

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

**RESOLUTION G-3250
MARCH 18, 1999**

RESOLUTION

RESOLUTION G-3250. WILD GOOSE STORAGE INC. SEEKS APPROVAL OF INITIAL TARIFFS FILED IN COMPLIANCE WITH DECISIONS NO. 97-06-091 AND 98-06-083. APPROVED.

BY ADVICE LETTER I-G FILED ON DECEMBER 18, 1998 AND SUPPLEMENTAL ADVICE LETTER 1A-G FILED ON JANUARY 19, 1999.

Summary

1. On December 18, 1998 Wild Goose Storage Incorporated (WGS) filed Advice Letter (AL) I-G to establish its initial tariff schedules in compliance with Decision (D.) 97-06-091 as modified by D.98-06-083. Pursuant to Commission approval of its tariffs, WGS intends to commence gas storage service operations on April 1, 1999 and charge market based rates to its customers. WGS is the first independent gas storage provider certificated as a public utility by the Commission.
2. On January 19, 1999 WGS supplemented its advice letter with AL 1A-G to make minor changes to its proposed Rule 11 in response to Pacific Gas and Electric Company's (PG&E) protest to AL I-G. As a result of the changes WGS made in AL 1A-G, PG&E withdrew its protest to AL I-G.
3. WGS requests a partial waiver of certain tariff format requirements specified in General Order 96-A. This Resolution approves WGS's request for this waiver.
4. Roseville Land Development Association (Roseville Land) protested AL I-G. It requests that the Commission withhold action on the advice letter until pending litigation over WGS's right as a public utility to use Roseville Land's property is finally concluded. Roseville Land also requests that the Commission require WGS to inform its potential customers of the pending litigation. This Resolution denies Roseville Land's protest because it raises no issues relevant to the tariffs that WGS has filed in compliance with D.97-06-091 as modified by D.98-06-083.
5. This Resolution approves WGS's AL I-G as supplemented by AL 1A-G.

Background

Procedural Background

1. In D.93-02-013 the Commission adopted policies and rules for natural gas utility storage programs and allowed independent storage providers to enter the storage market and compete with the local distribution companies. D.97-06-091 in Application (A.) 96-08-058 granted WGSJ a certificate of public convenience and necessity (CPCN) authorizing it to develop, construct, and operate an underground natural gas storage facility in Butte County, California, and to provide firm and interruptible storage service. WGSJ's application was the first to seek authorization to provide independent gas storage service pursuant to D.93-02-013.
2. D.97-06-091 required WGSJ to file tariffs pursuant to Public Utilities Code Section (Section) 491 before commencing operations. Gas stored by WGSJ will be transported on PG&E's transmission system, and D.97-06-091 also required WGSJ to execute an operating and balancing agreement with PG&E.
3. D.97-06-091 allowed WGSJ to charge market based rates and to file tariffed rates within a rate window. The decision required WGSJ to file cost data with the Commission to justify that its tariff rates do not fall below its short-run marginal cost.
4. WGSJ filed a petition to modify D.97-06-091. D.98-06-083 which addressed WGSJ's petition allowed WGSJ to file market based tariffed rates without cost justification. D.98-06-083 found no evidence that WGSJ has significant market power and that there is no need for it to provide this cost data.
5. The Commission assessed the environmental impact of WGSJ's application pursuant to the requirements of the California Environmental Quality Act (CEQA). D.97-06-091 addressed the CEQA review process. As a result of this review, Energy Division staff prepared a Negative Declaration requiring that WGSJ implement specific measures to mitigate the potential adverse environmental impacts associated with the project.
6. Roseville Land participated in the phase of A.96-08-058 which dealt with the CEQA review process. Prior to the close of the proceeding it filed a petition to set aside submission, renounce, and reopen the proceeding for additional evidence. The assigned administrative law judge (ALJ) denied Roseville Land's petition, and D.97-06-091 affirmed the ALJ's ruling on the petition. Roseville Land subsequently filed an application for rehearing of D.97-06-091 challenging the legality of the Negative Declaration and alleging other errors in the decision relating to issuance of the CPCN. In D.97-10-070 the Commission found that Roseville Land's allegations had no merit and denied its application for rehearing. Roseville Land filed a petition for writ of review of D.97-06-091 and D.97-10-070 with the California Supreme Court, which was denied.

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WGSJ's Proposed Tariffs

7. D.97-06-091 ordered WGSJ to file an advice letter prior to commencing operations, including accompanying tariff schedules which meet the criteria set forth in the decision and the requirements of General Order (G.O.) 96-A. WGSJ filed its compliance advice letter on December 18, 1998 to establish tariffs for new storage services which, pursuant to Commission approval, WGSJ plans to commence on April 1, 1999.
8. The tariffs that WGSJ filed in AL 1-G provide a range of market based rates. Pursuant to D.98-06-083, WGSJ is not required to justify the costs underlying these rates. AL 1-G includes schedules for base load and short-term storage service (Schedules BLS and STS) which show a range of rates. The actual rates and terms of service for each customer will be negotiated by WGSJ and the customer and will be included in a separate Appendix. AL 1-G provides sample appendices for Schedules BLS and STS for a hypothetical customer.
9. WGSJ requests a partial waiver of G.O. 96-A format requirements. First it requests to omit certain rules required by the General Order on the basis that they do not apply. These rules and the reasons for excluding them are summarized below:
 - Rule 7 - Deposits: WGSJ does not require deposits from customers.
 - Rule 11 - Discontinuance and Restoration of Service: WGSJ has no need for such procedures. The applicable provisions governing curtailment and force majeure affecting storage service are provided in Rule 14. WGSJ proposes to substitute its proposed Rule 11 "Measurement of Service" for this rule.
 - Rule 12 - Optional Rates: WGSJ does not provide optional rates.
 - Rule 13 - Temporary Service: WGSJ does not provide temporary service.
 - Rule 15 - Extensions: WGSJ does not have distribution lines so the requirement for a rule relating to line extensions is not applicable.
 - Rule 16 - Service Connections/Facilities on Customers' Premises: WGSJ has no reason to connect gas lines or facilities at any customer's premises.
 - Rule 18 - Meter Tests/Bill Adjustments for Meter Error: Under Rule 11 of WGSJ's proposed tariffs, the connecting pipeline measures the amount of gas delivered to the customer or WGSJ, and any adjustments to these measurements will be done in accordance with the connecting pipeline's tariffs.¹ The Terms and Conditions portion of the proposed tariffs address bill adjustments required by errors in the connecting pipeline's meters.

¹ PG&E is the "connecting pipeline". WGSJ states in AL 1A-G that it has no present intention to interconnect with any pipeline other than PG&E. By its advice letter, WGSJ commits to the Commission that if it seeks to interconnect with any pipeline other than PG&E, it will publicly disclose that fact and the location of the interconnection.

- Rule 19 - Supply to Separate Premises and Resale: WGSJ does not deliver gas to end-use customers' facilities or operate a distribution system to which a customer may connect a master or submeter. Thus, Rule 19 is not applicable.

10. WGSJ also requests a waiver of the provisions of Section II.C.(1)(b) of G.O. 96-A which requires that newer sheets have higher numbers than the sheets they replace. WGSJ proposes that the replacement sheets have the same number as the sheets they replace and be indicated by "first replacement sheet", "second replacement sheet", etc., as newer sheets are filed. Finally, WGSJ requests a waiver of Section II.C.(4), to allow it to include rules which are very short in length on the same page.

Notice

Notice of Advice Letter 1-G and 1A-G was made by publication in the Commission's Daily Calendar and it was distributed to parties in accordance with Section III-G of General Order 96-A and to all parties of record in A.96-08-058.

Protests

1. PG&E and Roseville Land filed timely protests to AL 1-G. PG&E limited its protest to WGSJ's proposed Rule 11. PG&E noted that the proposed rule would violate the PG&E/WGSJ operating and balancing agreement (OBA) because it implied that a WGSJ customer's gas delivered to or from the WGSJ facility would be measured by PG&E via a metering device.
2. In response to PG&E's protest, WGSJ filed AL 1A-G which made two minor modifications to its proposed Rule 11 to conform the rule with the provisions of the OBA. First, WGSJ modified the language to state that the measurement referred to in the rule applied to scheduled gas volumes (as specified by the OBA) and not delivered gas volumes. Additionally, WGSJ eliminated meter test language from the rule. Although WGSJ may request a meter test under the OBA, there is no need to include meter test provisions in the tariff. After receiving and reviewing WGSJ's supplement, PG&E withdrew its protest by a letter to the Energy Division dated January 25, 1999.
3. No party protested WGSJ's supplemental AL 1A-G.
4. Roseville Land alleges in its protest that WGSJ does not have the right to take or use, or allow its customers the right to use the real property of Roseville Land, through which WGSJ has installed a pipeline. Roseville Land has made this same allegation in an eminent domain action filed by WGSJ against Roseville Land in Butte County Superior Court in January 1998, and in an appeal on that case which Roseville Land is seeking in the California Third District Court of Appeals.

5. In its protest Roseville Land requests that the Commission a) withhold action on WGSJ's advice letter until the courts have acted with finality and b) require WGSJ to advise any potential customers of the existence and effect of the pending litigation if WGSJ intends to enter into contracts with customers before the courts have acted with finality.
6. WGSJ filed a timely response to Roseville Land's protest. WGSJ states that Roseville Land's protest is an improper attempt to delay approval of WGSJ's tariff and that the Commission should deny the protest. WGSJ's response also provides background on Roseville Land's intervention in A.96-08-058, and describes the status of the eminent domain case.

Discussion

1. WGSJ filed its advice letter in compliance with D.97-06-091, as modified by D.98-06-083, to establish tariffs which meet the criteria set forth in these decisions and the requirements of G.O. 96-A (D.97-06-091, Ordering Paragraph 3). The issues that this Resolution addresses must therefore focus on the extent to which WGSJ's proposed tariffs adhere to these criteria and requirements.
2. WGSJ's proposed tariffs reflect market based rates which the Commission has allowed it to offer its customers. These rates will be individually negotiated between WGSJ and each customer. The rates WGSJ intends to offer will fall within a "filed rate zone", as shown in its Schedules BLS and STS. WGSJ is not required to justify the floor and ceiling rates it proposes (D.98-06-083, Ordering Paragraph 8). The rates that WGSJ proposes meet the criteria set forth in D.97-06-091, as modified by D.98-06-083, and should be adopted.
3. WGSJ's proposed tariffs substantially conform to the requirements set forth in G.O. 96-A. As described above in the "Background" section, WGSJ requests a partial waiver of some of the format requirements of the General Order. WGSJ has made a proper showing that Rules 7, 12, 13, and 18 do not apply given the structure of its rates and the services it will provide. Similarly, WGSJ has shown that Rules 11, 15, 16 and 19 are not applicable in its case since it provides only gas storage services and does not transport or distribute gas to end-use customers. WGSJ's request to omit these rules from its tariffs is approved.
4. WGSJ's request for a waiver of provisions of Section II.C.(1)(b) of G.O. 96-A regarding the numbering of replacement sheets is reasonable. It is a logical way to number successive sheets and will make it easier to follow the tariffs. WGSJ's request for a waiver of Section II.C.(4) of the General Order to include shorter rules on the same page is also reasonable since it will reduce the volume of pages that need to be filed and reviewed. WGSJ's request for a waiver of these provisions of G.O. 96-A should therefore be approved.
5. Roseville Land's protest raises no issues that are relevant to the tariffs that WGSJ has filed in compliance with D.97-06-091 as modified by D.98-06-083. Roseville Land has failed to show that any portion of the tariffs filed in AL 1-G or supplemental AL 1A-G is inconsistent

or non-compliant with any portion of these decisions or G.O. 96-A. The Commission has not conditioned the implementation of WGSJ's tariffs on any final court action or on WGSJ's notification of potential customers regarding any pending litigation. Accordingly, Roseville Land's protest is denied.

Comments

1. On February 11, 1999 the Energy Division mailed the draft resolution in this matter to parties in accordance with Section 311(g), and requested comments within 20 days. WGSJ and Roseville Land filed comments.
2. WGSJ's comments express support for the draft resolution, and provide further information on the status of the litigation described in Roseville Land's protest.
3. Roseville Land makes several allegations in its comments. Among them are that the Public Utilities Act does not permit negotiated rates, and that WGSJ's proposed tariffs "appear" to violate various PU Code Sections. Roseville Land also reiterates its request that the Commission should require WGSJ to notify potential customers of the pending litigation. The issues that Roseville Land raises in its comments are not relevant to the matters which the draft resolution addresses, i.e., whether WGSJ's proposed tariffs comply with D.97-06-091 as modified by D.98-06-083. Therefore, Roseville Land's comments do not require that any changes be made to the draft resolution.

Findings

1. WGSJ filed Advice Letter I-G on December 18, 1998, and supplemental Advice Letter IA-G on January 19, 1999.
2. Notice of AL I-G and supplemental AL IA-G were made by publication in the Commission's daily calendar. WGSJ also distributed copies of the advice letters to parties in accordance with Section III-G of G.O. 96-A.
3. PG&E and Roseville Land filed protests to AL I-G. After receiving and reviewing supplemental AL IA-G, PG&E withdrew its protest.
4. D.97-06-091 granted WGSJ a CPCN authorizing it to develop, construct, and operate an underground natural gas storage facility in Butte County, CA.
5. D.97-06-091 as modified by D.98-06-083 allows WGSJ to charge market based rates for storage services within a filed rate zone, without having to justify its proposed rate ceiling or floor.

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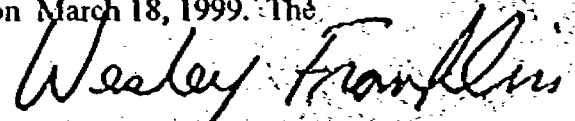
6. D.97-06-091 as modified by D.98-06-083 ordered WGSJ to file an advice letter prior to commencing gas storage operations, including accompanying tariff schedules which meet the criteria set forth in those decisions and the requirements of G.O. 96-A.
7. Pursuant to Commission approval of its tariffs, WGSJ intends to commence offering gas storage services to customers on April 1, 1999.
8. The rates proposed by WGSJ in AL 1-G meet the criteria specified in D.97-06-091 as modified by D.98-06-083.
9. The tariff schedules proposed by WGSJ in AL 1-G and supplemental AL 1A-G substantially conform with the requirements of G.O. 96-A.
10. WGSJ's request for a partial waiver of Section II.C.(4) of G.O. 96-A to omit Rules 7, 11, 12, 13, 15, 16, 18, and 19 from its tariffs is reasonable and should be approved.
11. WGSJ's request for a waiver of the provisions of Section II.C.(1)(b) of G.O. 96-A regarding the numbering of replacement sheets is reasonable and should be approved.
12. WGSJ's request for a waiver of the provisions of Section II.C.(4) of G.O. 96-A to include rules which are short in length on the same page is reasonable and should be approved.
13. The issues raised in the protest of Roseville Land are not relevant to the tariffs WGSJ filed in compliance with D.97-06-091 as modified by D.98-06-083. Accordingly, Roseville Land's protest is denied.

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Therefore it is ordered that:

1. WGSJ's Advice Letter 1-G as supplemented by 1A-G is approved.
2. The protest of Roseville Land is denied.
3. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on March 18, 1999. The following Commissioners voting favorably thereon:



WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President

HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners