

Decision 97-11-072 November 19, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Emergency Application of PACIFIC GAS AND
ELECTRIC COMPANY to Immediately Suspend
Schedule G-XF Pending Approval of Gas Accord
Tariffs.

REGULATORY
Application 97-10-032
(Filed October 15, 1997)

OPINION

Summary

This decision denies the Emergency Application of Pacific Gas and Electric Company (PG&E) to suspend its Schedule G-XF for firm intrastate gas transportation. We do so on the basis that PG&E has not demonstrated that an emergency exists or that its shareholders or ratepayers will suffer irreparable harm if the tariffs are not suspended.

PG&E's Application

PG&E filed this application on October 15, 1997, seeking suspension of its G-XF tariff pursuant to Rule 81. PG&E's application asks the Commission to take immediate action to remedy an unforeseen situation which has reduced the amount of Line 401 capacity to be available in the upcoming "open season" for capacity on that line. PG&E is concerned that the continued availability of its G-XF tariff for firm intrastate transportation service will reduce further the amount of capacity available for the open season.

The Gas Accord, adopted in Decision (D.) 97-08-055, provides that PG&E will offer firm intrastate transportation services over Line 400 and Line 401. PG&E has proposed in draft tariffs that the service begin March 1, 1998. PG&E currently offers service utilizing Line 401 capacity under the existing G-XF tariff. The tariff requires a commitment by the customer for a minimum of two years. PG&E's application states that, contrary to its expectations, three shippers have executed new G-XF contracts for 36 MMcf/d since the approval of the Gas Accord. PG&E is concerned that more

shippers will take advantage of the existing tariffed service prior to the open season and thereby reduce the amount of capacity available under the recently adopted terms and conditions. Accordingly, PG&E asks the Commission to suspend its G-XF tariff pending the approval of the tariffs it has submitted in compliance with D.97-08-055.

PG&E's emergency application did not seek a ruling which would shorten the time provided to parties to protest or respond to its application, and the application failed to elaborate on certain matters relevant to granting PG&E's request on a permanent basis. Accordingly, on October 17, 1997 the assigned administrative law judge (ALJ) issued a ruling directing PG&E to file, no later than October 21, 1997, additional information on the circumstances surrounding PG&E's request. The ruling provided that parties may file protests or responses to the application and PG&E's responses to the ALJ ruling no later than October 31, 1997. No party filed a protest or response to PG&E's application or subsequent filing.

Discussion

By deferring consideration of this matter until today and providing parties an opportunity to comment, we have effectively denied PG&E's request for emergency relief. We did so because we were not convinced of the need for emergency action. Rules 79(b)(1) and 81 provide that where the Commission determines that an "unforeseen emergency situation" exists it may issue a decision "more quickly than would be permitted if advance publication were made on the regular meeting agenda." Rule 81 sets forth several circumstances which the Commission may consider to be an unforeseen emergency situation. The circumstance on that list that may apply in this case is that PG&E's request is allegedly based on "extraordinary conditions" in which "time is of the essence."

The circumstances PG&E describes in this application are not "extraordinary." The tariffs which PG&E would suspend were in effect when the Commission adopted the Gas Accord, and neither the Commission order nor the Gas Accord anticipated that the tariffs would be eliminated prior to the open season. In fact, PG&E seeks to

suspend the tariffs precisely because customers are subscribing to services they offer, a matter which is hardly extraordinary or unforeseen.

Neither has PG&E demonstrated that its shareholders or ratepayers will be harmed by failure to suspend the GX-F tariffs. The Gas Accord set rates assuming PG&E would offer 250 MMcf/d of line 401 capacity to Northern California in 1998 as part of the open season. Before the recent contracts which are the subject of PG&E's concern, PG&E had about 460 MMcf/d of capacity on line 401. Therefore, PG&E had 210 MMcf/d available to shippers on Line 401 before affecting the assumed 250 MMcf available for the Northern California open season. Under these circumstances, we fail to see how subscription to 36 MMcf/d creates an unforeseen emergency situation.

PG&E has not convinced us to suspend its G-XF tariff, whether or not we were to act on an emergency basis. PG&E fails to specify any harm to it as a result of subscription to the G-XF tariff, referring only to the possibility that some or all of the Line 401 capacity will be unavailable during the open season. This by itself is not a demonstration of harm. PG&E is not harmed where customers subscribe to the G-XF tariff relative to the service offered during the open season because the rate under the G-XF is 34.5 cents per Mcf compared to a rate of 25 cents per Dth for the open season. Customers would apparently pay the higher rate for the privilege of avoiding the as-available rate during the period preceding the open season, which is 13 cents higher per Dth than the rate under the G-XF tariff. Perhaps PG&E is concerned that it will lose the difference between the higher as-available rate and the G-XF tariff rate. That, however, hardly constitutes an emergency or even a problem, especially where the tariff was in effect at the time of the Gas Accord and would not be withdrawn under its terms.

If PG&E's primary objective is to assure the availability of a certain amount of Line 401 capacity to Northern California during the open season, PG&E may fulfill its objective by proposing to modify its G-XF tariff so that it is not applicable to 250 MMcf/d of line 401 capacity or 300 MMcf/d considering the Gas Accord's assumption regarding the capacity available in 1999. PG&E may propose such tariff modifications by advice letter.

Findings of Fact

1. D.97-08-055 adopted the Gas Accord and assumed that PG&E have available 250 MMcf/d of capacity on Line 401 for Northern California service in 1998. Neither the Gas Accord nor D.97-08-055 anticipated or required the withdrawal of the G-XF tariff prior to the effective date of the Gas Accord tariffs.

2. PG&E states in its application that new subscription to Line 401 under its G-XF tariff could result in the availability of less capacity than anticipated by D.97-08-055, but PG&E has not demonstrated the likelihood of that circumstance or the harm that would result.

3. Rule 81 permits the Commission to take emergency action under certain circumstances. PG&E did not demonstrate that circumstances require emergency treatment of its application and the Commission declined to act on an emergency basis by deferring consideration of this matter until today.

4. No party objected to PG&E's proposal to suspend its G-XF tariff.

Conclusions of Law

1. The Commission should deny PG&E's request to suspend its G-XF tariff.

2. PG&E may, by way of advice letter, propose to modify its G-XF tariff to accomplish its objective to assure the availability of 250 MMcf/d of capacity on Line 401 for the 1998 open season or 300 MMcf/d for 1999 by specifying the amount of capacity not available for subscription under the G-XF tariff.

ORDER

IT IS ORDERED that:

1. The application of Pacific Gas and Electric Company for emergency suspension of its Schedule G-XF is denied.
2. Application 97-10-032 is closed.

This order is effective today.

Dated November 19, 1997, at San Francisco, California.

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