

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item # 7

ID #11330

ENERGY DIVISION

RESOLUTION G-3471

June 21, 2012

**R E S O L U T I O N**

**Resolution G-3471.** Gill Ranch Storage, LLC (GRS) seeks approval of a deviation to Section C., 11.1 in its tariff for a firm storage customer so that the customer can designate other entities to hold title to its gas in storage and to act as its agent.

PROPOSED OUTCOME: GRS' tariff deviation is approved subject to the condition that GRS, its parent company and related entities are prohibited from holding title to the customer's gas and acting as the customer's agent.

ESTIMATED COST: None

By Advice Letter (AL) 4-G, filed on March 12, 2012.

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**SUMMARY**

Gill Ranch Storage's (GRS) requested tariff deviation allowing a particular firm storage customer to designate other entities to hold title to its gas in storage and act as its agent is approved, subject to the following condition: GRS, its parent company Northwest Natural Gas Company (NWG), and related entities are prohibited from holding title to the customer's gas and acting as the customer's agent. The restriction on GRS' tariff deviation is consistent with a condition the Commission placed on the utility in Decision (D.) 09-10-035, which granted GRS a Certificate of Public Convenience and Necessity (CPCN) to operate a gas storage facility.

**BACKGROUND**

Pursuant to General Order (GO) 96-B, a utility may request Commission approval to deviate from its tariff. Utilities offer services to the public under their tariffs filed with and approved by the Commission. However, GO 96-B allows a utility to request Commission approval of contracts it has entered into

with customers for services not specified in its tariff or for other tariff deviations.<sup>1</sup> Approved contracts and tariff deviations are to be listed by the utility in its tariff.<sup>2</sup> This list is to include the names of the customers associated with each contract and tariff deviation.

**In AL 4-G, GRS seeks approval to deviate from the requirements of Section C., 11.1 in its tariff for a firm storage customer.**

Section C., 11.1 of GRS' tariff specifies that title of the gas held in storage at all times is to reside with the customer contracting for the service. The firm storage contract submitted with the AL stipulates that GRS and the customer agree to waive that tariff requirement so that the customer can designate another entity to act as its agent and to hold the title of the gas while it is in storage. Additionally, GRS seeks to keep the name of the customer confidential in the list of contracts and deviations that is to be filed in its tariff. A confidential version of the AL was filed with the Energy Division.

**NOTICE**

Notice of AL 4-G was made by publication in the Commission's Daily Calendar. GRS states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of GO 96-B and Energy Industry Rule 3.2. GRS also states that the AL was served on the service list to Application 08-07-032, the application by which Gill Ranch sought its CPCN.

**PROTESTS**

GRS AL 4-G was not protested.

**DISCUSSION**

**GRS' tariff deviation is reasonable, subject to the following condition: GRS, its parent NWG, or related companies are prohibited from holding title to the customer's gas or acting as the customer's agent.**

Our consideration of GRS' tariff deviation focuses on whether it would impact the service it provides customers or results in the utility acting outside the scope of its CPCN. Here, GRS has agreed to waive a rule in its tariff to allow a customer to designate another entity to be its agent and hold title to the gas in

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<sup>1</sup> GO 96-B, Energy Industry Rule 7.1.

<sup>2</sup> GO 96-B General Rule 8.5.6.

storage. Because this is not a standard practice for GRS, the utility would likely need to institute new procedures to track the identity of the customer's agent and the title holder of the gas. However, such administrative changes should not be unduly burdensome to GRS nor degrade the service it provides other customers. While these factors support approving the tariff deviation, one aspect of GRS' request needs further examination.

The requested tariff deviation allows the customer to designate, without restriction, any willing entity to hold title to the gas and be its agent, including GRS. If GRS was so designated, it would be acting on behalf of the customer, however, the utility would have similar responsibilities as though it were a customer of the gas storage field it owns and operates.<sup>3</sup> To see if this dual role is proper, we reviewed D.09-10-035, which granted GRS a CPCN. The decision did not specifically address this situation and is silent on whether the utility can participate in such an arrangement. However, the decision prohibits GRS from engaging in storage or hub service transactions with its parent, NWG, or related entities.<sup>4</sup> This condition establishes a strict independent, arms-length relationship between the utility and its customers.

Consistent with our analysis of GRS' CPCN decision, we will prohibit GRS, its parent NWG or its successors, or any entity owned, affiliated with, or controlled by NWG, or its successors to accept title to the customer's gas or act as the customer's agent. To see that this prohibition is obeyed, we shall require GRS to submit to the Energy Division a true copy of each Agent Authorization Form that the customer executes and provides the utility. GRS may submit the forms on a confidential basis pursuant to GO 66-C and Pub. Util. Code § 583. With this prohibition and reporting requirement, we find the tariff deviation specified in the customer contract filed with AL 4-G reasonable.

**GRS may keep the customer's name and other contract terms confidential.** In the AL, GRS seeks to keep the customer's name and other terms of the contract

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<sup>3</sup> The firm storage contract filed in AL 4-G (referred to as "Appendix FSS") states that actions taken by the customer's designated agent with respect to use of the storage shall be deemed actions of the customer at all times. The GRS Agent Authorization Form specifies that an agent is authorized to nominate gas storage services on the customer's behalf. The customer remains responsible for payments for the storage service and related matters.

<sup>4</sup> D.09-10-035, Ordering Paragraph # 22(d).

confidential. GRS said that publicly disclosing this information would benefit its competitors and disadvantage the utility.

The issue of keeping GRS customer related information confidential was addressed in D.09-10-035. In that decision, the utility was ordered to file information with the Commission about customer transactions, operating statistics and related matters. The utility was generally allowed to furnish such information it deemed competitively sensitive under seal in accordance with GO 66-C and Pub. Util. Code § 583.<sup>5</sup> We find GRS' request to keep certain terms of the contract filed in AL 4-G confidential and the waiver to file a protective order to be consistent with D.09-10-035 and it is granted.

### **COMMENTS**

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

On May 15, 2012, the draft Resolution was mailed for comment. No comments were received.

### **FINDINGS AND CONCLUSIONS**

1. GRS filed AL 4-G seeking to waive a provision of Section C., 11.1 in its tariff as stipulated in a contract to provide a customer firm storage service.
2. GRS' proposed tariff deviation would allow a particular firm storage customer to designate other entities to hold title to its gas in storage and act as its agent.
3. GRS' tariff deviation will not unduly burden the utility nor detrimentally affect its operations.

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<sup>5</sup> D.09-10-035, Ordering Paragraph # 25.

4. Prohibiting GRS, its parent NWG and related entities from holding title to the customer's gas or acting as the customer's agent is consistent with D.09-10-035.
5. Allowing GRS to maintain the confidentiality of its customer and other commercial terms of the contract filed in AL 4-G is consistent with D.09-10-035.

**THEREFORE IT IS ORDERED THAT:**

1. GRS AL 4-G is approved, as modified.
2. GRS, its parent Northwest Natural Gas Company or its successors, or any entity owned, affiliated with, or controlled by Northwest Natural Gas Company, or its successors shall not accept title to the customer's gas or act as the customer's agent.
3. GRS AL 4-G, as modified, is effective March 12, 2012.
4. GRS shall submit to the Director of the Energy Division a true copy of each executed Agent Authorization Form as soon as it is practical. GRS may submit commercially sensitive information contained in the forms confidentially pursuant to General Order 66-C and Pub. Util. Code § 583.

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 June 21, 2012; the following Commissioners voting favorably thereon:

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PAUL CLANON  
Executive Director