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

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| Application of Wild Goose Storage, Inc. to Amend its Certificate of Public Convenience and Necessity to Expand and Construct Facilities for Gas Storage Operation. | Application 01-06-029 (Filed June 18, 2001) |

# SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE

This ruling addresses the category, need for hearing, scope and schedule for this proceeding and designates a presiding officer in accordance with Article 2.5 of the Commission Rules of Practice and Procedure (Rules).

## 1. Summary

On June 18, 2001, Wild Goose filed this application, seeking to amend its certificate of public convenience and necessity (CPCN), which was granted by the Commission in Decision (D.) 97-06-091, in order to expand its gas storage facilities (the Wild Goose expansion).

Under its CPCN, Wild Goose owns and operates an underground natural gas storage facility in Butte County. In this application, Wild Goose seeks authorization to expand its gas storage facility to develop two additional reservoirs within the Wild Goose field, to drill 19 new wells, and to construct related facilities. Wild Goose would maintain its existing connection with Pacific Gas and Electric Company's (PG&E) Line 167 and requests that PG&E relocate a

portion of Line 167, which provides local transmission services, further to the east in order to accommodate the Wild Goose expansion.

As part of the project, Wild Goose wants to transport gas to and from its customers on the PG&E Line 400/401 backbone natural gas pipeline system (the backbone system) and to interconnect with the backbone system near the Delevan compressor station (the Delevan interconnect site). Wild Goose proposes to construct an approximately 25.5 mile pipeline from its expanded storage facilities to the backbone system. Wild Goose therefore seeks confirmation from the Commission that under the Gas Storage Rules adopted in the Gas Storage Decision (D.93-02-013), PG&E is required both to interconnect its backbone system with the Wild Goose expansion at PG&E's expense and to provide Wild Goose customers who wish to transport gas through the backbone system with an equivalent level of service and charges as provided to PG&E's own gas storage customers. Wild Goose further requests a Commission determination that the benefits of the interconnection of the Wild Goose expansion with the PG&E system outweighs any related costs to PG&E.

The Wild Goose interconnection with Line 167 and the backbone system would extend into Butte and Colusa Counties.

In addition, Wild Goose seeks authorization to continue to charge market-based rates.

On July 20, 2001, PG&E filed a response which conditionally supports the application, but raises issues regarding the possible need for additional capacity on the backbone system to serve Wild Goose customers, the allocation of costs for interconnection and additional capacity, the applicability of the Gas Storage Rules to this application, the need for clarification of the "equivalent service"

standard articulated in the Gas Storage Rules, the need for possible amendments to the Gas Storage Rules[1], and broader questions related to the need to expand the backbone system to meet the needs of present and future customers, including electric generators.

On July 20, 2001, the Commission Office of Ratepayer Advocates (ORA) filed a protest, seeking clarification of the cost of relocating a portion of Line 167 to interconnect with the backbone system and the allocation of these costs. ORA's protest also requests clarification of the specific ruling that Wild Goose seeks from the Commission regarding PG&E's provision of transmission service to Wild Goose through the backbone system and the definition of equivalent service.

A prehearing conference (PHC) was held on August 8, 2001 before Administrative Law Judge (ALJ) Myra Prestidge. Representatives of Wild Goose, PG&E, ORA, Southern California Gas Company, Roseville Land Development Association, the Utility Reform Network (TURN), the Kevin D. Towne and Patricia I. Towne Revocable Living Trust (Towne Trust), Lodi Gas Storage, LLC., and CalPine Corporation attended the PHC. The ALJ granted the motions to intervene of CalPine Corporation, the Towne Trust, and Roseville Land Development at the PHC.

## 2. Category of Proceeding/Ex Parte Rules

This ruling confirms the Commission's preliminary finding in Resolution ALJ 176-3066, issued on June 28, 2001, that the category for this proceeding is ratesetting and that hearings are necessary. This ruling, only as to category, is

[1] The Gas Storage Rules were adopted as part of the Commission Gas Storage decision (D.93-02-013).

appealable pursuant to Rule 6.4. The *ex parte* rules set forth in Rule 7 apply to this proceeding.

## 3. Principal Hearing Officer and Final Oral Argument

ALJ Prestidge is designated as the principal hearing officer pursuant to Pub. Util. Code § 1701.3.

Parties may request the opportunity for final oral argument before the Commission on the last day of evidentiary hearings in each phase of the proceeding or as otherwise directed by the principal hearing officer or the assigned Commissioner.

## 4. Scope of the Proceeding

The scope of this proceeding involves an interplay between issues that the Commission must decide to rule upon the application pursuant to Pub. Util. Code § 1001 and 1002 and to determine compliance with the California Environmental Quality Act (CEQA), and broader issues raised by PG&E and other parties. In deciding the scope for this proceeding, we have determined to address all issues necessary for a Commission decision on the application and to give the parties clear direction on implementation, while reserving some of the broader issues raised by PG&E and other parties to a future proceeding which sets policy on an industry-wide basis or specifically for PG&E, such as the PG&E Gas Accord II.[2]

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[2] The issues deferred to a broader future proceeding include whether the Gas Storage Rules are outdated and should be amended; priorities for the allocation of service on the backbone system; the criteria for determining the level of backbone capacity that the Commission believes is appropriate for the market; identification of the planning standard to be used to determine the capacity of the backbone system to support transmission to customers of out-of-state gas supply and simultaneously to the operations of independent gas storage providers accessing the backbone system;

*Footnote continued on next page*

As discussed in section 5 below regarding the schedule, this proceeding will be divided into three phases in order to issue a timely decision on the application. We plan to issue a decision on the application and certification of the environmental impact report (EIR) after the first two phases and a subsequent decision after the third phase, if a third phase is necessary.

In Phase I, we shall consider non-environmental issues related to whether the statutory requirements for amendment of the CPCN have been met, whether the Gas Storage Decision and Gas Storage Rules apply to this proceeding, the definition of equivalent service, identification of necessary facilities for interconnection, metering and compression and the allocation of costs for these facilities, the relocation of Line 167 and the allocation of related costs, whether PG&E has existing capacity on the backbone system to serve customers of the Wild Goose expansion, the level of service that PG&E could provide to customers of the Wild Goose expansion without the addition of backbone system capacity or impacts on PG&E customers, and whether PG&E should be required to expand the backbone system to accommodate the Wild Goose expansion.

In Phase II, we shall consider environmental issues related to the project through the environmental review (CEQA) process. We plan to hold a public participation hearing (PPH) in the local community after the draft EIR is issued

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whether P G & E should maintain additional slack capacity on the backbone system to support competition between the marginal supply basin and storage; the appropriate amount of slack capacity to be maintained; the impact of electric generation plants which are being planned in the area of the backbone system on P G & E's ability to serve customers of the Wild Goose expansion; whether, if Wild Goose were authorized to connect to an interstate pipeline in the future, this connection would affect the level of reliability that P G & E should provide on the backbone system for Wild Goose customers; and rate issues.

to give the public and affected property owners an opportunity to comment on **both** the environmental issues **and** the application. A schedule for the Commission CEQA process on this application is attached as Appendix A. Persons who would like more information may call the Commission CEQA Hotline at (415) 703-2126.

The parties shall address any issues related to the EIR and environmental issues through the Commission CEQA process.[3] However, if necessary, we may hold further evidentiary hearings or require additional briefing on issues raised in the EIR.[4]

Phase III will be necessary only if the Commission determines that PG&E does not have sufficient capacity on the backbone system to accommodate the project without impacting PG&E customers and that it should be required to increase capacity to serve customers of the Wild Goose expansion. These issues will generally include the level of expansion of the backbone system necessary to serve the customers of the Wild Goose expansion and the manner for allocating the costs of expansion of the backbone system. Phase III may be unnecessary if the PG&E Gas Accord II or another broader proceeding is filed and addresses these kinds of issues.

The specific issues to be addressed in each phase of this proceeding are:

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[3] See Rule 17.1.

[4] For example, further evidentiary hearings may be necessary if parties need to amend their positions or supplement their testimony in response to information contained in the EIR that was not previously available.

**Phase I – CPCN Issues**

A. Whether, pursuant to Pub. Util. Code §§ 1001 and 1002, Wild Goose has demonstrated that the present or future public convenience and necessity require or will require the Wild Goose expansion. Sub-issues to be addressed include:

(1) Need for the project. (The Commission must address this issue pursuant to Pub. Util. Code §§ 1001 and 1002, as well as to develop a record to determine whether or not there is evidence to support a statement of overriding considerations, if necessary, with respect to certification of the EIR.)

a. The effect of the project on community values, recreational and park areas, and historic values, pursuant to Pub. Util. Code § 1002. (Although Pub. Util. Code § 1002 requires consideration of the influence of the project on the environment, environmental issues shall be considered in the CEQA process.)

b. The non-environmental effects of the project on properties located in the area of the Wild Goose expansion, including pipelines.

B. Whether Wild Goose is a public utility for the purpose of exercising the power of eminent domain.

C. Whether Wild Goose's request to continue charging market-based rates is reasonable.

D. Whether the Gas Storage Decision and the Gas Storage Rules apply to this proceeding.

E. Issues related to the connection of the Wild Goose expansion with the PG&E system, including Line 167, including:

(1) As much information regarding the project's capabilities as the parties can provide, including firm daily injection and withdrawal capabilities, and the range of project's capabilities that define the limits of the project;

(2) Identification of necessary interconnection and compression facilities, the capacities associated with the interconnection and compression points, and the extent to which the facilities are standard or special for cost allocation purposes;

(3) If PG&E provides a new metering station adjacent to the Delevan Compressor Station as proposed by Wild Goose, whether PG&E may require Wild Goose facilities to be located an adequate distance from the compressor station, that PG&E's access rights are maintained and that appropriate easement rights are obtained at no cost to PG&E;

(4) Whether Line 167 should be relocated to the east to accommodate the Wild Goose expansion and if so, the allocation of costs for the relocation;

(5) The manner in which costs for new or expanded facilities for interconnection, metering and compression (other than the backbone system) should be allocated.

F. Whether PG&E must provide equivalent service to customers of the Wild Goose expansion, including:

(1) The criteria for determining whether PG&E is providing equivalent service to customers of the Wild Goose expansion;

(2) The relationship of equivalent service under the Gas Storage Rules to PG&E Tariff Rules 2(C), regarding Special Facilities and 14, regarding Capacity Allocation and Constraint of Natural Gas Service;

(3) Whether equivalence of service between customers of the Wild Goose expansion and PG&E's own storage customers is physically possible in

view of the different locations and distances from the backbone system of Wild Goose expansion customers and PG&E storage customers;

(4) The effects of interconnection of the Wild Goose expansion, along with the Lodi project, with the backbone system on service to PG&E's existing customers and system operations;

(5) The level of service that PG&E could provide to customers of the Wild Goose expansion, without expansion of the backbone system or negative impacts on PG&E customers;

(6) Whether PG&E's backbone system will have sufficient capacity to provide transportation service to customers of the Wild Goose expansion when Wild Goose is ready to interconnect the expansion with the backbone system;

(7) If the backbone system will not have sufficient capacity to accommodate customers of the Wild Goose expansion, whether PG&E be required to expand capacity to serve them;

(8) Since PG&E's Gas Accord I will expire on December 31, 2002, whether sub issues (6) and (7) above and the issues designated for consideration in Phase III should be determined in the Gas Accord II proceeding.

G. Whether any agreement reached by Wild Goose and PG&E regarding necessary facilities interconnection, metering and compression, expansion of capacity on the backbone system, allocation of costs and other relevant issues is reasonable and fair to customers of the Wild Goose expansion and PG&E ratepayers.

H. Whether Wild Goose and PG&E should be required to develop a balancing agreement for the Wild Goose expansion.

**Phase II – CEQA (EIR) Issues**

A. Whether the project causes significant impacts on the environment.

B. If so, whether these significant environmental impacts can be mitigated.

C. If one or more significant environmental impacts cannot be mitigated, whether certification of the EIR and approval of the project through the adoption of a statement of overriding considerations is appropriate.

D. Whether issues raised in the EIR require further evidentiary hearings or briefing. (This issue may be addressed, if at all, after the draft EIR issues.)

**Phase III – Backbone System Expansion and Cost Allocation Issues (If Necessary)**

A. The level of expansion of the backbone system that would be required to serve the Wild Goose expansion and identification of the associated costs.

B. Apportionment of the costs of expansion of the backbone system between PG&E and Wild Goose, including:

(1) Whether Wild Goose and its customers should bear all or part of the costs of expansion of the backbone system;

(2) Whether expansion of the backbone system would be a standard facility or a special facility for cost allocation purposes;

(3) Whether a cost-benefit analysis be utilized in determining the allocation of costs for adding capacity to the backbone system to serve customers of the Wild Goose expansion. If so, whether the benefits of the Wild Goose expansion to PG&E's system exceed these costs;

(4) The appropriate mechanism for recovery of these costs.

## 5. Meet and Confer by Wild Goose and PG&E

Wild Goose and PG&E may meet and confer regarding the Phase I issues included in subparagraph 4(E) above (related to the connection of the Wild

Goose expansion with the PG&E system, including the backbone system and Line 167) and subparagraph 4(G) above (related to "equivalent service"), Phase III issues, the development of a balancing agreement for the Wild Goose expansion, and other relevant issues that these parties wish to discuss.

Any proposed agreement reached by Wild Goose and PG&E shall be served as an exhibit to the supplemental testimony of Wild Goose.

## 6. Schedule

As stated in the Gas Storage Decision, the Commission intends to give CPCN applications from independent gas storage providers a high priority, but must also provide due process and comply with statutory requirements, such as CEQA. We also note the importance of gas storage as a part of the solution to California's energy crisis.

The Commission's Energy Division advised at the PHC that the Draft EIR and Final EIR will probably not issue until Winter 2002 and Spring 2002, respectively. Therefore, we cannot set specific dates for Phase II or the issuance of the proposed decision on the CPCN issues and certification of the EIR at this time. Further, we may not know whether it is necessary to set hearings for Phase III until after the Commission decision on the first two phases of the proceeding.[5] We have therefore left the dates for proceedings in Phases II and III open and indicated a general timeline.

[5] However, we may also determine that Phase III is not necessary before the Commission decision on Phase I and Phase II, if the P G & E Gas Accord or another proceeding that will address Phase III issues in a broader context has been initiated.

The schedule for this proceeding shall be as follows:

| Event | Date |
|---|---|
| Service of applicant's prepared direct testimony | October 5, 2001 |
| Service of intervenor's and interested parties' prepared rebuttal testimony | October 24, 2001 |
| Service of Applicant's reply testimony | November 2, 2001 |
| Cross-examination time estimates and proposed schedule of witnesses submitted to principal hearing officer by e-mail addressed to tom@cpuc.ca.gov, facsimile sent to (415) 703-1723 or by personal delivery[6] | November 7, 2001 |
| Phase I (CPCN) hearings in Commission Courtroom, San Francisco, California | November 13-20, 2001, beginning at 10:00 a.m., November 27-30, 2001, beginning at 10:00 a.m. |
| Closing Arguments before Assigned Commissioner | To be scheduled at hearing |
| Last Day to request Oral Argument before Commission on Phase I issues | Final day of Phase I hearings |
| Concurrent Opening Briefs filed and served | To be scheduled by principal hearing officer at hearing |
| Concurrent Reply Briefs filed and served | To be scheduled by principal hearing officer at hearing |
| Draft EIR issues | Winter 2002 |
| Public participation hearing in local community on **both** application **and** draft EIR | Spring 2002 (to be scheduled after draft EIR issues) |
| PHC on Phase II (environmental) proceedings (if necessary) | Spring 2002 (to be scheduled after draft EIR issues) |

[6] The parties shall meet and confer by conference call regarding a proposed schedule for the presentation of witnesses, exhibits and cross-examination time estimates. If the parties agree on a proposed schedule of witnesses, they shall jointly submit the proposed schedule and cross-examination estimates.

| Event | Date |
|---|---|
| Phase II hearings in Commission Courtroom, San Francisco, California (if necessary) | Spring/Summer 2002 |
| Additional Briefing on Phase II Issues (if necessary) | Spring/Summer 2002 |
| ALJ's Proposed Decision on Phase I and Phase II issues | Within 90 days of submittal of Phase I and Phase II |

Our goal is to resolve this case as soon as possible after the case is submitted. However, we currently aim to resolve this matter within 18 months from the date of the filing of the application, pursuant to SB 960, Section 13.

## 7. Assistance in Participation in Commission Proceedings

The Commission has a Public Advisor who can assist persons who have questions about the Commission's procedures and how to participate in the Commission's proceedings. The Public Advisor's office may be reached by mail at the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, by e-mail at public.advisor@cpuc.ca.gov or by telephone at (415) 703-2074. A calendar of hearing dates, the Commission Rules, and other helpful information is also available on our website at http://www.cpuc.ca.gov.

## 8. Discovery/Law and Motion Matters

Parties should raise any discovery disputes or law and motion matters according to the procedure outlined in Resolution ALJ 164, attached as Appendix B.

## 9. Service List

The official service list for this proceeding is attached as Appendix C. All persons on the official service list will receive notices regarding **both** proceedings on the application and the environmental review (CEQA) process.

The Commission Energy Division will maintain a separate list for persons who wish to receive notices about the environmental review (CEQA) process **only.**

Persons who wish to be added to the official service list must contact the principal hearing officer ALJ Prestidge by mail at 505 Van Ness Avenue, San Francisco, CA 94102, by telephone at (415) 703-2629, by facsimile at (4l5) 703-1723, by e-mail at tom@cpuc.ca.gov or may call the Office of the Chief Administrative Law Judge at (4l5) 703-1321 to request authorization.[7]

## 10. Exhibits

The parties shall comply with Rules 69, 70, and 71 and Appendix D to this ruling regarding exhibits.

## 11. Submittal of Documents to Principal Hearing Officer

All documents required to be filed or served in this proceeding shall be submitted to the principal hearing officer by e-mail addressed to tom@cpuc.ca.gov, facsimile sent to (415) 703-1723, or by personal delivery in order to arrive on or before the due date.

**IT IS SO RULED.**

Dated August 29, 2001, at San Francisco, California.

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[7] The Office of the Chief Administrative Law Judge has the same mailing address and facsimile number as ALJ Prestidge.

| /s/ RICHARD A. BILAS | /s/ JOHN S. WONG for |
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| Richard A. Bilas | Myra J. Prestidge |
| Assigned Commissioner | Administrative Law Judge |

## Appendix A
## Schedule for Environmental (CEQA) Review
## Application of Wild Goose (01-06-029)

This schedule includes general timelines for environmental review of the above application under CEQA. Since we do not yet know the exact dates on which the draft EIR and final EIR will issue, it is not possible to designate specific dates. The Commission shall give the parties and the public notice additional notice of the dates of events and the procedure for public participation when specific dates can be set.

| Event | Estimated Timeline |
|---|---|
| Application of Wild Goose complete (for CEQA purposes) | Fall 2001 |
| Notice of Preparation | Fall 2001 |
| Scoping meeting in the local community[8] / comments on scope of EIR | Fall 2001 |
| Draft EIR issues | Winter 2002 |
| Public review period for draft EIR[9] | Winter 2002 (45 days) |
| Public participation hearing in local community on both draft EIR and Wild Goose application[10] | Winter 2002 |
| Final EIR issues | Spring 2002 |
| Proposed decision on certification of EIR and approval of project | No later than 90 days after submittal of Phase I and Phase II |

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[8] At this meeting, members of the Commission CEQA team will discuss potential environmental effects of the project, in order to determine the issues to be addressed in the EIR. The public will have an opportunity to participate in this meeting.

[9] The public review period for the draft EIR will be 45 days. During this time, the public and the parties may review copies of the draft EIR and submit written comments to the Commission.

[10] Members of the public are invited to attend the public participation hearing to present comments on the draft EIR and the application to the principal hearing officer. Representatives of Wild Goose will be available to answer questions about the proposed expansion.

(END OF APPENDIX A)

# Appendix B

## Resolution ALJ-164

**NOTE:** See **CPUC Formal Files** for Appendix B.

# APPENDIX C
## Wild Goose Service List

# Appendix D
# EXHIBITS

## Service of Prepared Written Testimony

All prepared written testimony should be served on all appearances and state service on the service list, as well as on the Assigned Commissioner's office and on the Assigned ALJ. Prepared written testimony should NOT be filed with the Commission's Docket Office.

## Identification of Exhibits in the Hearing Room

Each party sponsoring an exhibit should, in the hearing room, provide **two copies to the ALJ and one to the court reporter**, and have at least three copies available for distribution to parties present in the hearing room. **The upper right hand corner of the exhibit cover sheet should be blank for the ALJ's exhibit stamp.** Please note that this directive applies to cross-examination exhibits as well. If there is not sufficient room in the upper right hand corner for an exhibit stamp, please prepare a cover sheet for the cross-examination exhibit.

## Cross-examination With Exhibits

As a general rule, if a party intends to introduce an exhibit in the course of cross-examination, the party should provide a copy of the exhibit to the witness and the witness' counsel before the witness takes the stand on the day the exhibit is to be introduced. Generally, a party is not required to give the witness an advance copy of the document if it is to be used for purposes of impeachment or to obtain the witness' spontaneous reaction. An exception might exist if parties have otherwise agreed to prior disclosure, such as in the case of confidential documents.

## Corrections to Exhibits

Generally, corrections to an exhibit should be made in advance and not orally from the witness stand. Corrections should be made in a timely manner by providing new exhibit pages on which corrections appear. The original text to be deleted should be lined out with the substitute or added text shown above or inserted. Each correction page should be marked with the word "revised" and the revision date.

Exhibit corrections will receive the same number as the original exhibit plus a letter to identify the correction. Corrections of exhibits with multiple sponsors will also be identified by chapter number. For example, Exhibit 5-3-B is the second correction made to Chapter 3 of Exhibit 5.

**END OF APPENDIX D**

## CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated August 30, 2001, at San Francisco, California.

/s/MAUREEN S. LITTLE
Maureen S. Little

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

(415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.