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Decision No. 87510 June 28, 1977 ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the adequacy and reliability of the energy and fuel requirements and supply of the electric public utilities in the State of California.	Case No. 9581 (Filed July 3, 1973)
Investigation on the Commission's own motion into the natural gas supply and requirements of gas public utilities in the State of California.	Case No. 9642 (Filed December 18, 1973)
Investigation on the Commission's own motion into the establishing of priorities among the types or categories of customers of every electrical corporation and every gas corporation in the State of California and among the uses of electricity or gas by such customers.	Case No. 9884 (Filed March 11, 1975)

(Appearances are listed in Appendix A.)

INTERIM OPINION

After 21 days of hearing, the Commission on December 2, 1975 issued D.85189 establishing an end-use priority system for allocating California's natural gas supply. The fundamental basis of priorities

1/ For other decisions dealing with the State's supply of natural gas see D.81931 dated September 25, 1973, D.82139 dated November 13, 1973, D.82881 dated May 15, 1974, D.83612 dated October 16, 1974, D.83819 dated December 10, 1974, and D.86357 dated September 1, 1976.

established by that decision was that those customers most capable of converting to an alternate fuel are first curtailed.

In D.85189 we stated in Finding 13:

"13. To the extent that customers of the gas utilities have their own source of supply and are physically able to use such supply to meet their own requirements, the obligation of the delivering utility should be equivalently reduced."

On January 29, 1976 San Diego Gas & Electric Company (SDG&E) filed a Petition for Modification and Clarification. Hearings were held on August 23, 24, and 25, 1976 at San Diego at which time testimony was presented by SDG&E, Southern California Edison Company (Edison), Spreckels Sugar Division of Amstar Corp. (Amstar), Shell Oil Co. (Shell), and General Motors Corp. (GM).

SDG&E stated that its motion for clarification was filed because of the uncertainty of whether Finding 13 was equally applicable to wholesale and retail customers of the gas distribution utilities. Moreover, if the Commission intended Finding 13 applied to wholesale purchases, it is SDG&E's position that it would be at odds with D.84512 which provided for parity of deliveries by Southern California Gas Company (SoCal) to its customers within a given priority.

Arguments Presented

Staff

The staff took no position on Finding 13 at the hearing.[2/] On October 22, 1976 the staff notified the parties by letter that its position was:

2/ Staff now recommends Finding 13 be revised to read as follows:

"To the extent that customers of the gas utilities have their own source of supply of natural gas and are able, by reasonable means, to use that supply to meet their own requirements, the obligation of the delivering utility should be equivalently reduced. This limitation should not apply to gas acquired by public utilities for resale or to their existing independent supplies which are unsuitable for resale."

"1. Finding 13 should exempt public utilities' present supplies of natural gas from independent sources.

"2. Finding 13 should exempt public utilities' new independent supplies of natural gas for resale. A deviation for gas not for resale would be appropriate in certain circumstances."

Based on the testimony of SDG&E that its Tioga gas was for high priority peaking purposes and Edison's testimony that its own source gas was unsuitable for the gas utilities distribution system, the staff apparently believes a utility should be permitted without detriment to use its own supply for the benefit of its customers.

The staff now advocates an exemption for a utility's new supply of gas when such supply is used for high priority purposes on the ground that gas and electric utilities have been encouraged by the Commission to acquire additional supplies of gas and other fossil fuels to provide basic utility service and that any other holding would be counterproductive.

With respect to retail and industrial customers, the staff feels the problem is not the same as that confronting the utilities. In order to prolong deliveries to higher priority customers the staff now advocates that industrial customers should not be encouraged to compete for limited California reserves. However, the staff stated that industrial customers should not be discouraged from seeking and developing new supplies of gas when the quantities are "not substantial" or "of little interest to the utilities".

Finally, for administrative and practical reasons, the staff reaffirmed its position of opposing the wheeling of gas by the State's privately owned utilities. As a result of SB 77 (Appendix B) which enacted Sections 2801-2816 of the Public Utilities Code, the staff now takes the position that wheeling might be permitted if an industrial customer could demonstrate that this would not result in lower levels of service to high priority customers.

SDG&E

SDG&E's position is that Finding 13 should be limited in its applicability so as not to affect wholesale gas customers of utilities. SDG&E receives approximately 1,500 MMBtu per day of natural gas from the Tioga Wells Corporation in Chowchilla, California, in the form of LNG which is trucked to its storage facility in Chula Vista. The balance of the SDG&E's supply is received from SoCal.

If Finding 13 were deemed to apply to wholesale customers of gas utilities and SDG&E were required to reduce its highest priority requirements on the SoCal system by an amount equal to its Tioga supplies, SDG&E argues that it, in effect, would be required to give up SoCal supplies equal to the Tioga volumes. The amount of SoCal gas thus displaced would be distributed to all SoCal customers. Since SDG&E purchases about 10 percent of SoCal's supplies, the effective result would be that SDG&E would lose 90 percent of its Tioga supply.

SDG&E's witness Stuart stated that the financial impact of such treatment of an independent gas supply would cause an economic burden on SDG&E and others similarly situated. He stated that the cost of the Tioga supply to SDG&E is approximately $3 per Mcf as compared to $1 per Mcf for gas purchased from SoCal. If SDG&E were required to bear the full cost of the Tioga gas and only retain 10 percent of it, the net cost of the increased supply of 150 MMcf per day, after a credit for the reduced purchased from SoCal, would be $21 per Mcf.

Given the fact that new supplies of gas will be more costly than SoCal's existing supply, Mr. Stuart stated the economic impact of the Tioga supply as outlined would be equally applicable to any new supply although the actual effective cost per Mcf would vary with the cost of each new supply. Thus, it would make little sense for SDG&E to make continuing efforts to obtain new gas supplies given this economic impact.

Finally SDG&E states that in D.81931 we directed the California utilities to attempt to contract for additional fuel supplies and in D.84512 issued June 10, 1975 in A.53797 we provided for parity of deliveries by SoCal to its customers within a given priority. SDG&E argues that as a result of D.84512, its Tioga supplies act as a reduction on its requirements on the SoCal system in the low priorities, not the high priorities as Finding 13 appears to do, thereby avoiding the inequitable results and disincentives to procure new gas supplies that would obtain if Finding 13 were deemed to apply to wholesale customers.

SoCal

SoCal opposes SDG&E's request that wholesale customers be exempt from the provisions of Finding 13 arguing that if SDG&E were to prevail, an extensive and well-supported California regulatory concept would be jeopardized.

SoCal states that in D.84512 the Commission reaffirmed its statutory obligation to eliminate undue discrimination in the levels of service enjoyed by power plant operators served directly or indirectly by SoCal.

SoCal also argues that Edison should continue to apply its own source supply to its high priority ignition requirements and report only the balance of its requirements to SoCal. This would ensure a level of service for Edison no greater than that enjoyed by other power plant operators and preserve the integrity of Edison's position in D.84512 to the effect that comparable levels of service must be maintained to prevent discrimination.

Edison

Edison asserts that Finding 13 is unsound and should not be adopted. If it is adopted, Edison believes that it should not apply to its own source of gas and that there is no justification for treating electric retail utility customers differently than wholesale gas utility customers.

Currently Edison has arrangements for natural gas from the following California producers: Hellman Estate, Ritchardson-Crane-Utterback, American Pacific International, Associated Investment Company, and Atlantic Richfield Co. (ARCO). Total deliveries from these producers were 4,405 M^2CF in 1974, 5,439 M^2CF in 1975, and estimated deliveries of 4,955 M^2CF in 1976 and 3,396 M^2CF in 1977.

As with the other participants, Edison argues that any proposal designed to require a customer to utilize gas which may be available from its own source prior to receiving service from the gas distributing utility at a commensurate level to other customers in the same priority group or to arbitrarily adjust his fuel requirements downward because of such factor would tend to reduce the incentive for such customers to develop additional gas supplies to the detriment of the overall gas supply situation. This disincentive would result because the effect of a successful investment and effort would further reduce the customer's normal entitlement from nondiscriminatory gas service by the gas distributing utility.

Edison also argues that the expense and effort which resulted in the acquisition of its ARCO gas supply for the benefit of its operations and electric customers have already been reflected in electric customers' rates and for Edison to now indirectly subsidize SoCal's customers would be inequitable and unjustly discriminatory. For example, Edison's Priority 2 (P-2) level of service would be reduced to almost zero while other electric utilities such as the Los Angeles Department of Water and Power (LADWP) served by SoCal would receive a 100 percent level of P-2 service.

Finally, Edison asserts that 25 percent of its own source gas is of a quality that is totally unacceptable for use in the SoCal system but that it can be utilized in some steam electric generating

stations. Specifically, the Arco-Redondo gas supply is such that if Edison did not use the gas it would be flared since its impurities would not permit its use in the refinery nor can it be injected into the gas distribution system.

GM

The GM position is that the implementation of Finding 13 would be ill-advised since it would operate as a gross disincentive to further gas exploration and operates to the detriment of high priority gas needs. Through its witness, Mr. John Ricca, GM introduced its "self-help" gas development policy which it alleged is designed, consistent with the regulatory trend in other jurisdictions to encourage the further development of natural gas reserves.3/

3/ The specific terms of the GM self-help proposal are:

a. California's self-help policy should be limited to the development of gas for high priority commercial and industrial uses, i.e., those encompassed within Priority 2-A (P-2A) (permanent) and P-2B (permanent) under D.85189.

b. The self-help policy should include a provision like that in the most recent Ohio order (Exhibit 122, Attachment "G") permitting but not requiring negotiations for sale to the transporting utility of up to 25 percent of the self-help gas delivered to the utility.

c. California's self-help policy should apply only to those existing commercial and industrial customers whose deliveries for the specified high priority uses are curtailed or are subject to imminent curtailment. Such a policy should also make some allowance for a reasonable measure of growth at existing and new facilities.

d. A condition should be imposed to clarify that the wheeling of self-help gas may not preempt pipeline capacity required to handle the transporting utility's normal deliveries and is also subject to interruption in the event of force majeure and peak-day or other weather-associated conditions.

(Continued)

In support of its position, Mr. Ricca stated that projected deficiencies of gas supply require that California act expeditiously to encourage development of all available sources pending arrival of new out-of-state supplies. He argues that California's efforts have to date been directed to gas sources outside the state and conspicuously absent has been any definitive policy or program designed to stimulate development of gas reserves within California. To support this position, Mr. Ricca stated that while California's existing gas fields produced only 84 billion cubic feet of gas in 1975, remaining known reserves exceed 1.5 trillion cubic feet, and that despite the well-documented reserves figures, exploration and development in California remained essentially the same during the 1970-1974 period and had a 30 percent drop in activity in 1975. Mr. Ricca stressed the disincentive approach to the problem and stated that although GM has received several proposals from various producers for the development of gas in California, none has led to definitive self-help arrangements because "of the formidable obstacles presented by this Commission's pronouncements on the issue of self-help gas".

3/ (Continued)

e. California's self-help wheeling policy should also provide that the construction of any new facilities required for transportation of self-help gas shall be at the sole expense of the customer whose self-help gas is to be wheeled.

f. The terms and conditions of all agreements entered into between customers pursuing self-help gas development and those utilities proposing to transport such gas should be subject to the review and approval of this Commission.

The Commission's pronouncements referred to were identified as Finding 13, at issue herein, and Finding 19 of D.83819 issued December 1974 wherein we found that wheeling natural gas by California utilities would not be in the best interests of the citizens of California.

Finally, Mr. Ricca stated that it should be noted that this Commission recognized the disincentives inherent in this type of regulatory offset in its application for rehearing in Federal Power Commission Docket No. RP-72-6 wherein it was argued that California's investments in storage should not have the effect of reducing the El Paso Natural Gas deliveries to California.

With respect to its gas self-help proposal, GM recommends that the Commission authorize the wheeling by public utilities of privately owned or developed gas, subject to appropriate conditions and safeguards along the lines of those included in the New York and Ohio self-help orders.

Shell

Shell opposes Finding 13 as being adverse to the consumers' interest arguing that it discourages industrial customers from seeking their own supply and thereby acts to limit the incentive of such industrial customers to expand gas supplies available to consumers of the State.

In its argument Shell asserts that Finding 13 is but the third step by this Commission to stifle new gas supplies, the first two steps being (1) the Commission's long-standing policy of attempting to hold down prices paid to California producers by denying the California utilities the right to recover in their rates for purchased gas costs above levels deemed appropriate by the Commission and (2) the Commission's various attempts to regulate prices of producers' sales at the wellhead.

Shell argues that the Commission's position is based on the basic misunderstanding of the structure of the gas producing industry and the belief that gas prices are inelastic. Shell asserts that gas prices are elastic: the supply is directly dependent on the price the consumer is willing to pay. The price the Commission permits the gas producer to receive determines the amount of money the producer is able to spend to find new gas supplies at continually higher costs. Thus, with California producers' production and exploration on the decline, there is increasing dependence on outside supplies. In addition, Shell argues that it is inequitable for its own source gas to be used to measure a customer's requirements since such a customer could theoretically receive the same level of service without the expenditure of vast sums of money. Finally, Shell states that if Finding 13 is retained as Commission policy, its Martinez refinery supply should not be counted toward its entitlement because (1) such supply is not of pipeline quality, and (2) the supply merely replaces existing supplies of Shell-owned gas which are being depleted.

Regarding its own supply, Shell states that since 1964 it has operated a small wholly owned pipeline system to connect several gas fields in which it owns an interest to Shell's Martinez refinery and the Shell Point chemical plant. The Martinez refinery utilizes natural gas as a feedstock in the manufacture of hydrogen, which in turn is utilized in a hydrocracker to produce motor gasoline and aviation jet fuel. This process requires a high quality of natural gas, free from other inert gases, such as nitrogen, in order to accomplish its desired purpose. In addition to the use of gas as a feedstock, the refinery also utilizes gas in 55 furnaces which are designed to use only gas as a fuel.

In 1972 Shell realized that with the depletion of its fields production would soon decline to the point where they would not be able to continue to meet the high priority needs of the Martinez refinery. Its exploration program, begun in 1972, discovered a number of small gas fields in the Sacramento Basin, totaling reserves of approximately 84 billion cubic feet. Some of this gas contained quantities of nitrogen, which reduced the Btu content and made the gas unsuitable, both for sale to Pacific Gas and Electric Company (PG&E) in the field, and for use as feedstock in the hydrocracking process.[4/] In order to make the most efficient use of the natural resource which it discovered, and at the same time to partially alleviate the projected supply deficiency of natural gas at the Martinez refinery, Shell decided to construct a pipeline system from the Sacramento River Basin to connect with its existing Sacramento River gas system at a cost of $14,400,000. Although this pipeline is not yet completed, its concept and planning antedated D.85189. If Finding 13 is implemented as to this new gas, it is argued that the beneficial effect of the $14,400,000 investment will be sharply reduced. Shell asserts that it will lose the high Btu gas which it is currently purchasing from PG&E, which is used for feedstock and process gas, and will be left solely with low Btu gas which can only be used as refinery fuel.

4/ Although it is theoretically possible to blend some quantities of lower Btu gas in a pipeline system if sufficient quantities of higher Btu gas are available so that the minimum pipeline requirements are met, at this particular point on PG&E's system there were insufficient quantities of higher Btu gas available to make this approach feasible (Tr. 12670-12671, Tr. 12657).

California Manufacturer's Association (CMA)

CMA opposes the adoption of Finding 13 as Commission policy arguing that it runs counter to the Commission's recognition in D.85189 of the tremendous economic costs associated with curtailment. CMA urges the Commission to encourage the development of additional gas supplies within California through the implementation of a self-help program which includes wheeling of gas by the utilities. CMA argues that such a policy would not penalize any customer or class of customer but would go toward meeting the energy needs of all customers, not simply those designated by the Commission as high priority.

CMA stressed that economic penalties associated with natural gas curtailment are not limited to high priority feedstock and process customers. It points out that it is likely some boiler-fuel customers will be unable to obtain sufficient quantities of fuel oil, or to burn fuel oil without restriction, to compensate for the reduction in gas supplies they receive. This situation would result in reduced production and loss just as would curtailment of a feedstock customer.

Finally CMA argues that failure to adopt a self-help policy would severely penalize those customers which had the foresight to develop independent supplies in the past.

Amstar

Amstar also opposed the implementation of Finding 13 arguing that it would result in inequitable treatment and serious hardship to the gas utility customers with their own source of supply. Amstar argues that the interplay of Finding 13 and PG&E's Rule 19, could have an even more serious adverse consequence in that if Finding 13 could be interpreted to require a customer to curtail its gas purchases from the utility for all uses until it exhausts its own source of supply, service could be denied by the utility by operation of Rule 19. The combined effect penalizes the customer who takes the initiative to develop its own source of supply.

Amstar argues that if a customer has its own gas supply which, under certain conditions, is sufficient to meet its own gas requirements at a particular location, the customer could arguably be compelled to use all of its gas prior to using any utility gas, which could have the following adverse effect: a too rapid draw-down of gas reserves without regard to proper gas well management, the installation of delivery equipment of a greater magnitude than that which would be considered economically feasible for the amount of the available gas supply, and the incurring of unscheduled and involuntary capital expenditures. Conversely it is argued that the customer, who takes no action and commits no capital to the development of additional gas supplies for its own use, is unaffected by the impact of the combined effect. To avoid such inequity, Amstar suggests Finding 13 should be interpreted in a manner allowing the customer the broadest latitude in determining the timing, amount, and type of use for its own source of gas or otherwise exempt from the application of proposed Rule 19 those customers who would otherwise subsequently be considered new utility customers upon the exhaustion of the customer's own source of gas supply.

Finally Amstar stated that with natural gas supplies diminishing, the actions taken by the Commission should reflect a policy which encourages California gas users to discover and develop gas supplies within California for their own use. The maximum development of such resources can only be realized by allowing California users to develop their own gas supply without being penalized for having undertaken such a costly risk-filled venture.

With respect to the staff's position that industrial customers should not be encouraged to compete for California's gas resources, Amstar stated that such position assumes that this competition would divert gas supplies from residential to industrial use and reduce the amount of gas available for residential use. It

presupposes that the additional gas supply developed by the industrial customers for their own use would otherwise have been available for use by residential customers. If restrictive regulatory policies create economic barriers which limit the participation of gas customers in the development of new gas supplies in California, the result will be the reduction of the overall gas supply in California, which will impact adversely on all forms of gas usage, including residential.

Conversely Amstar argues that a regulatory policy which encourages customers of gas utilities to develop their own source of supply would create greater activity in the discovery and development of California's natural gas resources which would inure to the benefit of all Californians not only by virtue of more abundant gas supplies, but also because of the many attendant benefits such as greater employment opportunities, cleaner air, and a favorable business climate permitting California industry to remain competitive in the marketplace.

Discussion

With the decline in supplies of natural gas available to California utilities, the issue of a fair and equitable plan for the allocation of remaining supplies has been of major concern to this Commission. In these consolidated cases, as well as in other proceedings, we have determined that to meet our statutory obligation of protecting customers from discrimination, with respect to levels of service, the concept of parity should be adhered to by the utilities.

In Finding 13, we determined that to the extent customers of gas utilities have their own source of supply, the obligation of the delivering utility should be equivalently reduced. Such action would conform to the parity concept. We reasoned that under a curtailment scheme, customers with their own supply and with the ability to switch to an alternate fuel, would receive the equivalent of firm service while customers without their own source would be curtailed.

To totally abrogate Finding 13 would permit those customers with an independent source of supply to achieve the equivalent of firm service by excluding their own source gas in the determination of the utilities' obligation to serve. This then would result in disparate levels of service among customers in the same priority class with gas being consumed in lower priority uses. Such a result would not only be inconsistent with the end-use priority system adopted in D.85189 but would be in conflict with the parity concept.

While we are still of the same opinion, we are convinced that some modifications are in order.

In D.81931 dated September 25, 1973 we ordered respondents PG&E, Edison, and SDG&E to pursue all appropriate federal regulatory proceedings to increase natural gas and fuel oil supplies, including, but not limited to, improved electric utility priorities from the Federal Power Commission (FPC) and the Energy Policy Office. It would not be equitable for us now to reduce the amount available by the amount of reserves a utility has available as a result of that order. We agree with the staff that Finding 13 needs to be revised with respect to a public utility's existing independent supply.

We also believe that to encourage the respondent utilities to pursue the avenues required to increase natural gas supplies, it is necessary to exempt all new independent supplies whether for resale or consumption in boilers so long as higher priority customers throughout the state are not being curtailed. Thus in the case of SDG&E, any independent new supply acquired should be available for use on the SDG&E system without restriction so long as higher priority customers are not curtailed.

Whatever else this Commission does with regard to natural gas, it must devise a policy designed to stimulate overall conservation of our natural resources while providing the incentive to stimulate exploration and development of natural gas to protect the high priority user.

The California utilities are presently engaged in various projects to acquire new sources of supply.[5/] In order to prevent curtailment of the high priority uses established in the end-use curtailment plan, this Commission has supported the utilities in these efforts. This action is a step toward lessening curtailment exposure to high priority users. However, any action to encourage dedication of reserves should not conflict with the allocation principle adopted in D.85189.

The gas utilities understandably argue against industrial customers competing for California's limited gas reserves. They argue that with California reserves shrinking, only careful management of such reserves can ensure extended service to higher priority users. In addition to the limited reserves, there exists the problem of duplication of costly gathering and transport facilities and the fact that such action only postpones the inevitable switching to an alternate fuel. Finally and perhaps the most important is the argument that the acquisition and use of new gas by individual users would bypass the curtailment plan adopted in D.85189.

Considerable concern was expressed during the hearing on the issue of self-help. Primarily it was the position of some parties that any encouragement for industrial development of California's gas reserves would result in lower levels of service to the higher priority customers who lack alternate fuel capability and the removal of such reserves from Commission jurisdiction.

5/ D.80430, issued August 29, 1972 in A.52696, authorized ratemaking treatment for exploration and development expenditures for SoCal. D.81898, issued September 25, 1973 in A.53625, established a procedure for SoCal to support gas exploration and development activities (GEDA). On May 6, 1976 SoCal filed A.56471 for authority to extend the GEDA prodedure for an additional three years. D.80878, issued December 19, 1972 in A.53118, authorized ratemaking treatment for gas exploration and development expenditures of PG&E. On August 25, 1976 PG&E filed A.56709 for a GEDA procedure.

While the self-help proposals would appear to defeat the intent of Finding 13, we believe the continuing need to provide firm gas service to high priority customers requires a full review of the alternatives available.

In SB 77 (Appendix B) the Legislature stated:

> "...in order to promote the more rapid development of new sources of natural gas and electric energy, to maintain the economic vitality of the state through the continuing production of goods and the employment of its people, and to promote the efficient utilization and distribution of energy, it is desirable and necessary to encourage private energy producers to competitively develop independent sources of natural gas and electric energy not otherwise available to California consumers served by public utilities, to require the transmission by public utilities of such energy for private energy producers under certain conditions, and remove unnecessary barriers to energy transactions involving private energy producers."

and:

> "In order to promote the more efficient use and distribution of natural gas or electric energy and eliminate the necessity for construction of transmission facilities for gas or electricity produced by a private energy producer separate from those which may already exist to serve the same area and are owned and operated by a public utility subject to the jurisdiction and control of the Public Utilities Commission, the commission shall authorize the construction of an interconnection by a private energy producer upon application of such producer if the commission makes the findings required by Sections 2812 and 2812.5"

The Legislature has, by SB 77, provided the incentive for the development and transmission of new sources of energy by the private energy producer. Consistent with this incentive, the self-help program proposed by GM and others should be explored. The

record in this proceeding is not adequate to make definitive findings on this issue. Accordingly, we will direct the staff to make a comprehensive study of this question, including but not limited to the GM self-help proposal and plans adopted in the States of Ohio and New York and report to the Commission within 180 days. The study should encompass all phases of conservation in addition to feasibility of implementation. Pending a review of these self-help proposals, we believe Finding 13 should be amended to provide that gas acquired for resale or existing independent supplies not suitable for pipeline use should be excluded from determining a customer's entitlement under the end-use priority system established by D.85189.

Petition of SDG&E for Extension of Time

On October 15, 1976 SDG&E filed a petition for an extension of time for converting electric utility start-up and igniter fuel requirements to an alternate fuel.

In establishing the gas priorities in D.85189, we determined that natural gas for electric utility igniter, start-up, and flame stabilization use should be placed in Priority P-2 in order to assure continued firm electric service. Priority P-2 was temporarily subdivided into A and B with the electric utility igniter, start-up, and flame stabilization requirements placed in P-2A. We also determined in that decision that customers in P-2A capable of converting to an alternate fuel should be transferred to an appropriate lower priority two years from the effective date of the decision. The decision provided that customers unable to convert within the two-year period could apply to the Commission for an extension.

In addition, the electric utilities were ordered to submit a detailed estimate of the cost of converting their igniter, start-up, and flame stabilization fuel requirements to an alternate fuel other than natural gas and the quantities of the alternate fuel to be used in making such estimate. They were also ordered to initiate a program designed to convert these uses to an alternate fuel.

At hearings held March 1, 2, and 3, 1976 testimony was heard on the requirements of the electric utilities and the various uses of gas by electric utilities which come with the igniter, start-up, and flame stabilization framework.

While these hearings were in progress, the FPC in Docket RP-72-6 held hearings to determine where igniter requirements should fit into the FPC established priorities on the El Paso Natural Gas Co. system. At this time the igniter phase of RP-72-6 has not been concluded and no order has been issued.6/

It is alleged by SDG&E that it is feasible to continue testing without incurring too great a cost, but if actual conversion is to be required, large sums of money are going to be invested in engineering and hardware and more time will be needed to make the changeover. It is for this reason the request for an extension is made.

The information required by D.85189 was filed and the utilities are continuing to study the problems of conversion and are testing alternate fuels. Since testing is continuing with progress reports being filed with the Commission, and the FPC is still studying igniter requirements, we believe the request for an extension of time is reasonable and should be granted.

6/ In RP-72-6 the FPC on October 15, 1976 ordered at page 15 that:

> "flame stabilization and ignition fuel requirements shall remain in Priority 2 until a Commission decision is issued regarding the propriety of downgrading such requirements in the 'Flame Stabilization and Ignition Fuel' hearing in this docket." (Ordering Paragraph (E) at page 15.)

The FPC staff has forwarded to the various gas distributors its suggestions as to the form of questionnaire to be submitted to the distributors' customers. The California distributors have prepared their own questionnaires to their industrial customers and have advised the FPC staff that such questionnaires should be forwarded to the FPC no later than February 28, 1977.

Findings

1. D.85189 dated December 2, 1975 established an end-use priority system for the statewide allocation of natural gas.

2. In D.85189 we stated in Finding 13:

> "To the extent that customers of the gas utilities have their own source of supply and are physically able to use such supply to meet their own requirements, the obligation of the delivering utility should be equivalently reduced."

3. D.81931 dated September 25, 1973 required the California utilities to pursue all appropriate federal and state regulatory proceedings to increase natural gas and fuel oil supplies.

4. "Own source" gas as used in Finding 13 includes all natural gas except that received from a gas distribution utility.

5. The implementation of Finding 13 could have a financial impact on the gas utilities' wholesale customers.

6. A high level of service should be maintained for high priority users who are unable to convert to an alternate fuel.

7. California utilities should continue to explore all possible avenues to augment existing supplies of natural gas.

8. Total abrogation of Finding 13 would remove significant quantities of natural gas from this Commission's jurisdiction, because such abrogation of Finding 13 may encourage customers further to develop their own supplies of gas.

9. To totally abrogate Finding 13 would allow customers with their own source of supply to gain an advantage, because the obligation of the delivering utility would not be affected.

10. Some independent source gas is not of pipeline quality and therefore should not reduce the obligation of the delivering utilities.

11. Natural gas is a premium fuel that customers would use even if it were more expensive than an available alternate fuel.

12. Low priority customers of utilities should not be encouraged to develop their own source of supply of natural gas to the ultimate detriment of high priority customers.

13. Implementation of Finding 13 could operate as a disincentive to further California gas exploration and development.

14. The Commission should support the utilities' programs designed to develop new supplies for utility purposes.

15. As enacted, Sections 2801-2816 of the Public Utilities Code require the wheeling of natural gas by public utility gas corporations for customers with their own source if certain conditions are met.

16. The natural gas available to California requires that the Commission investigate the proposals of the parties for self-help. The staff should study these proposals and report to the Commission within 180 days.

Conclusions

1. Pending further study regarding self-help, Finding 13 of D.85189 should be amended to read:

> "To the extent that customers of the gas utilities have their own source of supply of natural gas and are able, by reasonable means, to use that supply to meet their own requirements, the obligation of the delivering utility should be equivalently reduced. This limitation shall not apply to gas acquired by public utilities for resale or to existing independent supplies which are not suitable for pipeline use."

2. Pending a decision by the FPC regarding where natural gas requirements for igniter, start-up, and flame stabilization use should fit into established priorities on the El Paso Natural Gas Co. system, the electric utilities' conversion should be extended.

3. Wheeling should not be authorized at this time, but the staff should study self-help gas plans and report to the Commission with recommendations.

INTERIM ORDER

IT IS ORDERED that:

1. Finding 13 of Decision No. 85189 is amended to read as follows:

> "To the extent that customers of the gas utilities have their own source of supply of natural gas and are able, by reasonable means, to use that supply to meet their own requirements, the obligation of the delivering utility should be equivalently reduced. This limitation shall not apply to gas acquired by public utilities for resale or to existing independent supplies which are not suitable for pipeline use."

2. To the extent that customers of gas utilities have their own source of supply of natural gas and are able, by reasonable means, to use that supply to meet their own requirements, the obligation of the delivering utility should be equivalently reduced. This limitation shall not apply to gas acquired by public utilities for resale or to existing independent supplies which are not suitable for pipeline use.

3. The Commission staff shall study the self-help gas plans introduced in this record and report to the Commission with recommendations within one hundred eighty days from the effective date of this order.

4. The time for conversion of electric utility igniter, start-up, and flame stabilization use of natural gas to an alternate fuel is hereby extended until further order of the Commission.

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

Dated at San Francisco, California, this 28th day of JUNE, 1977.

Robert Batinovich
President
William Symons Jr.
Vernon L. Sharp
Richard D. Gravelle

Commissioners

LIST OF APPEARANCES

Respondents: Bradley Bunnin, General Counsel, for California-Pacific Utilities Co.; Chickering & Gregory, by C. Hayden Ames, Shand Green, and Edward P. Nelson, Attorneys at Law, Stanley Jewell, General Counsel, Guenter S. Cohn, Paul L. Hathaway, Jr., Vincent P. Master, Jr., Gordon Pearce, and John H. Woy, for San Diego Gas & Electric Company; Rives, Bonyhadi, Brummond & Smith, by Marcus A. Wood, Attorney at Law, and Ivan Lewis Gold, Robert F. Harrington, and George L. Rodgers, Attorneys at Law, for Pacific Power & Light Company; Al Engel, for Plumas-Sierra Rural Electric Cooperative, Inc.; Bernard J. Della Santa, Malcolm H. Furbush, Annette Green, and John C. Morrissey, Attorneys at Law, for Pacific Gas and Electric Company; William C. Branch, Richard G. Campbell, General Counsel, Ralph P. Cromer, and John Madariage, for Sierra Pacific Power Company; E. H. Schneider, for Siskiyou Vangas; Dennis G. Monge and Rollin E. Woodbury, Attorneys at Law, for Southern California Edison Company; David B. Follett, E. R. Island, and Les Lo Baugh, Jr., Attorneys at Law, for Southern California Gas Company; and Donald W. Hicks, for Surprise Valley Electrification Corporation.

Interested Parties: Adams, Duque & Hazeltine, by Gary York, Attorney at Law, for Reynolds Metals Corp.; Agnew, Miller & Carlson, by William J. Bogaard, Attorney at Law, for California State Outdoor Advertising Assn.; Calvin E. Adams, for Agricultural Council of California; Edward V. Sherry, for Air Products & Chemicals, Inc.; Anthony Joseph and Janet I. Motley, Deputy Attorneys General, for Air Resources Board; C. Robert Self, for Alumax, Inc.; R. Keith Pouder, for Aluminum Co. of America; James Hamersley, for Aluminum Recycling Assn.; David M. Whitney, for Aminoil USA, Inc.; D. W. Kolstad and Robert L. Schmalz, Attorneys at Law, for Amstar Corporation, Spreckels Sugar Div.; R. S. Young, for Armstrong Rubber Co.; J. D. Higgins, for Arvin-Edison Water Storage Div.; Thomas A. Lance, Attorney at Law, for The Atchison, Topeka & Santa Fe Railway Company; M. E. Fitzpatrick and James D. Kowal, Attorneys at Law, and D. A. Peavy, for Atlantic Richfield Company; Baker & Botts, by John P. Mathis, Attorney at Law, A. A. Messenger, John R. Morgan, and R. F. Smith, for Union Carbide Corp.; John D. Griem, for Ball Corp.; John F. Powell, Attorney at Law, for Bay Area Air Pollution Control Dist.; Brobeck, Phleger & Harrison, by William H. Booth, Attorney at Law, and Robert E. Burt, for California Manufacturers Assn.; James H. Lindley, for California Ammonia Company; F. M. Simpson, Jr., for California Cattle Feeders Assn.; Gordon F. Snow, for California Dept. of Food & Agriculture; Ralph O. Hubbard, for California Farm Bureau Federation; Vaughan, Paul & Lyons, by John G. Lyons, Attorney at Law, Sidney H. Bierly, and E. James Houseberg, for California Fertilizer Assn.; Henry F. Lippitt, Attorney at Law, for California Gas Producers Assn.; Lee Adler, for California Grain & Feed Assn.;

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Thomas H. Goth, for California Liquid Gas Corp.; John L. Frogge, for California Portland Cement; John P. Fraser, for Assn. of California Water Agency; James W. Bell, for Canners League of California; Gary M. Kapie, for Cen-Vi-Ro Pipe Corp.; E. P. Shumaker, for Chevron U.S.A., Inc.; Clawson & Kaleta, by Eldon R. Clawson, Attorney at Law, for Teledyne Laars, Inc.; Graham & James, by Boris H. Lakusta and David J. Marchant, Attorneys at Law, and John J. Clarke, for Collier Carbon & Chemical Corp.; D. E. Pryor, for CONROCK CO.; Robert C. Seeley, for Consolidated Aluminum Corp.; Milton J. Carlson, for Consolidated Foods Corp.; Union Sugar Division; Tom Burton, Attorney at Law, for Continental Oil Co.; Daniel J. Reed, for Department of Defense; Downey, Brand, Seymour & Rohwer, by Phillip A. Stohr, Attorney at Law, for General Motors; Dreher, Dreher & Garfinkle, by Eugene Garfinkle, Attorney at Law, for Driscoll Strawberry Associates, Inc.; Dunne, Phelps & Mills, by Robert M. Dunne and Marshall G. Berol, Attorneys at Law, for Swimming Pool Industry Conservation Task Force; R. L. Lindauer, Jr., for Exxon Company; Alexander Googooian, Attorney at Law, for the City of Bellflower; Grove, Jaskiewicz, Gilliam, et al., by Keith R. McCrea, Attorney at Law, and Steinhart, Goldberg, Feigenbaum & Ladar, by Marvin D. Morgenstein, Attorney at Law, and D. M. Sorensen, for Owens-Illinois; Pettit, Evers & Martin, by Joseph Martin, Jr., and Susan Paulus, Attorneys at Law, for Owens-Corning Fiberglass; D. L. Henry, for Gulf Energy & Minerals Co.; Handler, Baker & Greene, by Raymond A. Greene, Jr., Attorney at Law, for Anthony Pools; Louis P. Orleans, for Holly Sugar Corporation; Robert E. Halpern and Eugene W. Wendt, for Hughes Aircraft Company; C. F. Gotschalk, for International Harvester Company; Gordon B. Jones, for The Irvine Company; Conrad J. Aiken and George Mabry, Attorneys at Law, for Johns-Manville Corporation; Jack Hecht, for Learner Company; C. Rex Boyd and Charles C. Werdel, Attorneys at Law, for Lion Oil Company; J. T. Hugill, for Liquid Air Inc.; W. E. Shannon, for Lockheed Palo Alto Research Laboratory; Louis Possner, for City of Long Beach; William E. Emick, Jr., Attorney at Law, for Long Beach Gas Department; Mark C. Allen, III, City Attorney, Burt Pines, City Attorney, and David A. Ogden, Deputy City Attorney, for City of Los Angeles;

Manuel Kroman and Robert W. Russell, for City of Los Angeles Department of Public Utilities and Transportation; Clifford E. Caballero and John W. Whitsett, Deputy County Counsels, for County of Los Angeles; Edward C. Farrell and James L. Mulloy, for L.A. Dept. of Water & Power; McCutchen, Doyle, Brown & Enersen, by Stephen Grant, Attorney at Law, for American Cyanamid, Inc.; Robert W. Schempp, and R. D. Twomey, Jr., Attorneys at Law, and Robert P. Will, General Counsel, for Metropolitan Water District of Southern California; Lawrence J. Straw, Jr., for Mobil Oil Corporation; Morrison & Foerster, by James P. Bennett, William R. Berkman, and Charles R. Farrar, Jr., Attorneys at Law, for Kerr-Magee Chemical Co.; Willard D. Bretz, for National Electrical

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Contractors Assn.; Kenneth J. O'Morrow, for Oil & Solvent Process Co.; G. Eugene Michel, for Optical Coating Laboratory, Inc.; Dale E. Ordas, for Barrel Builders Co.; Edward J. Mrizek, for City of Palo Alto; Thomas J. Wilson, for Peninsula Oil Company; Donald L. Henry, for Perlite Processing; Pillsbury, Madison & Sutro, by Noel Dyer and T. A. Peake, Attorneys at Law, for Standard Oil Company of California; Stephen E. Donaldson, for Powerine Oil Company; Pratter & Young, by Robert J. Young, Attorney at Law, for Whirlpool Therapy Bath Inc.; Richardson & Gaskill, by Robert L. Jones, Jr., Attorney at Law, for Valley Products, Inc.; D. C. Browning, for Sacramento Municipal Utility District; William S. Shaffran, Attorney at Law, for City of San Diego; Leland E. Butler, General Attorney, for San Diego Pipeline Company; R. E. Heytens, for San Gabriel Valley Water Co.; Thomas G. Johnson, Senior Counsel, and W. M. Koch and Earl A. Radford, Attorneys at Law, for Shell Oil Company; Skornia & Rosenblum, by Thomas A. Skornia and Hope H. Brock, Attorneys at Law, for WEMA; Dale L. Fisher, for Solar Harness Corp.; J. A. Stuart and Melissa A. Taubman, Attorneys at Law, for Southern California Air Pollution Control District; R. L. Sullivan, for Sun Oil Company (Delaware); Gerald R. Yound, Attorney at Law, for Teledyne Ryan Acronautical Legal Department; Gene E. Stoed, Division Attorney, for Tenneco Oil Company; T. H. Tepper, for Texaco, Inc.; Ernest Geddes, for Turlock Irrigation District; Robert Spertus, Attorney at Law, for T.U.R.N.; Kenneth L. Riedman, Jr., Attorney at Law, and Richard F. Wornson, for Union Oil Center; Marge Coon and John R. Dietzman, for Union Oil Company of California; Warren L. Williams, Staff Attorney, for Valley Nitrogen Producers, Inc.; Paul P. Hendricks, for City of Vernon; John E. Morency, for Walter Carpet Mills; John McAllister, for Wheeler Ridge Maricopa Water Storage District; Hugh Cook, for Wine Institute; and E. C. Howe, for Ashland Chemical Co.

Commission Staff: Freda Abbott, Peter Arth, Jr., and Rufus G. Thayer Attorneys at Law, and Edmund J. Texeira.

Senate Bill No. 77

CHAPTER 915

An act to add Chapter 4.5 (commencing with Section 2801) to Part 2 of Division 1 of the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 13, 1976. Filed with Secretary of State September 14, 1976.]

LEGISLATIVE COUNSEL'S DIGEST

SB 77, Nejedly. Interconnection of energy facilities.

Existing law makes no provision to specifically require transmission by public utilities of energy developed by private energy producers.

This bill would require the Public Utilities Commission, on application of a private energy producer, as defined, after making specified findings, to authorize the construction of public utility facilities to interconnect with those of the private energy producer after notice and hearing. It also would direct the commission to prescribe reasonable compensation. The bill would require the private energy producer to provide and pay the total cost of the interconnection. The bill would require affected public utilities to keep prescribed records and render reports as the commission may specify.

It would state legislative findings and declarations and define terms used in the bill.

This bill would take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Chapter 4.5 (commencing with Section 2801) is added to Part 2 of Division 1 of the Public Utilities Code, to read:

CHAPTER 4.5. PRIVATE ENERGY PRODUCERS

Article 1. General Provisions and Definitions

2801. The Legislature hereby finds and declares that in order to promote the more rapid development of new sources of natural gas and electric energy, to maintain the economic vitality of the state through the continuing production of goods and the employment of its people, and to promote the efficient utilization and distribution of energy, it is desirable and necessary to encourage private energy producers to competitively develop independent sources of natural gas and electric energy not otherwise available to California consumers served by public utilities, to require the transmission by public utilities of such energy for private energy producers under

certain conditions, and remove unnecessary barriers to energy transactions involving private energy producers.

2802. "Private energy producer" includes every person, corporation, city, county, district, and public agency of the state generating or producing electricity not generated from conventional sources or natural gas for energy either directly or as a byproduct solely for his or its own use or the use of his or its tenants and not for sale to others. A private energy producer shall not be found to be an electrical corporation or a gas corporation as defined in this code solely because the electricity or gas is being transmitted in part through facilities owned by a public utility.

2803. "Interconnection" means the facilities necessary to physically connect the energy source of and the point of use by a private energy producer with the existing transmission facilities of a public utility, and shall include any necessary transformation, compression or other facilities necessary to make such interconnection effective.

2804. "Transmission service" means the intrastate transfer of electricity or natural gas by a public utility for any private energy producer between the points of interconnection for use within this state in the service area of the utility.

2805. "Conventional power source" means hydropower or power derived from nuclear energy or the combustion of fossil fuels.

2806. "Fossil fuel" means a mixture of hydrocarbons including coal, petroleum, or natural gas, occurring in and extracted from underground deposits.

Article 2. Interconnection of Facilities

2811. In order to promote the more efficient use and distribution of natural gas or electric energy and eliminate the necessity for construction of transmission facilities for gas or electricity produced by a private energy producer separate from those which may already exist to serve the same area and are owned and operated by a public utility subject to the jurisdiction and control of the Public Utilities Commission, the commission shall authorize the construction of an interconnection by a private energy producer upon application of such producer if the commission makes the findings required by Sections 2812 and 2812.5.

2812. Upon application of a private energy producer, and after notice to any affected public utility and hearing thereon, the commission shall authorize such producer to construct an interconnection for the purpose of transporting natural gas, if the commission finds: (1) that such interconnection is in the public interest and for the general public benefit, (2) involves natural gas located within this state in the service area of the public utility, ultimately consumed within this state, and which would otherwise be undeveloped because a public utility is unable or unwilling to

purchase it at a price the commission finds to be reasonable, (3) would not cause energy which would likely otherwise be made available to the general public to be diverted to the private energy producer, and (4) that the energy has substantially the equivalent quality and characteristics as the energy in the utility's transmission system with which the interconnection would be made. The commission shall prescribe such reasonable terms, conditions, and requirements as it deems appropriate.

2812.5. Upon application of a private energy producer, and after notice to any affected public utility and hearing thereon, the commission shall authorize such producer to construct an interconnection for the purpose of transmitting electricity, if the commission finds:

(1) That no uncompensated burden will be placed upon the utility or utilities furnishing the transmission service.

(2) That furnishing the transmission service will not result in any added costs or any other adverse consequences for the customers of the electrical corporation.

(3) That the facilities proposed in the application will be used to transmit power from other than a conventional power source for generating electrical power.

The commission shall prescribe such reasonable terms, conditions, and requirements as it deems appropriate.

2813. The private energy producer shall be required to provide and to pay the total cost of the interconnection as well as any costs associated with providing a transmission capacity sufficient to handle that portion of the energy generated by the private energy producer that is over and above the capacity otherwise required by the public utility to service its utility customers and meet other authorized commitments. The public utility shall not be required to construct any additional electric or gas facilities on its system or to acquire any real property by eminent domain or otherwise for such facilities, in order to perform the service contemplated by this chapter unless the cost of such additional facilities or acquisitions are to be borne by the private energy producer.

2814. The commission shall prescribe reasonable compensation to be paid to the public utility performing the transmission service.

2815. Nothing in this chapter shall require that any private energy producer perform any service or deliver any commodity to the public or any portion thereof, for compensation or otherwise, except as provided in this article.

2816. Every public utility shall keep accurate records of transactions with a private energy producer, and of the use of the public utility's facilities by the private energy producer, pursuant to an interconnection ordered or approved by the commission and shall render such reports thereon to the commission as the commission may from time to time require. The commission may disapprove any such transaction or use if, after hearing, it finds such transaction or

use to be inconsistent with this chapter or any rule, regulation, or order of the commission.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to promote the more rapid development of new sources of energy, including alternate sources, in order to maintain the economic vitality of the state, it is necessary that this act go into immediate effect.