

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND
COMPLIANCE DIVISION
Energy Branch

RESOLUTION G-3127
June 8, 1994

R E S O L U T I O N

RESOLUTION G-3127. PACIFIC GAS AND ELECTRIC COMPANY REQUESTS APPROVAL OF THE LONG-TERM FIRM INTRA-STATE GAS TRANSPORTATION SERVICE TO ITS LARGE NON-CORE CUSTOMERS [TARIFF SCHEDULE G-LT], AND THE LONG TERM GAS SERVICE AGREEMENT [FORM 79-792].

BY ADVICE LETTER 1838-G, FILED ON MARCH 18, 1994.

SUMMARY

1. Pacific Gas and Electric Company [PG&E] seeks approval of Tariff Schedule G-LT [Long-Term Firm Intra-State Gas Transportation Service to Large Non-Core Customers] and Form 79-792 [Long-Term Gas Service Agreement].
2. The service is to provide optional long-term firm intrastate transportation for large industrial and cogeneration customers.
3. The service is expected to minimize imminent loss of contribution to margin from events occurring since the filing of PG&E's EAD [Expedited Application Docket] program.
4. Advice letter 1838-G is protested on procedural, legal, and substantive grounds by the Division of Ratepayer Advocates, Toward Utility Rate Normalization, Mojave Pipeline Company, Sunrise Energy Services, Inc., Sun Pacific Energy Management, Inc., and El Paso Natural Gas Company. The protests are discussed below.
5. This Resolution denies the request. PG&E may file a petition to modify the Expedited Application Docket Decision 92-11-052 and to respond to a list of issues pointed out below.

BACKGROUND

1. The proposed rate schedule and agreement is expected to provide optional, long-term, firm intrastate transportation service for large industrial and cogeneration customers.

2. PG&E would offer a long term rate under a ten-year transportation service agreement to customers with annual usage greater than 3,000,000 therms during any of the preceding three years. PG&E states that price certainty as offered in the tariff will greatly appeal to customers.

3. Table 1 shows the transportation rates per therm for the proposed service with corresponding long-run marginal costs:

TABLE 1

	Industrial Customers	Cogeneration Customers
Average rate	\$ 0.04800	\$ 0.04400
Volumetric rate	0.04579	0.04244
Marginal cost [1994 estimates]	0.02900	0.03200

4. Table 2 shows the otherwise applicable volumetric transportation rates for those customers:

TABLE 2

	Industrial Customers [Sch. G-ITS]	Cogeneration Customers [Sch. G-CGS]
<u>Volumetric rates:</u>		
Summer	\$ 0.04038	\$ 0.03468
Winter	0.05469	0.04767

5. The initial rate consists of the volumetric rate and a customer charge equivalent to that found in other noncore intrastate transportation schedules. Both customer charge and volumetric rates are subject to an annual escalation of 50 percent of the consumer price index for all urban consumers [CPI-U]. PG&E claims that the rates exceed the marginal cost floor as estimated by PG&E [based on D.93-05-066 estimates] and are within the range of rates negotiated under existing expedited application docket [EAD] contracts.

6. The long-term rate option would be offered to eligible customers during an open season beginning June 1, 1994 and ending July 31, 1994. Service agreements would go into effect on September 1, 1994 and expire on August 31, 2004.

7. With this filing PG&E is trying to minimize imminent loss of contribution to margin from events occurring since the adoption

of the EAD program. The filing will also serve as an additional measure to deter uneconomic system bypass by PG&E customers. [Uneconomic bypass occurs when a customer's alternative energy cost exceeds the utility's marginal cost of service, but is less than the utility's tariffed rates]. PG&E states that Mojave Pipeline Company, for example, a FERC regulated utility, has increased its efforts to take over PG&E's customers and has modified its application to expand to the San Francisco city limits, making offers to more and smaller customers.

8. The EAD process approved by the Commission [D.92-11-052] has resulted in approval of 10 special contracts for PG&E. PG&E states that the EAD process is not sufficiently expeditious to allow it to compete effectively.

9. PG&E contends that the EAD process for approval of contracts imposes a burden on PG&E and its customers to which its unregulated competitors are not subjected. Approval of contracts under the EAD procedures takes up to six months and requires negotiations, preparation and submission of applications to the Commission for approval of the contract, meetings with CPUC staff, responding to data requests and protests, witness preparation, and so on.

10. PG&E also contends that a contract-by-contract review is burdensome to the Commission. The proposed Schedule G-LT will eliminate the burden of regulatory review of individual contracts and once approved, it will eliminate impediments to the retention and attraction of load to its system.

11. PG&E stockholders will assume the financial risk for revenue differences between the proposed long-term rate option and the present rates.

12. PG&E states that customers not included in the proposed plan will remain indifferent to Schedule G-LT [G-LT] because PG&E will remove the G-LT costs from the Noncore Fixed Cost Account [NFCA], but will continue to allocate costs to G-LT customers in the Biennial Cost Allocation Proceedings.

13. Should the Commission adopt PG&E's Regulatory Reform Initiative [also known as Performance Based Ratemaking], PG&E, when computing shared earnings, would exclude the impact of G-LT from the earned utility return on equity.

14. Sections IX and X of General Order [G.O.] 96-A require that contracts between a utility and its customers contain the following provision:

This contract shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may, from time to time, direct in the exercise of its jurisdiction.

PG&E requests that to ensure that eligible customers selecting the long-term option can depend on the continuity of the terms

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and conditions in their service agreements, the Commission waive the right to modify the terms and conditions of service at a later date. The Commission has waived these Sections of G.O. 96-A, most recently in the EAD process itself [see page 13, D.92-11-052].

NOTICE

1. PG&E served notice of AL 1838-G by mailing copies to other utilities, government agencies, and all parties that requested such information.

PROTESTS

1. Advice letter 1838-G was protested on April 7, 1994 by the Division of Ratepayer Advocates [DRA], Toward Utility Rate Normalization [TURN], Mojave Pipeline Company [Mojave], Sunrise Energy Services, Inc. [Sunrise], Sun Pacific Energy Management, Inc. [Sun], and El Paso Natural Gas Company [El Paso]. PG&E responded to TURN and DRA protests on April 14, 1994. The Sunrise, Sun, El Paso, and Mojave protests were answered on April 15, 1994. Protestants' main points and PG&E's responses are discussed below.

2. DRA's concern is that the proposed PG&E tariffs present a policy change too broad to be addressed in an advice letter. DRA then gives examples of issues that need in-depth discussions such as clarification of the extent of PG&E shareholder responsibility for shortfall risks, allocation of revenues associated with the proposed G-LT, interaction between the proposed plan and any performance based ratemaking mechanism, and the antitrust issues relating to the contracts. DRA proposes a workshop to address the issues. PG&E responds that time is of the essence in the current competitive environment and that workshops or hearings would delay the expeditious implementation necessary to enable PG&E to compete effectively in the marketplace. Finally, DRA seeks clarification of antitrust issues relating to the contracts, affirming its belief that as PG&E enters into competitive markets, it should bear full risk of anticompetitive behavior. PG&E responds that it is not beyond the reach of antitrust rules and proposes to submit all signed G-LT service agreements, confidentially, for Commission review. Furthermore, PG&E states that the Commission has authority to protect ratepayers against financial burden caused by the utility's anticompetitive behavior.

3. TURN's concern is similar to DRA's in that it thinks the issues involved are too significant and complex to resolve in the twenty days allowed for an advice letter protest. TURN then proceeds with its concerns about PG&E's accounting for exclusion of G-LT costs from the NFCA. The excluded costs would be on a forecast basis rather than a recorded basis and this, according to TURN, may give rise to recovery of more revenues from G-LT customers than the costs removed from NFCA. TURN's next concern is that the "backbone credit" for customers using gas delivered

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over the PG&E "Expansion Project" [Line 401] differs from that included in other PG&E noncore transportation tariffs. PG&E in its response to TURN's protest has agreed to adopt TURN's proposal to credit revenues from G-LT customers to the NFCA based on the customers' otherwise applicable rate and add updated backbone credit language to Schedule G-LT through a supplementary advice letter subsequent to this Resolution thus allaying TURN's concerns.

4. Mojave's concern is both procedural and substantive. Mojave sees it procedurally improper to modify D.92-11-052, which established the EAD, through the advice letter process. According to Mojave, PG&E should either be required to file a petition to modify the decision or file an application in order to provide the opportunity for hearing the relief sought. PG&E responds that it is not requesting a modification to the EAD process and that it believes the EAD option should remain. Mojave also is concerned about the relationship between discounted rates and the backbone credit as related to G-LT. PG&E explains that G-LT is a tariffed rate, not a discounted rate and, as pointed out above, PG&E will add updated backbone credit language to Schedule G-LT and submit it through an amended advice letter after the approval of this Resolution. Mojave's next concern is that stranded [transition] costs are not included in G-LT, to which PG&E answers that the G-LT rate covers all costs of transportation service, including stranded costs. PG&E pledges that additional costs allocated to G-LT customers, but not collected under G-LT, will be borne by its shareholders. Mojave's other concern is that although PG&E requests waiver of Sections IX and X of G.O. 96-A, its proposed agreement form for long-term transportation does not contain this waiver. PG&E replies that the exclusion was inadvertent and it will include the language for waiver of this provision under G.O. 96-A, through a supplementary advice letter subsequent to this Resolution. Finally, Mojave asserts that the advice letter is intended by PG&E not to foster competitive parity, vis-a-vis Mojave and similar competitors, but to provide competitive advantages based on ratepayer-supported subsidies. PG&E denies that the service is subsidized by ratepayers because all shortfalls will be absorbed by its shareholders.

5. El Paso's concerns are much like Mojave's. El Paso, as a threshold matter, proposes that PG&E be required to amend the language of the G-LT tariff to indicate that it does not apply to transportation over the PG&E "Expansion Project", and that a separate tariff governs Expansion Project service. PG&E agrees with El Paso that G-LT rate does not cover transportation over the Expansion Project pipeline, which is incrementally priced as a stand-alone service. G-LT customers who desire incrementally-priced services such as the Expansion Project, will pay for those services under separate tariffs. PG&E agrees to amend its advice letter to indicate that G-LT does not apply to transportation over the PG&E Expansion Project pipeline. El Paso finally takes issue on the point that under EAD process the utilities have to show imminent bypass on part of their customers, whereas no such provision is envisaged under G-LT. PG&E responds that bypass is an issue under EAD because 75% of

the resulting shortfall is borne by non-participating ratepayers whereas under G-LT the entire shortfall is absorbed by PG&E, making bypass a nonissue in G-LT case.

6. A joint protest by Sunrise and Sun raises similar issues. The two companies contend that G-LT apparently does not unbundle storage costs and does not provide the opportunity for unbundling other utility services or costs. PG&E responds that G-LT is a transportation tariff and does not provide for storage service; and since the service is not a seasonally-differentiated rate, it is not affected by the unbundling of storage or other utility costs or services. Customers who choose unbundled storage under the Commission's storage program will pay for that service under a separate tariff. Finally, the two companies request that, instead of acting on the advice letter, the Commission proceed to adopt a comprehensive restructuring of gas utility transmission services. PG&E responds that further restructuring of the California gas industry should have no bearing on the Commission's approval of Schedule G-LT. The proposed service, according to PG&E, will enable it to compete in providing transportation service, thereby protecting the interests of all ratepayers on its system.

DISCUSSION

1. The main issue concerning AL 1838-G is whether an advice letter is the proper vehicle for such a proposal. Since the important issues raised by the protestants need airing and debate, CACD concludes that an advice letter filing is not the proper avenue to approach the Commission for the request. Because the protestants have raised significant concerns over the proposal's modification of prior Commission decisions, and the inappropriateness of such modification through the advice letter process, CACD recommends that PG&E be invited to file a petition to modify EAD D.92-11-052 to suit the purposes of its proposed G-LT service.

2. The following are the concerns expressed by the protestants that need to be addressed by PG&E in conjunction with any new filing for G-LT:

- o whether the advice letter is a new service or a modification of EAD procedures
- o whether antitrust concerns will be raised
- o whether the accounting for costs is appropriate and adequate to ensure shareholder assumption of shortfalls
- o whether the treatment of backbone credit is proper.
- o whether the transition costs are included in G-LT

- o whether it is appropriate to include in the service agreement the Commission's waiver of Sections IX and X of G.O. 96-A
 - o whether the proposed service will cover transportation over the Expansion Project, and
 - o whether there is an imminent bypass threat.
3. If PG&E chooses to file a petition for modification of the EAD decision, it should also address the following:
- o whether PG&E proposes to offer its G-LT service to customers which:
 - (a) use PG&E's expansion,
 - (b) use PGT's expansion, or
 - (c) purchase gas from shippers which use PG&E's expansion or PGT's expansion.
 - o If the answer to (a), (b), or (c) is yes, PG&E and interested parties should address the following issues:
 - (a) Should PG&E be authorized to provide G-LT service to customers described in (a), (b), or (c) above?
 - (b) Would such service be inconsistent with the CPUC's crossover ban?
 - (c) Would such service be inconsistent with the CPUC's incremental rate policies?
 - (d) How will PG&E's existing customers, which did not sign up for PG&E's expansion or PGT's expansion, continue to be protected from paying for PG&E's expansion costs?
 - (e) Does PG&E agree that its shareholders will agree to absorb 100% of its expansion costs, which would have been allocated to the rates of the customer (or the shipper serving the customer) that receives G-LT service?
 - o In addition to the PG&E expansion costs referenced in (e) above, does PG&E propose to have its shareholders absorb 100% of the revenue shortfalls for all other costs that would have otherwise been recovered in the rates of the customers receiving G-LT service? In answering this question, PG&E should address the costs associated with the following:
 - (a) PG&E's intrastate facilities used in providing the G-LT service;
 - (b) Stranded intrastate costs associated with customers using PG&E's expansion instead of PG&E's existing facilities;
 - (c) Stranded intrastate costs associated with customers using Mojave Pipeline instead of PG&E's facilities;
 - (d) Interstate pipeline reservation charges and surcharges recovered through the ITCS;
 - (e) Interstate pipeline direct bill of transition costs, such as PGT's direct bill of gas supply realignment costs; and

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(f) State social programs mandated by state legislation or Commission orders.

- o To the extent that in a subsequent proceeding the Commission were to establish a different long run marginal cost, how should that determination affect the rates for the G-LT service?
- o Should PG&E's G-LT service enjoy an immunity from antitrust lawsuits under a state action defense if the CPUC waives its General Order 96-A?
- o Whether PG&E could offer G-LT service without the Commission waiving its General Order 96-A?
- o Does the Federal Energy Regulatory Commission ever permanently waive its authority under Section 5 of the Natural Gas Act to subsequently review contracts between interstate pipelines and their firm shippers or the interstate pipelines' rates?
- o Is it unduly discriminatory to offer G-LT service to only one class of customers even if there is no finding of imminent bypass for all customers in that class?
- o Specify each Commission decision which PG&E seeks to modify.
- o Whether PG&E's G-LT service modifies the prohibitions against discounting firm intrastate rates and the Interstate Transition Cost Surcharge adopted by the Commission in its Capacity Brokering D.91-11-025?

FINDINGS

1. PG&E filed Advice Letter 1838-G requesting approval of Tariff Schedule G-LT and the accompanying Service Agreement Form 79-792.
2. Schedule G-LT is an optional long-term firm intrastate transportation service for industrial and cogeneration customers with annual usage exceeding 3,000,000 therms in any of the preceding three years.
3. The advice letter is not the proper method of filing for a G-LT tariff.
4. There are numerous concerns over the proposed G-LT service that PG&E should address in the event it chooses to file petition for modification of the EAD D.92-11-052.
5. Pacific Gas and Electric Company may file a petition to modify the Expedited Application Docket in Decision 92-11-052, and address the issues brought out in this Resolution [Discussion Section, paragraphs 2 and 3].

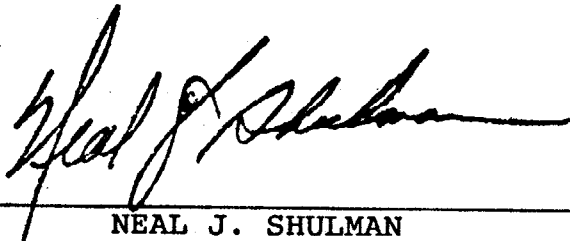
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THEREFORE, IT IS ORDERED that:

1. Pacific Gas and Electric Company advice letter 1838-G is denied.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 8, 1994. The following Commissioners approved it:



NEAL J. SHULMAN
Executive Director

DANIEL Wm. FESSLER
President
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
P. GREGORY CONLON
Commissioners

I dissent.
/s/ JESSIE J. KNIGHT, Jr.
Commissioner