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Decision 97-07-036 July 16, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

Application of PACIFIC GAS AND ELECTRIC COMPANY (U 39 G) for a Certificate of Public Convenience and Necessity to Construct and Operate an Expansion of its Existing Natural Gas Pipeline System.	Application 89-04-033 (Filed April 14, 1989)

O P I N I O N

1. Summary of Decision

A petition for modification of Decision (D.) 92-10-056 filed by Pacific Gas and Electric Company (PG&E) is granted in part and denied in part.

2. Background

In D.90-12-119, issued in this proceeding on December 27, 1990, the Commission granted PG&E a certificate of public convenience and necessity (CPCN) for the California segment of a natural gas pipeline expansion (Expansion) that extends from Alberta, Canada to Kern River Station in Southern California. The pipeline went into commercial operation on November 1, 1993. PG&E now identifies the California segment of the new pipeline as Line 401.

In the CPCN decision and later orders, the Commission required incremental rate treatment for Line 401, assigned the risk of underutilization to the project sponsors, adopted "postage stamp" rates, and imposed a "crossover ban" under which gas shipments over the Pacific Gas Transmission Company (PGT) segment of the expansion north of California must, for ratemaking purposes, be assigned to Line 401 service once they enter California. These and other issues were the subject of various applications for rehearing and petitions for modification. Following rehearing, the Commission approved D.92-10-056, which addressed four issues: (1) incremental pricing was affirmed, and "rolled-in pricing," under which the Line 401 revenue requirement would be bundled into rates for PG&E's original pipeline system, was rejected; (2) the

crossover ban was affirmed; (3) postage stamp rates were affirmed; and (4) a "backbone credit" intended to mitigate duplicative charges was adopted. In D.93-02-018, the Commission denied four applications for rehearing of D.92-10-056 and added clarifying language. In D.96-09-095, issued in Application (A.) 92-12-043 et al., the Line 401 general rate case that succeeded this proceeding, the Commission terminated the backbone credit mechanism.

On November 23, 1992, PG&E filed the instant petition for modification of D.92-10-056 (Petition). Five parties filed responses or protests to the Petition: Altamont Gas Transmission Company (Altamont); the Division of Ratepayer Advocates (DRA), predecessor to the present Office of Ratepayer Advocates; El Paso Natural Gas Company (El Paso); Indicated Expansion Shippers (IES), an *ad hoc* group of PGT expansion shippers; and Kern River Gas Transmission Company (Kern River).

3. Discussion

PG&E seeks relief in four subject areas.

3.1. Incremental Rate Design

PG&E first asks for modification of Finding of Fact 34 in D.92-10-056, which reads:[1]

> PG&E may recover no more than its Expansion cost of service times the ratio of throughput subject to firm transportation contracts to the total firm transportation capacity of the Expansion.

In D.94-02-042, the Commission deleted the second occurrence of the word "firm" in the finding.[2] PG&E seeks to clarify the ratemaking effect of the finding, to recognize distinctions between firm and as-available service and between straight fixed variable (SFV) and modified fixed variable (MFV) rate design.

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[1] 46 CPUC2d 199, 212 (1992).

[2] D.94-02-042, Ordering Paragraph 4.B, 53 CPUC2d 215, 253 (1994).

Altamont opposes the modification, claiming that D.90-12-119 prevents PG&E from recovering more than 93% of the Line 401 annual revenue requirement from firm customers. DRA does not object to the request. El Paso does not comment on Finding of Fact 34, but opposes the Petition generally because it seeks fundamental changes to D.90-12-119 and would improperly determine terms and conditions for as-available service on Line 401.

We will modify Finding of Fact 34, but not using the exact words that PG&E proposes. As presently written, Finding of Fact 34 incorrectly suggests that PG&E might not recover any revenues for as-available service. By restricting the revised finding to calculation of firm service rates, distinction between SFV and MFV rates is not necessary. Altamont misreads the CPCN decision. The relevant finding in D.90-12-119 refers to recovery of 93% of the revenue requirement in demand charges,[3] not recovery of 93% in all rate elements combined. We do not agree with El Paso's distinction between D.90-12-119 and D.92-10-056.

3.2. Findings of Need

PG&E next asks for modification of Finding of Fact 73 in D.92-10-056, which now reads:[4]

> Consistent with D.90-12-119, we find that need for the Expansion has not been shown for any firm capacity beyond that governed by executed contracts for firm transportation.

PG&E requests a finding that need will be expressed by any firm or as-available customer commitments to use Line 401.

Altamont and DRA oppose the modification, arguing that marketing of Line 401 as-available service does not establish a need for Expansion capacity. Nonfirm service contracts do not show long-term commitments to pay for pipeline capacity, but

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[3] D.90-12-119, Finding of Fact 94, 39 CPUC2d 69, 155 (1990).

[4] 46 CPUC2d 199, 214 (1992).

are only expressions of shipper interest in competitive prices. El Paso predicts that nonfirm capacity sales on Line 401 will not serve new markets, but will displace deliveries from Southwest suppliers and will cause stranded costs on Southwest pipelines.

We will deny PG&E's request. Finding of Fact 73 correctly distinguishes firm from nonfirm service. Sales of unsubscribed firm capacity and interruptible capacity on Line 401, whether under as-available service tariffs or negotiated terms and conditions, do not show that the capacity is needed.

3.3. Curtailments and Future Benefits

PG&E requests two amendments to D.92-10-056 to support concepts that Line 401 shippers: (1) should have the highest service priority, (2) will not be curtailed due to shortfalls on PG&E's original pipeline system, and (3) will receive all future ratemaking benefits of Line 401, including vintaged rates if depreciation reduces Line 401 costs below the costs of service on other PG&E pipelines. PG&E asks for one finding and one conclusion:

> Because they will be paying incremental rates, Expansion shippers and their customers will not be subject to curtailment except where physical disruption or other operational limitations occur on the Line 400/Line 401 backbone transmission system. In those situations, curtailment will first be *pro rata* among interruptible Expansion and nonfirm Line 400 shippers, and then *pro rata* among firm Expansion and firm Line 400 customers.
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> * * *
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> While this Commission cannot bind future Commissions, it is our specific intention that PG&E and its Expansion shippers, having paid the incremental price to create the Expansion as an enterprise distinct from PG&E's underlying system, should receive any future benefits that may flow from its separate treatment, including lower costs that may result from Expansion specific depreciation or from increases in Expansion capacity.

Altamont opposes PG&E's request because it raises issues that are not the subject of D.92-10-056 and would make findings that are not based on evidence. Altamont and DRA both argue that the proposed curtailment protections unfairly favor

Line 401 shippers during curtailments caused by failures of upstream supplies or transmission facilities, or downstream distribution facilities. DRA agrees with PG&E that Line 401 firm service should be superior to as-available service, but DRA believes that PG&E's proposed modification is overly broad.

We agree with Altamont and DRA, and we will deny PG&E's request. PG&E's proposed curtailment protections are overly broad, and curtailment issues belong in A.92-12-043 et al., the Line 401 general rate case. Incremental ratemaking should offer Line 401 shippers future rate benefits, but only if all costs and risks associated with the Expansion are borne by PG&E and its Line 401 customers. From the perspective of customers that do not need or want the Expansion, it should operate as a free-standing utility with a CPCN based on findings of need. If ratepayers taking service on PG&E's original pipeline system must bear any Line 401 costs, whether directly by rolled-in rates or indirectly by support of stranded or other costs caused by the Expansion, then Line 401 customers do not deserve all future benefits.

3.4. Crossover Ban

PG&E requests two new findings of fact and modification of one conclusion of law that would clarify the connection between intrastate brokering and the crossover ban. The proposed findings are:

> A crossover ban is only appropriate where there is no intrastate capacity allocation system providing firm rights. When we have put in place a system for soundly valuing and allocating existing intrastate capacity, the crossover ban will no longer be required and we will remove it.
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> * * *
>
> Consistent with evidence introduced in this case we contemplate a capacity allocation program that will allow open competition for Line 400 capacity and will be available to all potential shippers, including PGT and PG&E Expansion shippers.

Conclusion of Law 7 in D.92-10-056 now reads:

> It is just and reasonable that the crossover ban remain in place, since we view that ratemaking classification requirement as being necessary to protect incremental rates, to further our "let the

> market decide" policy and to ensure that customers for whose benefit the Expansion is constructed assume its cost.

PG&E proposes to revise the conclusion to read:

> It is just and reasonable that the crossover ban remain in place, but only until our intrastate capacity brokering program is in place.

PG&E asserts that explicit direction regarding the crossover ban is needed to defuse a jurisdictional dispute between this Commission and the Federal Energy Regulatory Commission (FERC). According to PG&E, FERC opposes the crossover ban because it acts to deny some shippers access to gas transportation service in California, resulting in lost markets for those shippers. Under current circumstances, where no shipper holds a firm entitlement to a specific portion of PG&E's original pipeline system, the crossover ban serves at most an advisory function. PG&E presumes that the Commission will order an intrastate capacity allocation system that allows shippers to bid for Line 400 capacity.

No other party supports PG&E's proposal. Altamont believes PG&E's position is self-serving and not credible. DRA argues that D.92-10-056 explicitly addresses policy disagreements with FERC and finds that the crossover ban is an essential element of incremental ratemaking. DRA opposes consideration of intrastate capacity brokering in a CPCN proceeding. IES disagrees with PG&E's suggestion that crossover ban problems are not significant. IES claims that the crossover ban presents serious discrimination problems and should be eliminated. Kern River asserts that it is premature to consider actions regarding the crossover ban that are contingent on adoption of intrastate capacity brokering. The scope and particulars of intrastate capacity brokering are unknown. It is not certain that the Commission will adopt any intrastate capacity brokering program.

We will deny PG&E's request. We agree with the respondents that intrastate capacity brokering issues are beyond the scope of this proceeding. It is premature to resolve the future of the crossover ban until more is known about intrastate capacity brokering, at least in PG&E's service territory.

Findings of Fact

1. It is reasonable to modify Finding of Fact 34 in D.92-10-056 to distinguish firm service and as-available service revenues.

2. Sales of interruptible and unsubscribed firm capacity on Line 401 do not show that the capacity is needed.

3. It is not reasonable to modify Finding of Fact 73 in D.92-10-056 as requested by PG&E.

4. PG&E's proposed curtailment protections unfairly favor Line 401 shippers during curtailments caused by failures of upstream supplies or transmission facilities, or downstream distribution facilities.

5. PG&E's proposed curtailment protections are overly broad.

6. It is not reasonable to adopt PG&E's proposed curtailment protections.

7. Intrastate capacity brokering issues are beyond the scope of this proceeding.

8. It is premature to consider actions regarding the crossover ban that are contingent on adoption of intrastate capacity brokering.

9. It is not reasonable to adopt PG&E's proposed findings of fact and modified conclusion of law regarding intrastate capacity brokering and the crossover ban.

Conclusion of Law

PG&E's proposed modifications of D.92-10-056 should be granted in part and denied in part as set forth in the findings of fact herein.

O R D E R

IT IS ORDERED that:

1. The Pacific Gas and Electric Company (PG&E) petition for modification of Decision (D.) 92-10-056 filed on November 23, 1992, is granted in part and denied in part as set forth below.

2. Finding of Fact 34 in D.92-10-056 is modified to read:

> PG&E may recover in firm service rates no more than its Expansion cost of service times the ratio of throughput subject to firm transportation contracts to the total transportation capacity of the Expansion.

3. PG&E's request to modify Finding of Fact 73 in D.92-10-056 regarding need for pipeline expansion capacity is denied.

4. PG&E's request to add one finding of fact and one conclusion of law to D.92-10-056 regarding curtailments and future benefits is denied.

5. PG&E's request to add two findings of fact and to modify Conclusion of Law 7 in D.92-10-056 regarding intrastate capacity brokering and the crossover ban is denied.

6. This reopened proceeding is closed.

This order shall become effective 30 days from today.

Dated July 16, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners

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In the CPCN decision and later orders, the Commission required incremental rate treatment for Line 401, assigned the risk of underutilization to the project sponsors, adopted "postage stamp" rates, and imposed a "crossover ban" under which gas shipments over the Pacific Gas Transmission Company (PGT) segment of the expansion north of California must, for ratemaking purposes, be assigned to Line 401 service once they enter California. These and other issues were the subject of various applications for rehearing and petitions for modification. Following rehearing, the Commission approved D.92-10-056, which addressed four issues: (1) incremental pricing was affirmed, and "rolled-in pricing," under which the Line 401 revenue requirement would be bundled into rates for PG&E's original pipeline system, was rejected; (2) the

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3. It is not reasonable to modify Finding of Fact 73 in D.92-10-056 as requested by PG&E.

4. PG&E's proposed curtailment protections unfairly favor Line 401 shippers during curtailments caused by failures of upstream supplies or transmission facilities, or downstream distribution facilities.

5. PG&E's proposed curtailment protections are overly broad.

6. It is not reasonable to adopt PG&E's proposed curtailment protections.

7. Intrastate capacity brokering issues are beyond the scope of this proceeding.

8. It is premature to consider actions regarding the crossover ban that are contingent on adoption of intrastate capacity brokering.

9. It is not reasonable to adopt PG&E's proposed findings of fact and modified conclusion of law regarding intrastate capacity brokering and the crossover ban.

Conclusion of Law

PG&E's proposed modifications of D.92-10-056 should be granted in part and denied in part as set forth in the findings of fact herein.

O R D E R

IT IS ORDERED that:

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2. Finding of Fact 34 in D.92-10-056 is modified to read:

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6. This reopened proceeding is closed.

This order shall become effective 30 days from today.

Dated July 16, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners