EX-4

MBH

Decision No. 91095 NOV 30 1979

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of SOUTHERN CALIFORNIA GAS COMPANY to increase revenues to offset changed gas costs under its approved PGA procedures resulting from adjustments in the price of natural gas purchased from TRANSWESTERN PIPELINE COMPANY and PACIFIC INTERSTATE TRANSMISSION COMPANY; to adjust revenues under the supply adjustment mechanism to reflect greater than anticipated collection of revenues due to increases in natural gas supplies; to adjust revenue requirements as a result of the operation of the tax change adjustment clause; to revise Section H of its Preliminary Statement; and to implement an air conditioning lifeline allowance.	Application No. 58724 (Filed March 2, 1979)

ORDER MODIFYING DECISION NO. 90822 AND DENYING REHEARING

Petitions for rehearing of Decision No. 90822, which was issued in this proceeding on September 12, 1979, have been filed by California Manufacturers Association (CMA), General Motors Corporation (GM) and jointly by Valley Nitrogen Producers, Inc. and Union Chemicals Division of Union Oil Company of California (Ammonia Producers). We have considered each and every allegation of error in those petitions and are of the opinion that good cause for granting rehearing has not been shown, but that Decision No. 90822 should be modified to provide findings of fact or conclusions of law on all material issues, specifically in the area of rate design. We also will correct or modify certain findings and conclusions and add further discussion of the rationale for our choice of a rate design and the record we relied on. Before doing so, however, we note that the petition of the Ammonia Producers has

persuaded us that their temporary rate should be extended through June 30, 1980. Therefore,

IT IS HEREBY ORDERED that Decision No. 90822 shall be modified as follows:

1. The following discussion shall be added under the appropriate subheadings:

Residential Rates

CMA's proposed rate design would increase lifeline commodity rates by 42.8% plus an increase of 29% to the customer charge, compared to an 8.7% average increase to GN-1 through GN-5 classes (Exhibit 30, table 3). This is designed to equalize the return provided by each class. However we are cognizant of the fact that, in enacting the Miller-Warren Energy Lifeline Act, a portion of which became Section 739 of the Public Utilities Code, the Legislature specifically found and declared as follows:

> "(a) Light and heat are basic human rights, and must be made available to all the people at low cost for basic minimum quantities.
>
> "(b) Present rate structures for gas and electricity serve to penalize the individual user of relatively small quantities, and at the same time encourage wastefulness by large users.
>
> "(c) In order to encourage conservation of scarce energy resources and to provide a basic necessary amount of gas and electricity for residential heating and lighting at a cost which is fair to small users, the Legislature has enacted this act."

Section 739(c) provides in relevant part "... [t]he commission shall authorize no increase in the lifeline rates until the average system rate ... in cents per therm has increased 25% or more over the January 1, 1976 level...." Although that 25% increase has occurred and we are not constrained from increasing lifeline rates in this proceeding, we do not believe the Legislature intended that,

once the 25% differential had been reached, lifeline rates should be abolished. Rather, we believe that its concern that basic minimum quantities of gas be made available at low cost "... to all the people ..." obtains even when some increase in those rates is possible under the law. Accordingly we believe the staff's proposal to set lifeline rates at a level which will maintain the 125% ratio with the system average rate noted in Section 739(c), is reasonable for this proceeding. CMA's proposed 42% increase is, for those same reasons, unreasonable and will not be adopted.

As for residential rates, we will increase those rates on an equal cents per therm, basis for PGA and a uniform percentage of revenue for SAM and TCAC together with the GN-1 and wholesale classes, to provide the necessary revenue requirements while maintaining the present relationship between those rates.

We have stated elsewhere in this discussion, and have expressly found in Finding of Fact No. 5, that the rates adopted for residential users will "... result in the recovery of costs and a return on investment devoted to serving the residential class...." That statement and that finding are based in part upon the cost-of-service data prepared by SoCal and sponsored by CMA in Exhibit 30 where, in Table 3, the after-tax return is shown as 1.1%. Although CMA's witness was of the opinion that after-tax results should be discounted as a fiction of allocation, we are not so persuaded. We see no greater fiction involved in allocating income tax liability by class than in SoCal's method of allocating many other company-wide expenses.

We also note that, as stated elsewhere herein, the cost-of-service data in Exhibit 30 is faulted by the fact that it uses an average cost of gas for each customer. This in spite of the fact that the record shows that SoCal's least expensive sources of gas (El Paso and Transwestern) will provide sufficent gas to meet the estimated needs of the high priority customers (Ex. 20, table C and E) and that the high priced gas is purchased to provide service to the low priority customers. SoCal's uncontroverted testimony is that,

without the availability of the high priced gas, the low priority users would experience increased interruptions in service.

The conclusion is inescapable that Exhibit 30 understates the actual return provided by the residential class and overstates the return from industrial customers. This lends even more support to our conclusion that the residential class is not being served at a loss.

Except as to this issue, we do not consider the cost of service data in this record to be helpful in spreading this particular increase among SoCal's various classes of customers.

Rate Design Factors

We wish to emphasize that, in adopting a method for apportioning an increase in this offset proceeding, we do not write on a clean slate. SoCal's underlying base rates are those recently put into effect by Decision No. 90105, dated March 27, 1979, in Application No. 57639. Those rates were set in accordance with a rate design which was the result of extensive hearings and voluminous testimony by many parties, as is typical of a general rate increase proceeding. They were found to be fair and reasonable at that time and the only reason to adjust them now is SoCal's need for increased revenues to offset a higher cost of gas.[1/] Therefore it is evident that a major restructuring of the underlying rate design, proposed here by CMA, is only necessary if it appears that subsequent events make it so. However, in reviewing CMA's present showing, we find no evidence which would justify our restructuring the base rate design. To the contrary, CMA's position and argument is mainly a repetition of its position in Application No. 57639. Although the

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1/ We note that, although CMA and GM were parties in Application No. 57639, neither filed a petition for rehearing of the decision in that proceeding. They were satisfied to allow those rates and that rate design to become final.

California Supreme Court, in CMA et al. v. CPUC, (1979) 24 C.3d 251, held that we may deal with policy matters, such as a wholly new rate design, in an offset proceeding, that is still a matter within our discretion. It is certainly not necessary to relitigate this issue in full at every turn. Accordingly, we shall confine ourselves to consideration of those rate design factors which are relevant to the problem of spreading this increase rather than to a restructuring of the base rates.

Finally, we take official notice of the fact that, on September 28, 1979, the FERC adopted Order No. 51 in Docket No. RM79-21 (18 CFR Part 282, Federal Register of Oct. 5, 1979 at 57778). That rule becomes effective on December 1, 1979 and establishes the price of No. 6 high sulfur oil as the alternative fuel price ceiling from January 1, 1980 through October 31, 1980. It is apparent that incremental pricing at that level for industrial boiler fuel is now mandated by federal rules. Our adopted rate design is consistent therewith.

2. The following corrections shall be made:

(a) Finding 20 shall read in full as follows:

"The staff's proposed allotment of the adopted increased revenue requirement to the various customer groups, modified to reflect the 25.506¢/therm rate for GN-2 through GN-5 classes and the temporary continuation of present rates to the Ammonia Producers, is reasonable and should be adopted."

(b) Conclusion 8 shall read in full as follows:

"The staff's proposed allotment of the adopted increased revenue requirement to the various customer groups, modified to reflect the 25.506¢/therm rate for GN-2 through GN-5 classes and the temporary continuation of present rates to the Ammonia Producers, is reasonable and should be adopted."

(c) Finding 23 shall read in full as follows:

FERC regulations which go into effect on December 1, 1979 to carry out the incremental pricing provisions of the NGPA, base alternate fuel cost ceilings on the cost of No. 6 high sulfur oil. Our adopted rates are consistent with the policy reflected in those regulations.

(d) The last sentence on page 50, mimeo., shall be corrected to read in full as follows:

It now appears that this was not sufficient time for the Legislature to consider the question of special rate protection for the ammonia industry. Therefore, the temporary supplemental service rate authorized in Interim D.90322 will be extended through June 30, 1980.

(e) Finding of Fact No. 11 shall be corrected to read in full as follows:

In order to allow the Legislature additional time to consider this issue, we will defer through June 30, 1980, rescission of the temporary supplemental service rate for the Ammonia Producers.

3. The following findings of fact shall be added:

26. For this proceeding, it is reasonable to set lifeline rates at a level which will maintain a 125% relationship between such rates and the system average rate which the Legislature set as a condition precedent to increasing lifeline rates.

27. A commodity rate of 25.506¢/therm is approximately 5¢/therm below the cost of alternate fuel.

28. For the reasons discussed herein, it is reasonable to set a commodity rate of 25.506¢/therm for the GN-2 through GN-5 customers.

29. After settin rates for GN-2 through GN-5 customers at 25.506¢/therm, it is reasonable to assess the remaining revenue needs for PGA on an equal ¢/therm basis and for SAM and TCAC on an equal percent of revenue basis to the other classes (residential, GN-1 and wholesale) because this reflects gas cost and SAM revenue functions respectively without upsetting the relationships between those classes now in the base rates.

30. The base rates underlying whatever adjustment we make here are those adopted by Decision No. 90105.

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31. There is no persuasive evidence in this record that CMA's proposed rate design would be more effective in promoting conservation, either on a short term or a long term basis, than the design which is reflected in SoCal's base rates.

32. CMA's proposal to increase lifeline commodity rates by 42.8% and the customer charge by 29.0% is unreasonable.

33. CMA's proposal to increase residential rates as a class by 33.3% and GN-1 through GN-5 rates by an average of only 8.7% is unreasonable.

34. The existing base rates are the same for GN-2 through GN-5 classes. It is reasonable to maintain this relationship when spreading the increase in this proceeding.

35. The record does not support the authorization of a solar incentive rate at this time.

36. SoCal's policy of purchasing Canadian gas at a cost higher than its system average rates is reasonable so long as rates for low priority users, the principal beneficiaries of that gas, are set high enough to return that cost.

37. The record does not support a substantial restructuring of the existing rate design.

IT IS FURTHER ORDERED that,

Rehearing of Decision No. 90822, as modified herein, is hereby denied.

The effective date of this order is the date hereof.

Dated NOV 30 1979, at San Francisco, California.

We concur and dissent. Our dissent is based on the special treatment provided the ammonia producers in this order. See separate opinion.

John E. Bryson
Richard D. Crowell

President

Commissioners

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LEONARD M. GRIMES JR., Concurring

I concur with the majority position of the Commission to grant an extension of time to the requesting ammonia producers.

However, my agreement to grant this request should not be interpreted as my support of any legislation which may evolve in the interim. That will be a separate consideration.

My concurrence in this deferral is purely out of respect for the California Legislature's effort to protect our agricultural community from the damage alleged to result from loss of ammonia production capacity in this state.

December 30, 1970
San Francisco, Ca

Leonard M. Grimes