

Decision 99-09-002 September 2, 1999

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Establish  
Standards of Conduct Governing Relationships  
Between Energy Utilities and Their Affiliates.

Rulemaking 97-04-011  
(Filed April 9, 1997)

Order Instituting Investigation to Establish  
Standards of Conduct Governing Relationships  
Between Energy Utilities and Their Affiliates.

Investigation 97-04-012  
(Filed April 9, 1997)

**OPINION AFTER REHEARING GRANTED  
BY DECISION 98-11-021**

**1. Summary**

We issue this decision after considering responses filed pursuant to Decision (D.) 98-11-021, which ordered a limited rehearing of D.97-12-088, the decision by which the Commission enacted its Affiliate Transaction Rules. D.98-11-021 granted a limited rehearing on the issue of whether the Affiliate Transaction Rules should be modified to exempt nondistribution gas corporations, and in particular independent natural gas storage companies.

This decision adopts Wild Goose Storage, Inc.'s (Wild Goose) proposal, as modified in the Ordering Paragraphs, to apply the Affiliate Transaction Rules at this time to the initial respondents to the Order Instituting Rulemaking (OIR)/Order Instituting Investigation (OII) in Rulemaking (R.) 97-04-011/Investigation (I.) 97-04-012, with the proviso that we might apply the Rules, or a portion thereof, to other utilities as defined by the Rules when conditions warrant.

We reach this conclusion because we are at the initial stage of competition in markets such as the gas storage market, where market players such as Wild Goose do not have market power, or the ability to cross-subsidize their affiliates' operations through ratepayer assets. However, we recognize that the energy markets that have been newly opened to competition are dynamic, and the marketplace is constantly changing. Because of this fact, we provided for review of the Affiliate Transaction Rules not later than December 31, 2000, and sooner if conditions warrant.

This decision also puts Wild Goose and all other utilities under our jurisdiction on notice that we intend the respondents in the review of the Affiliate Transaction Rules to be all electric and gas utilities within our jurisdiction, and the burden will be on the responding utilities to justify limited or partial exemption from the Rules.

## **2. Background**

In response to an application for rehearing filed by Wild Goose, the Commission, in D.98-11-021, ordered a limited rehearing of D.97-12-088, the decision by which the Commission enacted its Affiliate Transaction Rules. D.98-11-021 granted a limited rehearing on the issue of whether the Affiliate Transaction Rules should be modified to exempt nondistribution gas corporations, and in particular independent natural gas storage companies, or whether Rules II.A and I.G should not be changed. (D.98-11-021, *slip op.* at p. 7.)

Rule I. G of the Affiliate Transaction Rules states:

"'Utility' means any public utility subject to the jurisdiction of the Commission as an Electrical Corporation or Gas Corporation, as defined in California Public Utilities Code Sections 218 and 222."

Rule II.A of the Affiliate Transaction Rules states:

"These Rules shall apply to California public utility gas corporations and California public utility electrical corporations, subject to regulation by the California Public Utilities Commission."

As D.98-11-021, the decision granting the instant rehearing, recognized, the scope of the OIR/OII in this proceeding appears to have been defined by the Commission as establishing "standards of conduct governing relationships between California's natural gas local distribution companies and electric utilities and their affiliated, unregulated entities..." (OIR/OII, pp. 1 & 8, Ordering Paragraph 1.) However, the parties themselves enlarged the scope of the OIR/OII to include all "gas corporations." In D.98-11-021, we stated that there is no clear explanation why the parties proposed the broader term "gas corporations," and speculated that it might have been because the gas corporations that existed at the time of the issuance of the OIR/OII were only local distribution companies. (D.98-11-021, *slip op.* at 6.) In granting the instant rehearing, we further stated:

"However, since the issue of applicability of the rules to nondistribution gas corporations, in particular natural gas storage companies like Wild Goose, was not raised during the proceeding, and perhaps never envisioned by the parties, there was never a record developed on this issue during the OIR/OII, and therefore, a modification without notice and opportunity to be heard on this issue would not be appropriate. Accordingly, we will grant a limited rehearing." (*Id.*, at pp. 6-7.)

At a February 9, 1999 prehearing conference, the Assigned Commissioner and Administrative Law Judge determined that the parties should address the limited issue on rehearing by a notice and comment procedure, because this was the method used to promulgate the Affiliate Transaction Rules. Parties filed

their initial proposals in response to D.98-11-021 on March 5, opening comments on the proposals on March 26, and reply comments on April 7, 1999.

Wild Goose and Pacific Gas and Electric Company (PG&E) each filed initial proposals. The following parties filed comments or replies on the proposals: The Joint Petitioner Coalition,<sup>1</sup> PG&E, San Diego Gas & Electric Company and Southern California Gas Company, jointly (SDG&E/SoCalGas), and Wild Goose.

### **3. The Proposals**

Wild Goose proposes that the Affiliate Transaction Rules be modified so that "utility" is defined as follows:

"Utility means any public utility named as a respondent to R.97-04-011/I.97-04-012,<sup>2</sup> and any other public utility subject to the jurisdiction of the Commission as an Electrical Corporation or Gas Corporation, as defined in California Public Utilities Code Sections 218 and 222, which the Commission by subsequent decision or order requires to comply with these rules." (Wild Goose March 5 Initial Proposal at p. 2.)

---

<sup>1</sup> The Joint Petitioner Coalition states that its membership has changed over the course of the proceeding. For purposes of this issue, the Joint Petitioner Coalition consists of the following: Enron Corp.; New Energy Ventures, Inc.; The Utility Reform Network; the Utility Consumers' Action Network; the Southern California Utility Power Pool, whose members include the Los Angeles Department of Water and Power and the Cities of Burbank, Glendale and Pasadena, California; and the Imperial Irrigation District.

<sup>2</sup> The following utility distribution companies were named as respondents to the OIR/OII: Kirkwood Gas and Electric Company; PacifiCorp; PG&E; SDG&E; Sierra Pacific Company; Southern California Edison Company; SoCalGas; Southern California Water Company; Southwest Gas Company; and Washington Water Power Company.

PG&E proposes that Rule II.A of the Affiliate Transaction Rules be modified to provide an exemption to certain rules for public utilities that only provide one unbundled tarified product or service. These rules would include Rule IV, Sections C, D, and E; and Rule V, Sections C and F. Additionally, PG&E proposes that Rule II.H be modified to permit any California utility to file an application seeking a limited exemption from the Affiliate Transaction Rules for particular transactions or circumstances to be described more fully in such application. PG&E proposes that the Commission should grant the limited exemption requested for good cause, with applicant bearing the burden of proof.

#### **4. The Comments**

##### **Wild Goose's Proposal**

Wild Goose believes that the Commission should adopt its proposal because the current Affiliate Transaction Rules are designed to prevent abuses by the incumbent distribution utilities which do not and cannot occur in the interactions between independent storage providers and their affiliates. Moreover, while not preventing any abuses, Wild Goose argues that the application of the Affiliate Transaction Rules to independent storage will hinder competition.

Wild Goose states that its facility includes four main components: (1) an underground storage reservoir; (2) a well pad site; (3) a remote facility site; and (4) an interconnecting pipeline with PG&E's Sacramento Valley Local Transmission System. The gas storage facility will not have a distribution system, nor will it provide a direct connection with Wild Goose's customers. Wild Goose emphasizes that it believes that the Commission's regulation of gas storage evidences a dichotomy in regulation between incumbent local distribution companies and independent storage providers, with the

Commission placing certain restrictions on the noncore storage contracts into which the local distribution companies could enter.

Wild Goose states that the Affiliate Transaction Rules are designed to address market abuses not inherent in independent storage. Specifically, Wild Goose notes that the two objectives underlying the Affiliate Transaction Rules, to foster competition and to protect consumer interests, are not furthered by applying these Rules to Wild Goose at the present time. For example, Wild Goose emphasizes that neither it, nor its unregulated gas marketing affiliate in California, has market power in California. Wild Goose argues that it cannot engage in cross-subsidization because it does not have captive ratepayers, cost-of-service regulation, or an assured rate of return. Wild Goose states that application of the Affiliate Transaction Rules to it will hamper competition by significantly increasing the cost of doing business in California. This, according to Wild Goose, will result in higher prices, less innovation, and will generally make it more difficult for storage providers to compete with incumbent utility distribution companies.

The Joint Petitioner Coalition supports Wild Goose's proposal. The Joint Petitioner Coalition believes that the market power concerns that affect competition or consumers are absent in a newly created non-distribution utility that does not hold the advantages of the incumbent distribution monopoly. The Coalition explains that Wild Goose is also dependent upon access to the PG&E transmission system to provide storage services to the market. The Coalition also believes that imposing the Affiliate Transaction Rules on new competitive entrants in California which lack the market power of incumbent utilities may have a chilling effect on competition within California.

PG&E and SDG&E/SoCalGas oppose Wild Goose. PG&E's rationale is largely the same as that supporting its own proposal, which is discussed below.

PG&E believes that its proposal addresses any legitimate concerns Wild Goose has with the Rules and provides a mechanism by which Wild Goose and other regulated utilities may request additional exemptions. PG&E also believes that the Rules regarding nondiscrimination, disclosure and information, and separation do not pose unreasonable cost burdens on a small utility, and at the same time protect consumers and competition. PG&E argues that the regulatory oversight afforded by Rule VI concerning compliance and Rule VIII concerning complaint procedures give the Commission the necessary tools to enforce the Rules. PG&E does not believe that there is anything inherent in the storage business that would render moot the transfer pricing criteria in Rule V, or the new products and services criteria in Rule VII, and argues that even if Wild Goose is a small utility, its affiliates will have a great amount of market power. PG&E also opposes Wild Goose's proposal because it will require the Commission to continually monitor Wild Goose and other utilities exempted from the Rules in order to determine if conditions change such that the Rules should apply to them at a later date.

SDG&E/SoCalGas raise many of the same arguments as does PG&E. Additionally, SDG&E/SoCalGas argue that Wild Goose is part of a large, multi-national corporation with extensive natural gas production interests, and that Wild Goose's affiliates will have every incentive to seek from Wild Goose information which Wild Goose will obtain in its capacity as a California utility and which is not available to other affiliate competitors. They also argue that Wild Goose's affiliates will have every economic incentive to obtain storage service from Wild Goose under preferential terms so that they can obtain an advantage in their efforts to provide natural gas supply to California consumers. SDG&E/SoCalGas argue that the primary purpose of the Affiliate Transaction Rules is to ensure that affiliates of California utilities do not obtain an unfair

advantage in the marketplace through their affiliation with a California utility. For example, SDG&E/SoCalGas argue that they cannot provide their affiliates with customer-specific information unless customer consent to disclose this information is obtained in advance and the information is available on a nondiscriminatory basis. However, SDG&E/SoCalGas argue that if Wild Goose's position is adopted, Wild Goose could exclusively, and without customer consent, convey information regarding a customer's energy needs that could assist Wild Goose's affiliates with their marketing efforts. These utilities argue that Wild Goose could also share other non-public information with its affiliates, to the detriment of affiliates of utilities covered by the Rules.

SDG&E/SoCalGas also suggest that select sections of the Affiliate Transaction Rules apply to Wild Goose. This proposal, made for the first time in comments, suggests sections of the Rules different than those suggested by PG&E.

#### **PG&E Proposal**

PG&E generally believes that the Affiliate Transaction Rules should apply to all public utilities as defined in Rule I. However, PG&E states that the changing conditions of the California energy market may justify limited exemptions provided that the exemptions do not contravene the Affiliate Transaction Rule's purpose. PG&E therefore proposes a partial exemption from the Rules for utilities offering a single tariffed product or service, because it believes that such utilities do not have the type of market power the Commission sought to mitigate by the Affiliate Transaction Rules.

However, according to PG&E, the Rules concerning nondiscrimination, separation, and disclosure of information should apply to all market participants. PG&E argues that Rule III must apply because preferential treatment for an affiliate of even a single product company can distort the market and is not in the



best interest of the California energy consumer. PG&E also argues that privacy as well as nondiscrimination concerns should require all market participants to comply with Rule IV requiring customer authorization before releasing customer-specific documents. PG&E states that Rule V's separation rules are important safeguards to ensure that corporate support and shared services and employees are not used to circumvent the Rules. PG&E also believes that Rule VI's transfer pricing provisions and Rules VII's product and service criteria ensure that the utilities or their affiliates are not given an advantage over other market participants. PG&E believes that Rule VIII's complaint procedures and remedies should apply to enforce the Rules from which Wild Goose is not exempt. Additionally, PG&E proposes that the Rules include a procedural vehicle where any party may suggest further modification of the Rules.

SDG&E/SoCalGas support PG&E, but propose for the first time in comments that Wild Goose should be exempt from some of the same, but many different portions of the Affiliate Transaction Rules than does PG&E.

Wild Goose and the Joint Petitioner Coalition both oppose PG&E's proposal. Wild Goose's rationale is largely the same as that supporting its own proposal. The Joint Petitioner Coalition states that PG&E's proposal to exempt a public utility that provides a single product or service from the Rules is not adequately supported. For example, does such a utility have more or less market power than a utility having more services? These parties also oppose PG&E's proposal for any utility to file an application seeking exemption from the Affiliate Transaction Rules as a delaying tactic to avoid full compliance with the Rules.

## 5. Discussion

The OIR/OII set forth two objectives that guided our formation of the Rules: (1) to foster competition and (2) to protect consumer interests. The Rules were designed to neutralize the special advantage of incumbent utilities in the marketplace as we move toward increasing competition. This special advantage includes an exclusive franchise territory, captive customers, regulated rates and designated rates of return, and other such benefits of the regulatory compact.

In D.97-12-088, *slip op.* at p. 9, we recognized that one of the purposes underlying the Rules was to address the incumbent utility's market power.

"Given the current and past structure of the electric and gas industries and the obvious advantage of the incumbent utility as we move toward increasing competition, there is a clear need for these rules to promote a level playing field which is vital for competition to flourish." (D.97-12-088, *slip op.* at p. 9.)

\* \* \*

"The presence of the investor-owned utility in the same service territory as a utility's affiliate raises market power concerns because of their ownership ties and the preexisting market dominance of the monopoly utility. We previously recognized that the development of competitive markets would be undermined if the utility were able to leverage its market power into the related markets in which their affiliates compete.

"We also articulated these concerns in SoCalGas' Performance-based Ratemaking Decision, D.97-07-057, *slip op.* at p. 63. 'By the very nature of SoCal's monopoly position in the energy and energy services market, its access to comprehensive customer records, its access to an established billing system, and its 'name brand' regonition, it may be that SoCal enjoys significant market power with respect to any new product or service in the energy field.'" (*Id.* at p. 10.)

The consumer interests we seek to protect go hand in hand with promoting competition. In D.97-12-088, we more specifically described these interests, the primary one being the prevention of cross-subsidization. However, we also wish to prevent confusion in utility advertisements and product promotion, and the inappropriate transfer of customer-specific information.

"For example, we wish to prevent cross-subsidization, so that a utility's customers will not subsidize the affiliate's operation. This is especially important in our transition to a competitive market, since such leveraging, together with a utility's market power, could inefficiently skew the market to the detriment of other potential entrants. As product promotion and advertising become more intense, we also believe it important to craft rules which prevent consumer confusion, such as the representation or implication that the affiliate assumes all the attributes of the Commission-regulated utility, merely because of its corporate connection. We also recognize that customer-specific information can become quite valuable to businesses in a competitive environment, and we wish to protect the utility's release of customer-specific information, except where the customer has consented in writing to the specific disclosure." (D.97-12-088, *slip op.* at p. 12.)

In this case, no party alleges that Wild Goose currently has market power in the gas storage business. It is the first independent gas storage provider to enter the market, and the Commission issued its certificate of public convenience and necessity (CPCN) in 1997. (See D.97-06-091.) Moreover, in approving Wild Goose's request to charge market-based rates, the Commission found that "there was no possibility of cross-subsidization in Wild Goose's proposed services." (See D.97-06-091, *slip op.* at p. 20, Finding of Fact 10.)

Because Wild Goose does not possess market power or the ability to cross-subsidize Wild Goose's affiliates with ratepayer assets, the broad purposes behind the Affiliate Transaction Rules will not be promoted at this time by

applying them to Wild Goose. Therefore, we adopt Wild Goose's proposal, as modified in the Ordering Paragraphs, to apply the Affiliate Transaction Rules at this time to the initial respondents to the OIR/OII, with the proviso that we might apply the Rules, or a portion thereof, to other utilities as defined by the Rules when conditions warrant.

We emphasize that we reach this conclusion because we are at the initial stage of competition in markets such as the gas storage market, where market players such as Wild Goose do not have market power, or the ability to cross-subsidize their affiliates' operations through ratepayer assets. However, we recognize that the energy markets that have been newly opened to competition are dynamic, and the marketplace is constantly changing. Because of this fact, we provided for review of the Affiliate Transaction Rules not later than December 31, 2000, and sooner if conditions warrant. (See D.97-12-088, *slip op.* at p. 87.) We put Wild Goose and all other utilities under our jurisdiction on notice that we intend the respondents in that proceeding to be all electric and gas utilities within our jurisdiction, and the burden will be on the responding utilities to justify limited or partial exemption from the Rules.

PG&E and SoCalGas argue that Wild Goose should be subject to a portion of the Affiliate Transaction Rules that address discrimination and sharing of customer information, because preventing a utility's cross-subsidization and abuse of market power do not underlie those Rules. We disagree, and believe that prevention of cross-subsidization and abuse of market power, at least in part, underlie these, as well as other portions of the Rules. For example, the utility has access to exclusive customer information by virtue of the fact that it has an exclusive franchise over a certain territory.

There are other reasons, such as customer privacy concerns, why we want to preclude sharing of customer information without the customer's consent.

However, the Affiliate Transaction Rules do not necessarily contain a comprehensive code of conduct for each utility for all circumstances, and we regulate utilities through other vehicles as well. For example, Wild Goose's recently approved tariff addresses certain confidentiality concerns. In its reply comments in this case, Wild Goose states that Section C.13.10 of the General Terms and Conditions in the Preliminary Statement of its tariff precludes the disclosure of confidential customer information contained in the relevant storage contracts, which includes specific information about a customer's transactions with Wild Goose, citing to Original Sheet 31-G.

Section C.13.10 (at Original Tariff Sheet 32-G) generally addresses confidential information and trade secrets, but does not define it specifically to include customer specific information. Given Wild Goose's argument above, we interpret Section C.13.10 of Wild Goose's tariff to include, but not be limited to, customer specific information contained in the relevant storage contracts, or customer specific information obtained by Wild Goose as a result of the storage contracts.

We emphasize that we do not exempt all non-respondent electric and gas utilities from the Affiliate Transaction Rules until the Commission reviews the Rules. If any person believes application of the Rules to non-respondent utilities is appropriate in a given situation, the person can file a Petition for Modification to modify the Rules, or request that the Rules apply, for example, in the proceeding in which the entity seeks a CPCN. Thus, if Wild Goose or other non-respondent utilities expand into other markets, an opportunity to raise relevant issues exists prior to the Commission's review of the Affiliate Transaction Rules, which the Commission currently plans to initiate no later than December 31, 2000.

However, we reject PG&E's proposal to add a provision to the Affiliate Transaction Rules to permit any utility to file an application requesting a limited exemption from the rules. First, such a proposal is beyond the limited scope of this rehearing, which is to determine whether the Rules should be modified to exempt nondistribution gas corporations, and in particular independent natural gas storage companies. The Commission did not intend this limited rehearing to be used by parties as a vehicle for wholesale modification of the Affiliate Transaction Rules.

This limited rehearing was granted because Wild Goose was not named as a respondent to the OIR/OII which led to the issuance of D.97-12-088, adopting the Affiliate Transaction Rules. However, the application of the Affiliate Transaction Rules to the respondents was thoroughly examined in the proceedings leading up to the issuance of D.97-12-088. Furthermore, the Commission has provided that these Rules will be reexamined in a proceeding which will commence no later than December 2000. In the meantime, if parties find it necessary to request other modifications of these Rules, they should do so by established procedures (i.e., a Petition for Modification, etc.)

## **6. Comments to the Draft Decision**

The Draft Decision of Administrative Law Judge Econome in this matter was mailed to the parties in accordance with Pub. Util. Code Section 311(g) and Rule 77.1 of the Rules of Practice and Procedure. Western Hub Properties, LLC filed comments to the draft decision. We do not change the draft decision in response to the comments.

## **Findings of Fact**

1. In D.98-11-021, the Commission ordered a limited rehearing of D.97-12-088, the decision by which the Commission enacted its Affiliate

Transaction Rules. D.98-11-021 granted a limited rehearing on the issue of whether the Affiliate Transaction Rules should be modified to exempt nondistribution gas corporations, and in particular independent natural gas storage companies, or whether Rules II.A and I.G should not be changed. (D.98-11-021, *slip op.* at p. 7.)

2. Wild Goose proposes that Rule I.G of the Affiliate Transaction Rules be modified so that "utility" is defined as follows

"Utility means any public utility named as a respondent to R.97-04-011/I.97-04-012, and any other public utility subject to the jurisdiction of the Commission as an Electrical Corporation or Gas Corporation, as defined in California Public Utilities Code Sections 218 and 222, which the Commission by subsequent decision or order requires to comply with these rules."

3. PG&E proposes that Rule II.A of the Affiliate Transaction Rules be modified to provide an exemption to certain rules for public utilities that only provide one unbundled tariffed product or service. PG&E also proposes that Rule II.H be modified to permit any California utility to file an application seeking a limited exemption from the Affiliate Transaction Rules for particular transactions or circumstances to be described more fully in such application. PG&E proposes that the Commission should grant the limited exemptions requested for good cause, with applicant bearing the burden of proof.

4. The following utility distribution companies were named as respondents to the OIR/OII: Kirkwood Gas and Electric Company; PacifiCorp; PG&E; SDG&E; Sierra Pacific Company; Southern California Edison Company; SoCalGas; Southern California Water Company; Southwest Gas Company; and Washington Water Power Company.

5. The OIR/OII initiating the Affiliate Transaction rulemaking set forth two objectives that guided our formation of the Rules: (1) to foster competition and (2) to protect consumer interests. The Rules were designed to neutralize the special advantage of incumbent utilities in the marketplace as we move toward increasing competition. This special advantage includes an exclusive franchise territory, captive customers, regulated rates and designated rates of return, and other such benefits of the regulatory compact.

6. Based on the record, Wild Goose does not possess market power or the ability to cross-subsidize Wild Goose's affiliates with ratepayer assets at this time.

7. We are at the initial stage of competition in markets such as the gas storage market, where market players such as Wild Goose do not have market power, or the ability to cross-subsidize their affiliates' operations through ratepayer assets. However, we recognize that the energy markets that have been newly opened to competition are dynamic, and the marketplace is constantly changing. Because of this fact, we provided for review of the Affiliate Transaction Rules not later than December 31, 2000, and sooner if conditions warrant.

8. The policies of preventing cross-subsidization and curbing abuse of market power, at least in part, underlie the Affiliate Transaction Rules that address discrimination and sharing of customer information, as well as other portions of the Rules.

9. There are other reasons, such as customer privacy concerns, why we want to preclude sharing of customer information without the customer's consent. However, the Affiliate Transaction Rules do not necessarily contain a comprehensive code of conduct for each utility for all circumstances, and we regulate utilities through other vehicles as well.



10. PG&E's proposal to add a provision to the Affiliate Transaction Rules to permit any utility to file an application requesting a limited exemption from the rules is beyond the limited scope of this rehearing, which is to determine whether the Rules should be modified to exempt nondistribution gas corporations, and in particular independent natural gas storage companies. The Commission did not intend this limited rehearing to be used by parties as a vehicle for wholesale modification of the Affiliate Transaction Rules.

11. The application of the Affiliate Transaction Rules to the named respondents was thoroughly examined in the proceedings leading up to the issuance of D.97-12-088.

### **Conclusions of Law**

1. We adopt Wild Goose's proposal, as modified in the Ordering Paragraphs, to apply the Affiliate Transaction Rules at this time to the initial respondents to the OIR/OII, with the proviso that we might apply the Rules, or a portion thereof, to other utilities as defined by the Rules when conditions warrant.

2. Prior to our comprehensive review of the Affiliate Transaction Rules, if any person believes application of the Rules to non-respondent gas or electric utilities is appropriate in a given situation, the person can file a petition for modification to modify the Rules, or request that the Rules apply, for example, in the proceeding in which the entity seeks a certificate of public convenience and necessity.

3. We interpret Section C.13.10 of Wild Goose's tariff to include, but not be limited to, customer specific information contained in the relevant storage contracts, or customer specific information obtained by Wild Goose as a result of the storage contracts.

4. PG&E's proposal to add a provision to the Affiliate Transaction Rules to permit any utility to file an application requesting a limited exemption from the rules is denied.

5. We provided for review of the Affiliate Transaction Rules not later than December 31, 2000, and sooner if conditions warrant. All electric and gas utilities under our jurisdiction are put on notice that we intend the respondents in that proceeding to be all electric and gas utilities within our jurisdiction, and the burden will be on the responding utilities to justify limited or partial exemption from the Rules.

6. This proceeding should be closed.

## **O R D E R**

### **IT IS ORDERED that:**

1. Wild Goose Storage, Inc.'s (Wild Goose) proposal to modify the Affiliate Transaction Rules as set forth in Decision (D.) 97-12-088, as modified by D.98-08-035, is granted as modified by our adopted changes to Rule I.G and II.A of the Rules in Ordering Paragraph 2 below.

2. Rule I.G of the Affiliate Transaction Rules is modified as follows:

"Utility" means any public utility named as a respondent to Rulemaking 97-04-011/Investigation 97-04-012, and any other public utility subject to the jurisdiction of the Commission as an Electric Corporation or Gas Corporation, as defined in California Public Utilities Code Sections 218 and 222, which the Commission by subsequent decision or order requires to comply with these Rules.

Rule II.A of the Affiliate Transaction Rules is modified as follows:

These Rules shall apply to the California public utility gas corporations and California public utility electrical corporations identified in Rule I.G.

3. Section C.13.10 of Wild Goose's tariff shall be interpreted to include, but not be limited to, customer specific information contained in the relevant storage contracts, or customer specific information obtained by Wild Goose as a result of the storage contracts.

4. Decision 97-12-088, *slip op.* at 87, provides for review of the Affiliate Transaction Rules not later than December 31, 2000, and sooner if conditions warrant. All electric and gas utilities under our jurisdiction are put on notice that we intend the respondents in that proceeding to be all electric and gas utilities within our jurisdiction, and the burden will be on the responding utilities to justify limited or partial exemption from the Rules.

5. This proceeding is closed.

This order is effective today.

Dated September 2, 1999, at San Francisco, California.

RICHARD A. BILAS

President

HENRY M. DUQUE

JOSIAH L. NEEPER

JOEL Z. HYATT

CARL W. WOOD

Commissioners