

SEP 4 1997

Decision 97-09-011 September 3, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND)
 ELECTRIC COMPANY (U 39 G) for an)
 Order Pursuant to Section 1005.5(b))
 of the Public Utilities Code to)
 Increase the Maximum Cost Specified)
 in PG&E's Certificate of Public)
 Convenience and Necessity to)
 Construct the California Portion of)
 the Expansion of its Natural Gas)
 Pipeline.)

ORIGINAL

Application 92-12-043
(Filed December 21, 1992)

And Related Matters.

)
)
) Application 93-03-038
) Application 94-05-035
) Application 94-06-034
) Application 94-09-056
)
) Application 94-06-044
)

(See Decision (D.) 93-10-069, D.94-12-061,
and D.96-09-095 for appearances.)

OPINION ON PETITIONS FOR MODIFICATION

1. Summary of Decision

This order denies four petitions for modification and a related motion regarding receipt point capacity allocation, the crossover ban, and the backbone credit, which are tariff provisions for a natural gas pipeline expansion owned and operated by Pacific Gas and Electric Company (PG&E).

2. Background

Receipt point capacity allocation, the crossover ban, and the backbone credit are ratemaking features of PG&E's Line 401, the California segment of a gas pipeline that extends from Alberta, Canada to Kern River Station in Southern California. The

Commission has reviewed the mechanisms in several previous orders issued in this proceeding and Application 89-04-033, in which PG&E was granted a certificate of public convenience and necessity for Line 401. Receipt point capacity allocation at the Oregon-California border is necessary because nominations for service on PG&E's Line 400 typically exceed the capacity of the line. The crossover ban requires that gas transported on the Pacific Gas Transmission Company (PGT) segment of the expansion north of California is subject to Line 401 rates in California. The crossover ban is a necessary element of incremental ratemaking for Line 401. It is a rate eligibility restriction that does not require physical access to particular facilities. The backbone credit was meant to protect Line 401 shippers that also use PG&E's distribution system against charges for backbone facilities that they do not use.

In D.93-10-069, the Commission authorized temporary interim rates and terms and conditions of service for Line 401, including a Line 400 capacity allocation scheme¹ and the crossover ban. In D.94-02-042, which authorized interim rates and terms and conditions of service, the Commission retained the crossover ban and the backbone credit.² In D.96-09-095, the Commission terminated the backbone credit because it did not fulfill its original purpose.

Sunrise Energy Services, Inc. and SunPacific Energy Management, Inc. (together, Sunrise) filed an emergency petition for modification of D.93-10-069. Seven parties filed petitions for modification of D.94-02-042. In D.94-12-061, the Commission resolved four of the petitions for modification of D.94-02-042 and

¹ D.93-10-069, 51 CPUC2d 674, discussion at 683, Finding of Fact 27 at 685-686 (1993).

² D.94-02-042, 53 CPUC2d 215, discussion at 240 and 243, Findings of Fact 69-75 and 81-84 at 251 (1994).

a portion of another.³ The remaining petitions were deferred pending the outcome of various applications for rehearing of D.94-02-042.⁴ In D.94-12-058, the Commission denied the applications for rehearing. The three unresolved petitions for modification of D.94-02-042 were submitted by: (1) Suncor, Inc., PanCanadian Petroleum Company, and Petro-Canada Hydrocarbons, Inc. (Joint Shippers); (2) CanWest Gas Supply U.S.A., Inc. (CanWest); and (3) El Paso Natural Gas Company (El Paso).

3. Petition of Sunrise

Sunrise filed its petition for modification of D.93-10-069 on October 26, 1993. Notice of the petition appeared in the Commission's Daily Calendar on November 1, 1993. PG&E filed a response to the petition. Alberta Petroleum Marketing Commission (Alberta) and Washington Energy Exploration, Inc. (WEEEX) filed protests.

In D.93-10-069, the Commission ordered Line 400 capacity allocation based on PG&E's existing end use priority system. Sunrise requests that first priority access to Line 400 be given to shippers that use firm interstate rights on PGT's original pipeline system. Sunrise argues that D.93-10-069 undermines the purpose of the crossover ban and creates the potential for increased interstate stranded costs. At the time of its response, PG&E generally agreed with Sunrise, as long as then-pending commercial operation of Line 401 was not compromised.

Alberta and WEEEX oppose the petition, arguing that intrastate capacity rights in California should not depend on upstream interstate transportation arrangements. Alberta claims

³ D.94-12-061, 58 CPUC2d 440, Ordering Paragraphs 11-18 at 459-460 (1994).

⁴ D.94-12-061, 58 CPUC2d 440, Ordering Paragraphs 19-21 at 459-460 (1994).

that the Sunrise proposal is contrary to Commission-ordered capacity brokering rules.

4. Petition of Joint Shippers

Joint Shippers filed their petition for modification of D.94-02-042 on April 5, 1994. Notice of the petition appeared in the Commission's Daily Calendar on April 6, 1994. Four parties filed protests to the petition: (1) PG&E; (2) the Division of Ratepayer Advocates (DRA), predecessor to the Commission's present Office of Ratepayer Advocates; (3) California Industrial Group and California Manufacturers Association (CIG/CMA); and (4) El Paso.

Joint Shippers oppose the crossover ban. They argue that the crossover ban is dramatically expanded by D.94-02-042, that it imposes unlawful conditions upon interstate gas transportation, that it harms PG&E's original system ratepayers by adding to stranded costs, and that it disrupts existing gas supply and transportation arrangements.

PG&E responds that the petition is procedurally defective. DRA claims that eliminating the crossover ban would benefit PGT shippers but would increase stranded costs borne by PG&E original system ratepayers. CIG/CMA agree with DRA, and recommend that the Commission increase the Line 401 discounting floor to strengthen incremental rate treatment for the pipeline. El Paso also argues for stronger discounting limits, and asserts that D.94-02-042 itself increases ratepayer support of stranded costs.

On March 24, 1994, Joint Shippers filed an emergency motion for a stay of crossover ban orders in D.94-02-042. On April 5, 1994, assigned Commissioner Daniel Wm. Fessler ruled that the motion should be processed according to regular procedures, without emergency action by the Commission. The arguments in the motion are much the same as those in the Joint Shippers' petition for modification.

5. Petition of CanWest

CanWest, a marketer of British Columbia gas and a firm shipper on the PGT expansion pipeline, filed its petition for modification of D.94-02-042 on April 26, 1994. Notice of the petition appeared in the Commission's Daily Calendar on May 4, 1994. No party protested the petition. In D.94-12-061, the Commission granted CanWest's request for modifications regarding contract risk.⁵

CanWest asks that D.94-02-042 be modified such that: (1) all PG&E customers that receive gas delivered over Line 401 are eligible for the backbone credit; and (2) the crossover ban is eliminated. If the crossover ban is retained for gas shipments into the PG&E system at Malin, Oregon, then shipper substantiation of upstream transportation paths, which is an element of the present crossover ban, should be required at every PG&E receipt point.

CanWest joins other parties that have opposed the crossover ban in applications for rehearing and petitions for modification of D.94-02-042. CanWest then asserts that gas flowing over the PGT expansion pipeline can enter California at points other than Malin. Several pipelines allow alternative pipeline routes for gas that once flowed on the PGT expansion north of California. According to CanWest, failure to order shipper substantiation for other receipt points is discriminatory and fundamentally unfair.

6. Petition of El Paso

El Paso filed its petition for modification of D.94-02-042 on June 20, 1994. Notice of the petition appeared in the Commission's Daily Calendar on June 22, 1994. PG&E filed a protest to the petition.

⁵ D.94-12-061, 58 CPUC2d 440, Ordering Paragraph 16 at 460 (1994).

El Paso makes several arguments in support of revisions to PG&E's authority to offer backbone credits. PG&E presents corresponding arguments in opposition to the petition.

7. Discussion

Backbone credit issues in the petitions for modification of D.94-02-042 are moot because the credit is terminated.

We will deny the requests for modification of the crossover ban and Line 400 capacity allocation rules. Capacity allocation and crossover ban issues raised by Sunrise, Joint Shippers, and CanWest have been thoroughly relitigated in subsequent phases of the proceeding. The Commission ordered receipt point capacity allocation rules in D.94-12-061.⁶ In market assessment comments filed September 20, 1995, CanWest did not discuss or present evidence that CanWest or any other shipper actually uses alternative paths to California to avoid the crossover ban. Hearings convened during April through June 1996 explicitly considered capacity allocation, the crossover ban, and market issues. A representative for Sunrise, counsel for Joint Shippers, and El Paso actively participated, and CanWest had a fair opportunity to be heard. On March 24, 1997, the assigned administrative law judge issued a proposed decision that covers the crossover ban and many other issues. In sum, the instant petitions and related motion have been subsumed by later proceeding phases.

Findings of Fact

1. The Commission terminated the backbone credit in D.96-09-095.

2. Receipt point capacity allocation issues raised in Sunrise's petition for modification of D.93-10-069 were resolved in D.94-12-061.

⁶ D.94-12-061, 58 CPUC2d 440 (1994).

3. Crossover ban issues raised in the petitions for modification of D.94-02-042 and related motion have been relitigated in hearings convened during April through June 1996.

4. CanWest has not shown that shippers use alternate paths to California in order to avoid the crossover ban.

Conclusions of Law

1. Backbone credit issues raised in the petitions for modification of D.94-02-042 are moot.

2. The petitions for modification of D.93-10-069 and D.94-02-042 and related motion regarding Line 400 capacity allocation and the crossover ban should be denied.

O R D E R

IT IS ORDERED that:

1. The October 26, 1993, petition of Sunrise Energy Services, Inc. and SunPacific Energy Management, Inc. for modification of Decision (D.) 93-10-069 regarding Line 400 receipt point capacity allocation is denied.

2. The March 24, 1994, motion of Suncor, Inc., PanCanadian Petroleum Company, and Petro-Canada Hydrocarbons, Inc. (Joint Shippers) for a stay of the crossover ban is denied.

3. The April 5, 1994, petition of Joint Shippers for modification of D.94-02-042 regarding the crossover ban is denied.

4. The April 26, 1994, petition of CanWest Gas Supply USA, Inc. for modification of D.94-02-042 regarding the backbone credit and the crossover ban is denied.

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5. The June 20, 1994, petition of El Paso Natural Gas Company for modification of D.94-02-042 regarding the backbone credit is denied.

This order becomes effective 30 days from today.

Dated September 3, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners