenses and construction work in progress and had not recorded retirements). We adopt the staff approach.

The following tabulation sets out the rate base calculations of both applicant and staff. We adopt the staff calculation, corrected to raise the Gas Plant in Service figure of $1,048,680 rounded off to $1,048,700 from the Adjusted Balance December 31, 1975 as taken from Table I herein.9/

9/ Inexplicably, in taking the Gas Plant in Service figure from Table I, $1,048,680 was rounded off to $1,048.5 rather than $1,048.7 for use in the table.

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TABLE III
Siskiyou [illegible]
Rate Base - Test Year 1976
(Dollars in Thousands)

Item	Utility	Staff	Adopted
Utility Plant			
Beginning of Year	$1,081.9	$1,048.5	$1,048.7
Additions	145.0	131.0	131.0
Gross Retirements	-	(3.5)	(3.5)
End of Year	1,226.9	1,176.0	1,176.2
Average Plant in Service	1,154.4	1,112.3	1,112.4
Depreciation Reserve			
Beginning of Year	264.6	256.4	256.4
Accruals	25.2	25.6	25.6
Net Retirements	-	(3.5)	(3.5)
End of Year	289.8	278.5	278.5
Average Depreciation Reserve	277.2	267.5	267.5
Average Net Plant	877.2	844.8	844.9
Working Cash Allowance	35.0	56.3	56.3
Materials & Supplies	-	27.9	27.9
Construction Work in Progress	-	39.8	39.8
Acquisition Adjustment	(225.0)	-	-
Adjustment for Storage Tanks	-	(8.8)	(8.8)
Deferred Investment Tax Credit	-	(38.1)	(38.1)
Deferred Federal Income Tax	-	(41.9)	(41.9)
Rate Base	687.2	880.0	880.1

(Red Figure)

Set forth in Table IV below is a tabulation of Results of Operations estimates at present rates for test year 1976 as prepared by the staff and applicant. Aside from the difference in estimated operating revenues shown, resulting in part from staff use of adjusted rate schedules reflecting a flow-through fuel adjustment, as well as staff use of weather adjusted gas usage figures reflecting a 3.65 percent increase in usage, there are other differences throughout as a result of distortions derived from applicant's incorrect calculation of its capital structure. These differences serve to render any strict comparison of results largely illusionary.

TABLE IV
Siskiyou Vangas
Estimated Results of Operations - Test Year 1976
(At Present Rates)

(Dollars in Thousands)

Item	Utility	Staff
Operating Revenue	$460.5	$546.0
Normal Operating Expenses		
Cost of Propane	345.4	408.7
Office Salaries	28.5	26.8
Field Salaries	42.5	21.2
Field Supplies & Expenses	.4	3.8
Repairs of Trans. & Dist. System	10.7	11.1
Transportation	6.3	2.4
Gen. Expenses Other	35.8	45.5
Payroll Taxes	8.4	13.0
Property Taxes	12.0	15.6
Local Franchise Taxes	8.0	7.3
Nonrecurring Operating Expense		
Repairs of Trans. & Dist. System	-	23.3
Subtotal Expense	498.0	578.7
Net Income Before Tax & Depreciation	(37.5)	(32.7)
Depreciation	25.2	25.6
State Franchise Tax	.2	.2
Federal Income Tax	-	(28.0)
Net Operating Income	(62.9)	(30.5)
Rate Base	687.2	880.0
Rate of Return	(9.2)%	(3.5)%

(Red Figure)

The staff, after considering the adjusted capital structure of this applicant, its status as a wholly owned subsidiary, the earnings of other utilities of the same class, its financial requirements for capital construction and other purposes, and equitable treatment for both customers and investors, recommends a rate of return of 8.92 percent as being fair and reasonable. Such rate of return would provide an earnings allowance on common stock equity of 12 percent based on applicant's adjusted capital structure as of February 29, 1976.

Despite the Dunsmuir city resolution and the stated objections to an increase, we have no alternative constitutionally but to allow applicant to earn a fair and reasonable return on its investment. However, as will be seen further on, some of the impact of the increase will be blunted on the residential consumer through application of lifeline concepts. An 8.92 percent rate of return, when applied to the adjusted 1976 rate base of $880,000 would produce net operating income of $78,496. The increase in operating revenue needed over present rates to produce that net operating income would be $214,387, an increase of approximately 39.3 percent. While an 8.92 percent rate of return is higher than the percentage rate requested by applicant, it must be recalled that applicant based its request upon misconceptions as to its proper capital structure. Its objective was only to make applicant economically well and to obtain a rate of return which would produce 12.0 percent on common stock equity. While differing with the staff over the acquisition adjustment adopted and the expensing of maintenance and construction work in progress items, applicant, looking to the immediate goal of a return on common equity, elected not to take issue on these other matters.

The rates proposed by applicant would produce operating revenues which would exceed the $214,387 calculated by the staff as needed to produce an 8.92 percent return, and by the staff's calculation would raise this rate of return to 11.0 percent.

Applicant has strong competition from tank gas in its service area, and has carefully structured its proposed rates to remain competitive as well as to accommodate its largely residential and small business clientele. There is no significant industrial base in applicant's service area. The staff agrees that the proposed rates are the highest which can be charged and still allow applicant to be competitive. For this same reason it is necessary to maintain a declining rate structure. However, the rate structure proposed by applicant makes no recognition of the Miller-Warren Energy Lifeline Act. That act requires establishment of a lifeline quantity of gas for residential consumers, and that the price of that lifeline quantity must not become greater than its price on January 1, 1976 until the system average rate of the utility becomes more than 25 percent greater than the system average rate on January 1, 1976. Commission Resolution No. G-1876 dated April 26, 1976 specified lifeline quantities of 25 therms for months May through October, and 110 therms for months November through April for applicant's residential customers. Applicant expressed the belief that actual lifeline quantities are somewhat less but recognized the need for compliance at this time on an experimental basis, reserving the right to raise that issue at some future date.

In this instance the staff computed applicant's system average rate as of January 1, 1976 as being 0.352 dollars per therm. To obtain the 8.92 percent rate of return recommended by the staff, an increase resulting in a system average of 0.469 dollars per therm will be required (both system average figures are weather adjusted). The 0.469 dollars-per-therm result represents more than a 25 percent increase over the January 1, 1976 system average, taking us beyond the scope of Miller-Warren, as Miller-Warren does not specify what is to be done once the system average price exceeds by more than 25 percent the January 1, 1976 system average price. Under the circumstances of this situation the staff recommends we adopt the following rate setting procedure:

1. That the rates proposed by applicant, including the fuel adjustment increases granted by advice letter through No. 13-G be adopted for all nonlifeline quantities and nonresidential customers.

2. That the minimum rate (the first 3 therms) for residential customers be held the same as the January 1, 1976 rate, thus preserving a lifeline base.

3. That rate blocks within the lifeline quantities be reduced for residential customers on a uniform cents-per-therm basis below the corresponding blocks of applicant's proposed schedule.

We find, as applicable to the particular factual matrix of this application, much merit in the staff recommendation. It is not inconsistent with the inherent thrust of the concerns that underlie Miller-Warren. In Miller-Warren, after concluding that light and heat are "basic human rights", and that basic minimum quantities must be made available to all the people at low cost, and noting that existing rate structures penalized small users and encouraged wastefulness by large users, the Legislature in essence froze the rates - in this instance of gas - for basic amounts to small residential users for an interim period until the system average increased a prescribed amount. While the Legislature has not described what occurs after the limited perimeters of Miller-Warren are reached, it is clear that it was a legislative intention to make the relative rate cost burdens more fair to all parties by narrowing down the rate spreads. The Legislature placed the burden of paying for immediate increasing costs and taxes during an interim period, and of spearheading conservation, upon the larger users. However, by directing this Commission to report back to the Legislature in January 1977 on the effect the act has had on rates and costs to users and utilities, at least inferentially it would appear clear that the legislative concerns were not transitory, or that its remedial prescription necessarily a one-shot proposition. Rather it would appear a clear intention to reassess the problem vis-a-vis the interim prescription before proceeding further with possibly more permanent solutions.

We are impelled to adopt the staff's proposed rate structure over applicant's because, even though we recognize the unique economic limitations to a more fair redistribution of the burdens which this increase necessarily imposes, we do not believe it would be keeping faith with the thrust of Miller-Warren to permit applicant's rate structure to entirely escape the interim restructuring remedies prescribed by the act merely because the size of the increase serves to take the system average rate beyond the 25 percent perimeters of the act. The recommended rate schedule proposed by the staff, set forth in forthcoming Table V, which we adopt, serves to preserve the essence of lifeline, giving the lifeline quantities a smaller rate increase than the other quantities, and still allows applicant the means to compete with other energy sources in its service area.

TABLE V
Siskiyou Vangas
Rate Comparison Schedule
Schedule No. G-80
General Service

Rates	Applicant's Present Base	Applicant's Present Effective	Applicant's Proposed Base	Applicant's Proposed Effective	Staff Proposed (Adopted) Nonresident	Staff Proposed (Adopted) Residential Summer**	Staff Proposed (Adopted) Residential Winter***
First 3 therms or less *	$1.50	$1.50	$1.80	$1.80	$1.800	$1.500	$1.500
Next 6 therms, per therm	.32	.47	.48	.63	.630	.555	.555
Next 16 therms, per therm	.24	.39	.40	.55	.550	.475	.475
Next 30 therms, per therm	.20	.35	.36	.51	.510	.510	.435
Next 55 therms, per therm	-	-	-	-	-	-	.415
Next 55 therms, per therm	-	-	-	-	-	-	.490
Next 110 therms, per therm	.18	.33	.34	.49	.490	.490	-
Next 135 therms, per therm	.16	.31	.32	.47	.470	.470	.470
Over 300 therms, per therm	.15	.30	.31	.46	.460	.460	.460

* The word "therm" means one hundred thousand British Thermal Units (100,000 Btu).

** Summer Schedule - May through October.

*** Winter Schedule - November through April.

In viewing Table V it must be noted that we list applicant's "base" and "effective" rates. Neither applicant nor the staff, in presenting exhibits, proposals, or testimony, used current rates, i.e., the rates the utility today is charging the ratepayers. The rates stated by applicant and staff are thus outdated. Applicant's tariff contains a fuel adjustment clause. This clause provides for increases under special conditions by advice letter to offset increases in the price of purchased propane gas. Since September 29, 1975, when this application was filed, the fuel adjustment clause has been the source of two rate adjustments not included in the Table V tabulations.[10] Therefore, it is important to remember that applicant's present "base" rates reflect applicant's tariff rates at date of filing, apart from any fuel adjustment clause increases. Applicant's present "effective" rates include fuel adjustment clause increases up through the offset allowed in Advice Letter No. 13-G, submitted August 21, 1975 to be effective September 17, 1975, i.e., the rates currently charged at date of filing of this application. Applicant's proposed "base" rates include the present base rates plus the proposed increase requested by applicant, exclusive of any fuel adjustment clause increments. Applicant's proposed "effective" rates include the present base rates, the increase requested, and all fuel adjustment clause increments through Advice Letter No. 13-G. The staff's proposed rates, on the other hand, adopt applicant's proposed effective rates as the staff's nonresidential rates, and with subjective reductions to build in a lifeline concept, as the staff's residential rates after summer and winter structuring.

10/ Advice Letter No. 14-G filed November 26, 1975 to be effective December 12, 1975, resulted in a $24,478 increase.

Advice Letter No. 15-G filed April 8, 1976 to be effective April 23, 1976, resulted in a $15,660 decrease.

In conjunction with the new rates adopted above, and to avoid a multiplicity of future advice letter minor rate changes, the staff asks that we adopt a change in the first paragraph of the "special conditions" contained in applicant's present Rate Schedule G-80, the fuel adjustment clause. We adopt the changes so that the revised first paragraph reads as follows:

> Special Conditions
>
> For gas used in excess of three therms per month, the rates in effect at any time vary with the average cost of liquefied petroleum gas delivered to the plants generating gas served under this schedule and shall be determined from the above base rates by adding to or deducting therefrom, respectively, 1.0¢ per therm for each 0.93¢* that such cost of liquefied petroleum gas (considering 30 percent of sales at Dunsmuir and 70 percent of sales at Yreka)* is above or below 24.5¢* per hundred thousand British Thermal Units, the change in rate to be to the nearest 0.5¢.
>
> * Denotes a change.

Therefore, adopting the staff's final recommendation on rate structure in this proceeding, the completed rate schedule approved by this Commission order will be the adopted rate schedules proposed by the staff in Table V, brought up to date using the above-revised purchased gas adjustment clause applied to the two advice letter offsets (Nos. 14-G and 15-G) exclusive of residential lifeline quantity considerations. The staff expert witness in this area testified that he estimated the net effect of this adjustment would be to increase the nonlifeline rates by about a half a cent a therm. It should be noted that our exclusion of lifeline quantity considerations from this adjustment should not be taken as an expression of Commission policy on future adjustments resulting from gas adjustment clauses. We leave such determinations to future expressions of the Legislature or subsequent opinions of this Commission.

The following Results of Operations table, Table VI, sets forth the operational results estimated for test year 1976, showing the staff's estimate at present rates, the staff's and applicant's estimates at applicant's proposed rates, and the estimate for the rates adopted by the Commission:

TABLE VI
Siskiyou Vangas
Results of Operations - Test Year 1976

(Dollars in Thousands)

Item	Present Rates Staff Est.	Appl. Prop. Rates Staff Est.	Appl. Prop. Rates Appl. Est.	Adopted Rates
Operating Revenue				
Revenue	$546.0	$797.8	$627.8	$760.4
Normal Operating Expenses				
Cost of Propane	408.7	408.7	345.4	408.7
Office Salaries	26.8	26.8	28.5	26.8
Field Salaries	21.2	21.2	42.5	21.2
Field Supplies & Expense	3.8	3.8	.4	3.8
Repairs of Trans. & Dist. Systems	11.1	11.1	10.7	11.1
Transportation	2.4	2.4	6.3	2.4
General Expense, Other	45.5	46.7	35.8	46.5
Payroll Taxes	13.0	13.0	8.4	13.0
Property Taxes	15.6	15.6	12.0	15.6
Local Franchise Tax	7.3	10.7	8.0	10.2
Nonrecurring Operating Expense				
Repairs Trans. & Dist. Systems	23.3	23.3	-	23.3
Subtotal Expense	578.7	583.3	498.0	582.6
Net Income Before Tax & Dep.	(32.7)	214.5	129.8	177.8
Depreciation	25.6	25.6	25.2	25.6
State Franchise Tax	.2	15.3	9.4	13.3
Federal Income Tax	(28.0)	76.8	45.7	60.0
Net Operating Income	(30.5)	96.8	49.5	78.5
Rate Base	880.0	880.0	687.2	880.1
Rate of Return	(3.5)%	11.0%	7.2%	8.92%

(Red Figure)

During the staff's field examination, a staff member was informed by the assistant treasurer and manager of the Accounting Department of Vangas, Inc. (applicant's parent company), that the rates proposed by both applicant and the staff would exceed the maximum system average which applicant is authorized under Federal Energy Administration regulations.[11/] This caused a problem in that the FEA maximum prices were based on a base period in which applicant was operating at a loss. While exemptions from the FEA requirements are available, they are difficult to obtain and can take up to eight months to obtain. During the public hearing in this application the staff expressed its opinion that applicant should be required, before any increased rates are placed in effect, "to obtain documentation from the Federal Energy Commission (FEA) that such rate schedules are allowable under FEA regulations". The staff bases this opinion upon a written legal opinion prepared by the regional counsel for FEA's Region IX[12/] directed to the same jurisdictional question for another Commission-regulated liquefied propane gas utility, which opinion implies assertion of federal jurisdiction over rate levels. On the other hand, applicant contests this staff opinion, contending that its rates are not subject to FEA regulation because of the legislative and administrative history which underlies those regulations. Applicant argues that this Commission has a statutory duty under California law to act on the application without reference to any FEA regulations, and asks that we do so and let applicant fight out any

11/ The Federal Energy Administration authority to regulate applicant's rates, if any, would be based on the Emergency Petroleum Allocation Act of 1973, 15 USCA Section 751 et seq. (1976 Supplement), which gave the FEA price control authority over petroleum products, including propane.

12/ Admitted into evidence in this proceeding as Exhibit 5.

possible differences with the FEA on its own. In the alternative, applicant asks that if we choose to assert jurisdiction and resolve the issue of possible FEA regulation over applicant, that we should conclude that FEA has no jurisdiction over applicant's rates. We do not find it necessary to resolve this jurisdictional matter. We will simply find that the proposed rates, as brought up to date by inclusion of the two subsequent offsets, to be fair and reasonable, and will authorize applicant to file a revised tariff to reflect these rates, leaving it up to applicant to resolve the matters of whether it is subject to FEA regulation, and of possible noncompliance with FEA maximum price regulations. In the event FEA orders or requires any reduction of all or any part of this increase, applicant will be required to make refund on a like basis to its customers. Accordingly, appropriate records to enable it to make expeditious refund in such eventuality should be maintained.

By order of the Supreme Court of California, the Commission is rehearing the ratemaking treatment of federal income tax depreciation in Applications Nos. 51774 and 51904. Pending the outcome of these hearings, the staff recommends that we order applicant to maintain its customer records in a manner appropriate to implement customer refunds if the Commission ultimately requires a changed treatment of federal income tax depreciation. The applicant points out that, considering the fact that applicant will not be subject to paying any federal income tax in 1976, and because of operating losses carried forward on its books it is highly unlikely that it will be subject to any federal income tax payments in 1977, any idea of deferred tax accounting would be ridiculous. Applicant did agree that in the event the utility starts showing a positive tax return it would agree to produce the records necessary to make refunds. At this point we believe this suffices.

There remain a number of staff recommendations which require comment, as they are not covered elsewhere.

The heating values differ for gas delivered to consumers at Dunsmuir and Yreka. At Dunsmuir the gas assertedly has an average heating value of 1,175 Btu per cubic foot, whereas at Yreka the average heating value assertedly is 1,350 Btu per cubic foot. Heating values at the two locations are monitored differently. At Dunsmuir there is continuous monitoring on a recording gravitometer. At Yreka calorimeter readings are taken once a year. The staff recommends that a system of calorimetry be initiated consonant with the requirements of General Order No. 58-B at both locations. Applicant contends that its current testing is adequate. We do not agree. The consuming public must be given assurance that the rate charged for gas is commensurate to the heating content of the gas supplied; after all, the base rate is established in recognition of the heat content of the gas (Southern Counties Gas Co. (1953) 52 CPUC 645, 669). Without some regularity in readings this is impossible. While General Orders Nos. 58-A and 58-B do not establish any required schedule for readings applicable here, we will direct that a system of calorimetry be initiated at Yreka so as to make at least monthly readings of the heating value of gas delivered to customers, with records of such readings to be preserved and available upon demand to Commission representatives for at least a two-year period after the reading. The system should be of a type and form approved by the Commission staff. We appreciate that the cost may approximate $1,000 but conclude that the public interest requires the installation. However, we do not share the concern of the staff about the situation at Dunsmuir. Although gas at Dunsmuir is monitored continuously on a recording gravitometer, the staff is concerned that because of the tank car mode of delivery, the gas could contain impurities - mostly butane - and if so, the gravitometer readings would not be a good guide of heating value.

We note that butane, the most probable and only contaminant stated by the staff, has a higher heating value than propane. Thus if the gas delivered has a heating value in excess of the 1,175 Btu claimed, as a result of some butane slipping in, and the customer pays only for the asserted 1,175 Btu value, we see little prospect of injustice to the ratepayer. We do not believe the additional expense of installing calorimetry is necessary at Dunsmuir at this time and under these circumstances.

Applicant has been imposing a $12.50 hook-up fee. This fee is not stated in applicant's tariffs and has been the source of two complaints[13/] during the past year. The size of the fee is considered reasonable by the staff. Applicant at the hearing requested, and we will approve, the filing of revised tariffs to include this $12.50 hook-up fee.

The staff recommended and applicant at the hearing requested permission to deviate from a calendar-year-ending basis accounting period. We approve deviation with the condition that applicant maintain adequate records to permit preparation of financial and operating statements directly from such records at the end of each calendar year.

The staff recommends and we direct applicant to maintain a list reconciling its account titles and numbering system to those prescribed in the Uniform System of Accounts.[14/]

13/ Both complaints were settled by applicant's waiving the fee.

14/ Section 792 of the California Public Utilities Code empowers the Commission to prescribe Uniform System of Accounts. This power relates to how accounts are to be recorded, and enables the Commission to keep informed of the financial management of the utility and increases the effectiveness of its other powers. (Pac. Tel. & Tel. Co. v Public Utilities Comm. (1950) 34 C 2d 822; and P.G. & E. Co. v Railroad Comm. (1938) 26 F Supp. 507.)

The staff recommends and we direct applicant to establish a policy, in conformance with the Uniform System of Accounts, for capitalizing small tools and equipment.[15]

Apart from a petty cash fund, applicant has a practice of pooling its cash receipts and payments through an intercompany series of accounts receivable and payable maintained by its parent Vangas, Inc. Applicant's funds are then netted on its balance sheet with advances made to it by Vangas, Inc. The staff recommends discontinuance of this practice, and that applicant establish its own bank accounts for cash receipts and payments, free of any contractual restrictions which could prevent its use to meet any and all obligations. Applicant strongly objects to this recommendation, alleging an unquantified greater expense to applicant would result with no improvement in accounting records but more paper work. At the hearing there was no evidence presented of commingled funds, misrepresentation, or harm thus far in this pooling arrangement, and it should be noted that although applicant was authorized by this Commission to take open account interest bearing advances from Vangas, Inc.,[16] and sizeable advances have been made, Vangas, Inc. has charged applicant no interest for these advances, it being the parent company's policy to advance funds to its subsidiaries at no cost. Also Vangas, Inc. has not made charges to applicant for management services. However, while under these circumstances it might therefore not appear inappropriate for the parent to shift funds to an intercompany account, such a practice is questionable. The receivable and payable accounts, from which the funds derive presumably have been accumulated and set up for a definite utility purpose, to meet maturing obligations, to finance retirements, etc. It

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15/ Id.

16/ See Decision No. 81272 dated April 10, 1973 in Application No. 53817.

appears essential that the utility should be in a position to utilize such funds when needed without being subject to the convenience and immediate cash position of the parent. To surrender control of such funds to the intercompany accounts could deprive the utility of its funds when its own need arises. Therefore, we will direct applicant to set up and maintain its own bank accounts for cash receipts and payments, free of any contractual restrictions with the parent or its fellow subsidiaries.

There are no further points to be discussed.

Findings

1. Since acquisition of this gas utility in 1973, applicant has made substantial investments in gas plant.

2. Since acquisition applicant has not maintained its books of account in conformance with the Commission's Uniform System of Accounts for Class C Natural Gas Companies.

3. Beginning with its accounting treatment of the acquisition, applicant has improperly constituted its capital structure and has incorrectly recorded, or capitalized, numerous operating expenses, necessitating a reconstruction of its gas plant accounts to accord with the Uniform System of Accounts for Class C Natural Gas Companies.

4. After adjusting gas plant accounts as of December 31, 1974 and December 31, 1975, as set forth in Table I herein, the adjusted Income Statements, as set forth in Table II herein, show net losses from operations for both 1974 and 1975.

5. After making numerous adjustments reflecting not only the acquisitional accounts, but also adopting later and more correct data, corrected retirements, amortization of a cathodic protection system, and other revisions pursuant to accounting practices in conformance with the Uniform System of Accounts for Class C Natural Gas Companies, a rate base of $880,100 for test year 1976, as set forth in Table III herein, is attained. We find it reasonable.

6. At current rates for test year 1976, applicant will obtain a net revenue loss of $32,700 on the base rate of $880,100, representing a net loss on operations of 3.5 percent for test year 1976. Applicant should be authorized to increase its rates by approximately $214,300 to produce an 8.92 percent return for test year 1976, exclusive of the fuel clause adjustments contained in Advice Letters Nos. 14-G and 15-G.

7. Applicant operates in a tight competitive situation with competing bottle gas in a market characterized by residential and small business consumers. This situation necessitates retention at this time of a declining block rate structure.

8. Applicant's system average price on January 1, 1976 was 0.352 dollars per therm. The increase of $214,300 authorized herein will serve to increase the system average price to 0.469 dollars per therm, an increase exceeding the 25 percent scope of the Miller-Warren Energy Lifeline Act.

9. Miller-Warren Energy Lifeline Act provisions do not specify what rate structure should be preserved or developed after the system average price of a gas utility exceeds 25 percent over the January 1, 1976 price. However, we find that retention of a lifeline concept is nonetheless intended, and by the rate schedule approved in Table V herein, we retain a lifeline concept adopted to this applicant's particular requirements and suitable to its consumer classes.

10. The increase in rates and the rate structure authorized in Table V herein are justified.

11. The adjustment in the first paragraph to the "Special Conditions" contained in applicant's present Rate Schedule G-80, the fuel adjustment clause, is just and reasonable.

12. There have been two fuel adjustment offsets, 14-G and 15-G, authorized since filing of this application.

13. The rates and charges authorized herein, brought up to date to include the offsets contained in Advice Letters Nos. 14-G and 15-G, each offset adjusted to reflect the "Special Conditions" in the revised fuel adjustment clause of present Rate Schedule G-80 but exclusive of lifeline considerations, are just and reasonable, and present rates and charges insofar as they differ therefrom are for the future unjust and unreasonable.

14. It is just and reasonable for applicant to submit a revised tariff to provide for a $12.50 hook-up fee.

15. Applicant should be authorized to deviate from a calendar-year-ending accounting period on condition that applicant maintain adequate records to permit preparation of financial and operating statements directly from such records at end of each calendar year.

16. It is reasonable that applicant should obtain and install at Yreka a system of calorimetry so as to make at least monthly readings of the heating value of gas delivered to its customers in that locality, with records of such readings to be preserved for at least a two-year period after each reading.

17. It is reasonable and desirable that applicant be directed to set up and maintain its own bank accounts for cash receipts and payments, free of any contractual restrictions with Vangas, Inc., or its fellow subsidiaries.

18. It is reasonable that applicant should be directed to comply with the staff accounting recommendations set forth herein.

19. In view of the jurisdictional questions involved, applicant should be permitted to resolve for itself questions arising in relation to its rate structure from possible application of Federal Energy Administration price regulations.

20. Applicant will not be subject to payment of any federal income tax in 1976, and it is highly unlikely it will be subject to such payments in 1977; therefore, it would be unreasonable and unjust, at this time, to impose any deferred income tax accounting requirement. In the event applicant's position changes it agrees to produce the records necessary to make any potential refunds.

Conclusions

1. The application of Siskiyou Vangas for increased gas rates should be granted to the extent hereinafter ordered.

2. The first paragraph of the "Special Conditions" of Siskiyou Vangas' Rate Schedule G-80 should be revised to the extent hereinafter provided.

3. Siskiyou Vangas should be authorized a $12.50 hook-up fee addition to its tariff.

4. Siskiyou Vangas should be directed to install a system of calorimetry at Yreka and maintain records of monthly readings for at least a two-year period after each reading.

5. Siskiyou Vangas should set up and maintain its own bank accounts to the extent hereinafter ordered.

6. Siskiyou Vangas shall be required to comply with all staff accounting recommendations as modified and adopted herein.

7. Siskiyou Vangas shall resolve with the Federal Energy Administration questions arising as to its compliance with that agency's price regulations.

8. Siskiyou Vangas will not be required at this time to adopt any deferred income tax accounting requirements.

O R D E R

IT IS ORDERED that:

1. Siskiyou Vangas is authorized to file with this Commission on or after the effective date of this order, in conformity with

the provisions of General Order No. 96-A, revised tariff schedules with rates, charges, and conditions as set forth in Table V, brought up to date to include the offsets contained in Advice Letters Nos. 14-G and 15-G, each offset adjusted to reflect the "Special Conditions" in the revised fuel adjustment clause of Rate Schedule G-80 but exclusive of lifeline considerations, and, on not less than five days' notice to the public and to the Commission, to make the revised tariffs effective. In the event the Federal Energy Administration requires or orders any reduction of the increase authorized herein, refunds shall be made to Siskiyou Vangas's customers on a like basis through advice letter filings. Siskiyou Vangas is directed to maintain such records as would enable it to expeditiously make refunds in such eventuality.

2. Siskiyou Vangas is authorized and directed to file with this Commission on or after the effective date of this order, in conformity with the provisions of General Order No. 96-A, revised "Special Conditions" to Rate Schedule G-80 as set forth in the body of this decision, and, on not less than five days' notice to the public and to the Commission, to make the revised "Special Conditions" effective.

3. Siskiyou Vangas is authorized to file with this Commission, on or after the effective date of this order, in conformity with the provisions of General Order No. 96-A, revised tariff schedules to provide for a $12.50 hook-up fee, and, on not less than five days' notice to the public and to the Commission, to make the revised tariffs effective.

4. Siskiyou Vangas is directed to install a system of calorimetry at Yreka, in conformity with the provisions of General Orders Nos. 58-A and 58-B and to make readings thereafter not less than monthly.

5. Siskiyou Vangas is directed to set up and maintain its own bank accounts for cash receipts and payments, free of any contractual restrictions with Vangas, Inc. or its fellow subsidiaries.

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6. Siskiyou Vangas shall comply with all staff accounting recommendations as modified and adopted in this order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 21st day of DECEMBER, 1976.

President

William Symons Jr.

Vernon L. Sturgeon

Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.