STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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March 8, 2010

Agenda ID #9267
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 09-07-014

This is the proposed decision of Administrative Law Judge (ALJ) Richard Smith. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Smith at rs1@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON
Karen V. Clopton, Chief
Administrative Law Judge

KVC:avs

Attachment

Decision **PROPOSED DECISION OF ALJ SMITH** **(Mailed 3/8/2010)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Gas Company (U904G) to Amend its Certificate of Public Convenience and Necessity for the Honor Rancho Natural Gas Storage Facility.	Application 09-07-014 (Filed July 13, 2009)

DECISION ADDRESSING APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY TO AMEND ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE HONOR RANCHO NATURAL GAS STORAGE FACILITY

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DECISION ADDRESSING APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY TO AMEND ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE HONOR RANCHO NATURAL GAS STORAGE FACILITY

Summary

This decision (Decision) approves the Southern California Gas Company (SoCalGas) request to amend the Certificate of Public Convenience and Necessity for the Honor Rancho natural gas storage facility (Honor Rancho Facility) to construct and operate the facilities necessary to increase storage capacity at the Honor Rancho Facility. As a result of this approval, SoCalGas may proceed with modifications needed to increase the storage capacity of the Honor Rancho Facility (Expansion Project). Completion of the Expansion Project will provide five billion cubic feet of additional natural gas storage capacity to meet the needs of more than six million end-use customers and approximately 1,300 noncore customers in the SoCalGas service territory.

The Decision finds that the Expansion Project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline § 15301, and confirms the Commission's preemptory authority over conflicting local zoning regulations, ordinances, codes, or requirements.

The Decision denies SoCalGas' request for approval of the proposed revenue requirement for the Expansion Project, and SoCalGas' request to incorporate into rates each January 1 of the following year costs for facilities placed into service the prior year. The Decision instead authorizes SoCalGas to establish the Honor Rancho Storage Memorandum Account to track the cost to construct, operate, and maintain the Expansion Project, pending a Commission decision in a future general rate case addressing the recovery of appropriate, reasonable, and prudent costs associated with the Expansion Project.

1. Background

On July 13, 2009, Southern California Gas Company (SoCalGas) filed Application (A.) 09-07-014 (Application) requesting that the Commission amend SoCalGas' Certificate of Public Convenience and Necessity (CPCN) in order to authorize the construction and operation of the facilities necessary to further expand the Honor Rancho natural gas storage facility (Expansion Project). The Expansion Project will increase storage capacity at the Honor Rancho natural gas storage facility (Honor Rancho Facility) by five billion cubic feet (Bcf), from 23.0 Bcf to 28.0 Bcf.

SoCalGas also requests that the Commission 1) find that the Expansion Project is exempt from California Environmental Quality Act (CEQA) review; 2) approve SoCalGas' revenue requirement, rate treatment, and regulatory accounting for the Expansion Project; and 3) confirm that the Commission has preemptory authority over conflicting local zoning regulations, ordinances, codes, or requirements.

Notice of the Application appeared in the Commission's July 16, 2009 Daily Calendar. No protests to the Application were filed.

On August 13, 2009, a joint response (Joint Response) in support of the Application was filed by the San Diego Gas & Electric Company (SDG&E), SoCalGas, the Division of Ratepayer Advocates (DRA), Southern California Edison Company (SCE), the Indicated Producers, Southern California Generation Coalition, the City of Long Beach, Southwest Gas Corporation, Watson Cogeneration Company, California Cogeneration Council, and the California Manufacturers and Technology Association. The signatories to the Joint Response are parties to A.08-02-001 that reached an agreement resolving all

of the issues in Phase 1 of SoCalGas' Biennial Cost Allocation Proceeding (BCAP Phase 1 Settlement), and are referred to jointly as the "Settlement Parties."

2. Proposed Project

The Honor Rancho Facility is located in northern unincorporated Los Angeles County, near Valencia, California. Approximately 50% of the Honor Rancho Facility is located in the City of Santa Clarita, with the remainder located in unincorporated Los Angeles County.

The Honor Rancho Facility is one of SoCalGas' natural gas storage sites used to serve core and noncore customers and allows SoCalGas to meet customer demand for gas with adequate supply. SoCalGas acquired the Honor Rancho Facility from Texaco in 1975 (then, a depleted oil reservoir) and converted it to a natural gas storage facility upon the Commission's granting of a CPCN (1975 CPCN) in Decision (D.) 84923.

SoCalGas currently has 41 wells at the Honor Rancho Facility, consisting of 23 of the original oil producing wells that were converted to gas storage wells and 18 additional wells that have been drilled by SoCalGas, including two existing brine injection wells. According to SoCalGas, the working inventory capacity of the Honor Rancho Facility has expanded from 17.5 Bcf to 23.0 Bcf, primarily due to the effects of fluid production associated with gas withdrawal.

SoCalGas proposes to drill three new liquid production wells and three new liquid injection wells, install associated piping to connect the wells to the existing processing plant and modify existing process equipment and surface liquid handling facilities. The proposed modifications include upgrades to existing plant equipment and electrical, piping, civil, and controls infrastructure, and will provide capacity to process the increased liquids production and

improve the quality of the processed brine. All facility expansion activities will take place within the Honor Rancho Facility's existing property boundaries.

The Expansion Project is estimated to cost $48.9 million to construct, and will incur ongoing incremental operations and maintenance (O&M) costs associated with the construction and operation of the Expansion Project. SoCalGas proposes to record the revenue requirement associated with the Expansion Project in the Honor Rancho Storage Memorandum Account to be established, and to incorporate into rates each January 1 of the following year for facilities placed into service the prior year. After 2015, SoCalGas proposes to include the Expansion Project's incremental rate base in the next appropriate general rate case (GRC) recorded level plant.

3. Standard of Review: The CPCN/CEQA Process

Two different regulatory schemes govern the Commission's responsibilities in reviewing SoCalGas' request for the approval of the Application. First, §§ 1001, et seq., of the Public Utilities Code[1] require that before SoCalGas can construct the Expansion Project, the Commission must grant a CPCN on the grounds that the present or future public convenience and necessity require or will require construction of the Expansion Project. In addition, the construction of electrical facilities such as those proposed in the Application is governed by the requirements of General Order (GO) 131-D.

Second, CEQA (Public Resources Code §§ 21000, *et seq.*) requires that the Commission, as lead agency for the Expansion Project, to assess the environmental effects of the Expansion Project for the Commission's use in

[1] All statutory references are to the Public Utilities Code unless otherwise indicated.

considering the request for a CPCN or Permit to Construct (PTC). These requirements are discussed separately below.

3.1. CPCN Requirements

The CPCN requirements of the Public Utilities Code include a determination of whether the Expansion Project is necessary. In addition, before granting a CPCN, the Commission considers the financial impacts of a project on the utility's ratepayers and shareholders. The Commission reviews the estimated cost of a project, and for those projects estimated to cost more than $50 million the Commission sets the maximum amount that can be spent by the utility on a project without seeking further Commission approval.

In addition, § 1002 requires the Commission to consider the following factors in determining whether or not to grant a CPCN: (1) community values, (2) recreational and park areas, (3) historical and aesthetic values, and (4) influence on the environment.

3.2. General Order 131-D Requirements

GO 131-D requires utilities to first obtain a CPCN or PTC before beginning construction of a transmission line, power line, or substation.[2] GO 131-D also requires applications for a CPCN or PTC to construct a transmission line, power line, or substation to describe the measures to be taken or proposed by the utility to reduce the potential for exposure to electric and magnetic fields.

[2] GO-131-D, Section III.B.

3.3. CEQA Requirements

CEQA requires the Commission to consider the environmental consequences before acting upon or approving the Expansion Project.[3] Under CEQA, the Commission must act as either the Lead Agency or a Responsible Agency for project approval.[4] Here, the Commission is the Lead Agency.

If a Lead Agency determines that a proposed project would not have a significant effect on the environment, CEQA requires the Lead Agency to adopt a Negative Declaration or a Mitigated Negative Declaration to that effect. However, § 21084 of the Public Resources Code and CEQA Guidelines §§ 15300, et seq., establish classes of projects that the Secretary of the Resources Agency has determined do not have a significant effect on the environment and are categorically exempt from CEQA.

A Lead Agency will first examine the project to determine whether the project is subject to CEQA before deciding which document to prepare for a project subject to CEQA.[5] If the project is exempt, the process does not need to proceed any farther, and the agency may prepare a Notice of Exemption.

4. Compliance with CEQA

SoCalGas asserts that the Expansion Project is exempt from CEQA review because the Expansion Project satisfies three categorical exemptions: Class 1 (Minor Alterations to Existing Facilities), Class 4 (Minor Alterations to Land), and Class 11 (Accessory Structures). SoCalGas further asserts that, because it can

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[3] CEQA Guidelines, Section 15050(b).

[4] The Lead Agency is the public agency with the greatest responsibility for supervising or approving the Expansion Project as a whole. (CEQA Guidelines, Section 15051(b).)

[5] CEQA Guideline § 15002(k).

be seen with certainty that the Expansion Project will have no significant effect on the environment, the Expansion Project also satisfies the "common sense exemption" under CEQA Guideline § 15061(b)(3).

The December 15, 2009 Administrative Law Judge ruling (December 15 Ruling) directed SoCalGas to provide additional information concerning, among other things, the requests for a Commission finding that the Expansion Project is exempt from CEQA. Based on its analytical review of the Application, SoCalGas' response to the December 15 Ruling, and additional inquires to the Applicant, the Commission's Energy Division (Energy Division) determined that the Expansion Project is exempt from CEQA review, pursuant to CEQA Guideline § 15301.

CEQA Guideline § 15301 exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. CEQA Guideline § 15301 lists "existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage, or other public utility services" as examples of existing facilities that may be exempt from CEQA review. CEQA Guideline § 15301 explains that the key consideration is whether the project involves negligible or no expansion of an existing use.

According to the Energy Division, the Expansion Project is exempt from CEQA review, pursuant to CEQA Guideline § 15301, because the Honor Rancho Facility is an existing facility of an investor-owned utility that is used to provide natural gas services, and the Expansion Project involves the negligible expansion

of an existing use. The Energy Division states that none of the exceptions listed in CEQA Guideline § 15300.2 apply to this exemption.

The substantive evidence supporting this conclusion is that, while six new wells will be added to the existing 41 wells, there will be no expansion of the property boundaries or acquisition of new land, easements, or mineral rights (with most project actions taking place on existing well pads and/or previously disturbed land). In addition, there will be no expansion of the gas compressor capacity nor the gas injection and withdrawal rates. Thus, the facility will operate in essentially the same manner as it did prior to the Expansion Project.

Although the Application proposes to construct other facilities in addition to new wells, the proposed facilities (associated pipeline and equipment modifications to existing facilities) are all minor in nature and satisfy the requirements of CEQA Guideline §15301.

While Class 1 exemptions are not subject to CEQA Guideline §15300.2 exceptions, we note the Expansion Project, in operation or construction, will not a) impact designated and mapped biological or cultural resources, b) have a cumulative impact, c) have a significant effect due to unusual circumstances, d) impact a scenic highway, e) be located on a hazardous waste site pursuant to Government Code §65962.5, or f) impact a historical resource. The activities to be undertaken in connection with the Expansion Project are consistent with the existing and surrounding land use as a gas storage facility, and the proposed activities will primarily take place on previously disturbed areas. In addition, the ongoing operation will remain the same, except that the gas storage capacity will be increased.

We agree with the Energy Division's determination that the proposed activities will involve only a negligible expansion of use, and that the proposed

activities meet the Class 1 categorical exemption provide under CEQA Guideline § 15301. Therefore, we find that the Expansion Project is categorically exempt from CEQA, pursuant to CEQA Guideline § 15301.

5. Need

Pursuant to § 1001, CPCN applicants must demonstrate that the present or future public convenience and necessity require or will require construction and operation of the proposed project.

SoCalGas asserts that the Expansion Project is necessary to meet increased demand during peak periods, and that this is consistent with its obligation to serve its customers. SoCalGas states that the Expansion Project will provide California five Bcf of additional natural gas storage capacity to meet the needs of customers in the SoCalGas service territory, including more than six million end-use customers and approximately 1,300 noncore customers.

SoCalGas contends that the increased storage inventory capacity from the Expansion Project will increase overall reliability of the SoCalGas gas transportation system and will allow both core and noncore customers to minimize gas commodity costs by injecting gas during summer months when gas prices are typically lower and withdrawing gas during the winter months when gas prices are typically higher.

SoCalGas states that when the Expansion Project is completed, the Honor Rancho Facility will help SoCalGas fulfill its obligations under the BCAP Phase 1 Settlement approved by D.08-12-020. SoCalGas states that the Commission should give considerable weight to the fact that the Settlement Parties, which include a diversity of interests, all support the Expansion Project and the expedited approval of the Application. SoCalGas contends that the BCAP

Phase 1 Settlement creates a presumptive and actual need for the Expansion Project.

The Joint Response states that D.08-12-020 approved the BCAP Phase 1 Settlement resolving all of the BCAP Phase 1 issues, including the requirement that SoCalGas use commercially reasonable efforts to expand its storage inventory by 7.0 Bcf. The Joint Response asserts that SoCalGas has already undertaken the construction activity necessary to obtain 2.0 Bcf of the 7.0 Bcf storage expansion required by D.08-12-020, and that the remaining 5.0 Bcf of storage inventory capacity is addressed in the Application. The Joint Response, therefore, urges the Commission to approve the Application before the end of 2009 so that SoCalGas can begin the construction work necessary to expand storage inventory at the earliest possible date.

D.08-12-020 found, among other things, that approval of the BCAP Phase 1 Settlement would ensure that the core and noncore customers in southern California will have sufficient storage services during the term of the settlement, while providing monetary incentives to SDG&E and SoCalGas to encourage them to expand the storage assets for the unbundled storage program.[6] D.08-12-020 ordered, among other things, SoCalGas (and SDG&E) to take the necessary steps to incorporate the provisions of the BCAP Phase 1 Settlement into their gas system and storage operations as each situation contemplated by the BCAP Phase 1 Settlement arises.

In particular, D.08-12-020 requires SoCalGas to make commercially reasonable efforts to expand natural gas storage inventory capacity by 7.0 Bcf

[6] Finding of Fact No. 10.

over the period 2009 to 2014.[7] Thus, the approval of the BCAP Phase 1 Settlement by D.08-12-020 creates a presumptive and actual need for the Expansion Project.

6. Consideration of the Factors Set Forth in § 1002

Section 1002 requires the Commission to consider several factors, including community values, recreational and park areas, historical and aesthetic values, and influence on environment. SoCalGas states that the Expansion Project will not adversely affect community values, will not impact recreational or park areas, will not compromise the historical or aesthetic values of the community, and will have no significant impacts on the environment.

6.1. Community Values

SoCalGas asserts that the City of Santa Clarita supports the Expansion Project, and that the Expansion Project will not adversely affect community values. The Application states that the Honor Rancho Facility site is physically isolated from surrounding residential and commercial uses by topography and distance.

SoCalGas asserts that the Expansion Project will have a favorable socio-economic impact on the City of Santa Clarita and Los Angeles County. SoCalGas states that the Expansion Project will create temporary construction-related jobs over a 13-month period and the increased employment may provide a temporary reduction in unemployment for the State. SoCalGas states that the local economy will experience an increase in retail and sales tax revenue due to the workforce employed during the construction period.

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[7] D.08-12-020, Appendix A, p. 6.

In considering the Expansion Project's compatibility with community values as set forth in § 1002, we give considerable weight to the views of the local community. We also consider the views of the elected representatives of the area because we believe they are speaking on behalf of their constituents.

The Commission has received no comments from any elected officials concerning the Expansion Project. The Commission has received several comments from the public, primarily from SoCalGas customers concerning potential rate increases. One area resident expressed concerns related to potential noise impacts of the Expansion Project (addressed below).

However, no one disputes SoCalGas' assertions that the Expansion Project provides benefits to the community and is consistent with the community values of the area. Absent any concerns expressed by the public or elected officials, we conclude that the Proposed Project is consistent with community values.

6.2. Recreational and Park Areas, and Aesthetic Values

SoCalGas states that the Honor Rancho Facility has operated as a natural gas storage field since 1975 when it was converted from the depleted oil field. According to SoCalGas, the Expansion Project will take place entirely on the existing Honor Rancho Facility property, and that property is not openly accessible to the public.

SoCalGas states that Hasley Canyon County Park is the nearest recreational or park area, located approximately one-half mile west of the proposed Expansion Project site, and that there are approximately six recreational and park areas within a two mile radius of the Honor Rancho Facility. SoCalGas asserts that the Expansion Project will not affect the use of any of these recreational and park areas. SoCalGas further asserts that no

recreational, park, or other lands outside of the site's boundaries will be disturbed, and the movement of construction vehicles to and from the construction site should not impact any recreational or park areas.

According to SoCalGas, much of the Honor Rancho Facility has been disturbed by the continuous operation and maintenance of the natural gas wells. SoCalGas asserts that there are no known archaeological sites within the Honor Rancho storage field.

SoCalGas states that the Expansion Project will be developed on existing well pads and will not be visible outside of the storage facility, and, therefore, the Expansion Project will not have an aesthetic impact on the scenic vistas within the Santa Clarita area.

SoCalGas states that the Honor Rancho Facility has operated as a natural gas storage field for 30 years, and prior to that time oil was extracted from the area by Texaco. Therefore, according to SoCalGas, the Expansion Project is consistent with the historical values in the area.

No party disputes SoCalGas' assertions that the Expansion Project will not affect recreation or park areas, historical and aesthetic values. Therefore, we conclude that the Expansion Project is consistent with recreation or park areas and historical and aesthetic values.

6.3. Influence on Environment

In response to the Application, the Commission received a letter from Brian Roney (Roney), an area resident, objecting to SoCalGas' proposed 24-hour per day seven-day per week (24/7) well drilling plan.[8] The letter complains that

[8] The Application states that well drilling will take place 24 hours a day, seven days a week during project construction. (Appendix A at 1-23.)

previous nighttime well drilling operations at the Honor Rancho Facility created a noise nuisance.[9] The December 15 Ruling directed SoCalGas to explain why the Commission should find the Expansion Project to be exempt from any environmental review, given Roney's concern with possible nighttime noise.

SoCalGas' response to the December 15 Ruling states that, to ensure the stability of the drill hole, it must conduct drilling operations continuously (24/7) until the new well is completed. SoCalGas states, however, that it is committed to monitoring noise levels during the construction period and to reaching out to community members for whom project activities may be perceptible to ensure that potential noise impacts associated with proposed drilling activities will not be significant.

SoCalGas states that, in response to the December 15 Ruling, it spoke to Roney to explain why the drilling should not cause a noise nuisance, and to describe the additional steps SoCalGas will take if noise from drilling activities exceeds significance thresholds. SoCalGas states that, in addition to selecting a remote location for well drilling, SoCalGas will employ Best Management Practices for the Expansion Project to minimize noise impacts, including 1) fitting all equipment with appropriate sound-deadening devices such as mufflers or silencers on the generators used to power the drilling rig to reduce the exhaust noise to a significantly lower level; 2) using acoustical blanketing on the drill rig or adding other sound-deadening materials in proximity to the drill rig to reduce metal-to-metal noise if it is determined to be a nuisance; and 3) conducting

[9] See August 13, 2009 letter from Roney.

bi-monthly monitoring of sound levels to verify levels have not exceeded any significance thresholds.

On December 22, 2009, Roney wrote a second letter to the Commission stating that he is encouraged by his conversations with SoCalGas, and is hopeful that SoCalGas will implement adequate noise mitigation measures.

Pursuant to § 1002(a)(4), SoCalGas is required to implement SoCalGas' proposed noise reducing Best Management Practices for the Expansion Project to minimize the Expansion Project's influence on the environment. SoCalGas must fit all equipment with appropriate sound-deadening devices such as mufflers or silencers on the generators, acoustical blanketing of the drill rig, and add other sound-deadening materials in proximity to the drill rig to reduce metal-to-metal noise, to ensure noise levels do not exceed the maximum levels established by the City of Santa Clarita and County of Los Angeles. SoCalGas must monitor sound levels bi-monthly to verify levels do not exceeded the maximum levels established by the City of Santa Clarita and County of Los Angeles, and to immediately take steps to reduce noise levels that exceed the maximum levels permitted by the City of Santa Clarita or County of Los Angeles.

7. Applicability of General Order (GO) 131-D

The Application states that the Honor Rancho Facility currently provides the majority of its own electrical power with local generation for its plant operations, and also has an existing electric supply from the SCE's local distribution system to provide back-up power for critical equipment. According to SoCalGas, an expansion of the existing 0.225 megawatt (MW) distribution electric service to 1.3 MW is required to operate three submersible pumps that will be installed in each liquid production well. SoCalGas states that it is currently working with SCE to develop a detailed scope of work and cost

estimate, and that the upgrade to SCE's electrical distribution service is expected to take five months.

GO 131-D requires utilities to first obtain a CPCN or PTC before beginning construction of a transmission line, power line, or substation.[10] However, utilities are not required to obtain a CPCN or PTC for the construction of electric distribution line facilities (those facilities under 50kV).[11]

8. Revenue Requirement, Rate Treatment, and Regulatory Accounting for the Expansion Project

SoCalGas requests approval of its proposed revenue requirement associated with the Expansion Project, and the authority to recover it in rates, including the total capitalized storage costs of facilities placed into service and the difference between incremental O&M costs and incremental oil revenues associated with the Expansion Project. SoCalGas requests authority to adjust transportation rates to reflect the additional costs allocated to the core storage and load balancing functions and to update the costs allocated to SoCalGas' unbundled storage program.

SoCalGas states that the revenue requirement associated with the Expansion Project includes the weighted average cost of capital approved by D.08-07-046, and will be recorded in the Honor Rancho Storage Memorandum Account (HRSMA) to be established, and incorporated into rates each January 1 of the following year for facilities placed into service the prior year. After 2015, SoCalGas requests that the incremental rate base for the Expansion Project become part of the next appropriate general rate case (GRC) recorded level plant.

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[10] GO-131-D, Section III.B.

[11] GO 131-D, Section III.C.

SoCalGas developed the revenue requirement for the Expansion Project by separating capitalized storage costs into four cost categories, including property accounts (wells, lines, and purification equipment), book depreciable life, negative salvage component (associated with future decommissioning, cost of removal, and abandonment), and the costs for cushion gas. SoCalGas states that it used the most recently approved weighted-average cost of capital structure authorized in D.08-07-046, including a rate of return of 8.68% and a return on equity of 10.82%, to develop the revenue requirement.

SoCalGas proposes to record the revenue requirement in the HRSMA each month and place this revenue requirement into rates each January 1 of the following year, with the first incorporation occurring January 1, 2011.

SoCalGas states that the balance in the HRSMA will be allocated to (i) the Combined SoCalGas and SDG&E Core Storage (60.1%), (ii) Balancing (3.0%), and (iii) Unbundled Storage (36.9%), based on the total inventory capacity after the expansions approved in D.08-12-020 have been completed. SoCalGas estimates that the impact on average core rates will be $0.00115/therm, and the impact on average noncore rates will be $0.00003/therm. SoCalGas states that SDG&E's wholesale rate will increase by $0.00038/therm because SDG&E is also being allocated core storage costs.

The BCAP Phase 1 Settlement approved by D.08-12-020 provides, among other things, that "[o]nce the inventory expansion facilities are used and useful in providing storage service, the cost of such inventory expansion will be added to SoCalGas' storage rate base through a general rate case application before the Commission or through an application before the Commission seeking a CPCN

to construct the facilities."[12] Thus, the BCAP Phase 1 Settlement permits SoCalGas to seek recovery of the revenue requirement associated with the Expansion Project through this Application or through a GRC, but only after inventory expansion facilities are used and useful in providing storage service. Therefore, we will not approve the revenue requirement for the Expansion Project in this proceeding because the inventory expansion facilities are not yet used and useful in providing storage service, and, pursuant to D.08-12-020, SoCalGas' request is premature.

However, SoCalGas should be authorized to establish the HRSMA to track the costs and revenues incurred in the construction and operation of the Expansion Project, pending a Commission decision in a future GRC regarding the appropriateness and recovery of such costs. SoCalGas should file an advice letter within 30 days from the date of this Decision with the Energy Division under Tier 2 of GO 96-B to establish the HRSMA. Any interested party may protest the advice letter filing, as provided for in GO 96-B.

Because we do not at this time adopt a revenue requirement for the Expansion Project, we do not determine that any of the costs associated with the Expansion Project are appropriate, reasonable, or prudent. To the extent that SoCalGas seeks recovery of any costs associated with the Expansion Project, SoCalGas is not entitled to a presumption that the costs of the Expansion Project are appropriate, reasonable, or prudently incurred, and SoCalGas must bear the burden of proving that separate cost recovery for the type of costs is appropriate, as well as the prudence and reasonableness of the costs of the Expansion Project

[12] D.08-12-020, Appendix A (Settlement Agreement), Paragraph No. 6, at 3.

in the next GRC or any proceeding in which SoCalGas requests authority to include any costs of the Expansion Project in core rates.

SoCalGas' proposal to allocate the balance in the HRSMA to (i) the combined SoCalGas and SDG&E core storage (60.1%), (ii) balancing (3.0%), and (iii) unbundled storage (36.9%), is consistent with the allocation of core storage capacity approved in D.08-12-020. However, D.08-12-020 provides that the increase in the revenue requirement established in a GRC or CPCN proceeding will be included in the revenue requirement of the inventory subfunction in the next BCAP or triennial cost allocation proceeding and allocated to the core, balancing, and unbundled storage functions in proportion to the allocation of storage inventory capacity to each of these functions.[13] Therefore, because D.08-12-020 provides that the increase in the revenue requirement will be allocated to storage functions in a BCAP or TCAP proceeding, we do not at this time need to address the allocation of costs to core, balancing, and unbundled storage.

9. Preemption of Conflicting Local Zoning Regulations, Ordinances, Codes, or Requirements

SoCalGas requests that the Commission confirm that the Commission has preemptory authority over conflicting local zoning regulations, ordinances, codes, or requirements, to the extent that they would deny, or significantly delay, the Expansion Project. In particular, SoCalGas requests that the Commission confirm preemption of the City of Santa Clarita Zoning Code (Title 17 of the City of Santa Clarita Municipal Code (Title 17)).[14]

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[13] D.08-12-020, Appendix A (Settlement Agreement), Paragraph No. 6 at 3.

[14] January 15, 2010 Response to December 15, 2009 ALJ Ruling, 13-20.

SoCalGas states that neither the City of Santa Clarita nor Title 17 existed when the Honor Rancho storage field was originally approved and constructed. According to SoCalGas, the City of Santa Clarita was incorporated after the issuance of the 1975 CPCN,[15] including a portion of the storage field previously located in Los Angeles County, and the City of Santa Clarita zoned a portion of the storage field for business park and residential uses. SoCalGas states that the existing and proposed storage field uses and expansion do not conform with the planning and zoning regulations set forth in Title 17, even though the Honor Rancho storage field was originally approved and constructed prior to the existence of the City of Santa Clarita or Title 17.

SoCalGas asserts that it is in the public interest to expressly preempt local zoning as long as the storage field is operational to avoid uncertainties and potential confusion resulting from the Honor Rancho Facility being located partly in the City of Santa Clarita and partly in the County of Los Angeles, in an area with multiple zoning designations. SoCalGas contends that express preemption of local zoning is needed to prevent a local permitting requirement from becoming a barrier to the Expansion Project or causing an undue delay in the activities authorized by the Commission in an amended CPCN.

SoCalGas states that the City of Santa Clarita initially determined that approval of a Zone Change, a General Plan Amendment, and a Conditional Use Permit would be required for the Expansion Project. According to SoCalGas, the City of Santa Clarita subsequently determined that the Expansion Project does

[15] The City of Santa Clarita was incorporated in 1987.

not trigger the approvals required pursuant to Title 17.[16] SoCalGas states, however, that the approvals required pursuant to Title 17 are completely within the City's discretion to grant or deny, and SoCalGas asserts that the City can reverse its position at any time.

The incorporation of the City of Santa Clarita, including a portion but not all of the Honor Rancho Facility, the adoption of Title 17 after the Honor Rancho Facility began operation, and the Honor Rancho Facility's nonconformance with the requirements of Title 17 creates uncertainty and potential confusion that may interfere with or delay the construction and operation of the facilities authorized by this Decision. Delays in the construction or operation of the authorized facilities resulting from any nonconformance of the Honor Rancho Facility with Title 17 are contrary to the state's interest in promoting expansion of natural gas storage capacity.

SoCalGas is a public utility subject to the Commission's jurisdiction, pursuant to § 216 and § 222, and the Honor Rancho Facility is a gas plant facility regulated by the Commission, pursuant to § 221. We have previously determined, and the California Supreme Court has confirmed, that the Commission has authority over construction for utility purposes carried out by public utilities subject to its jurisdiction.[17]

Article XII, § 5 of the California Constitution gives the state Legislature plenary power to confer authority and jurisdiction upon the Commission, and

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[16] The August 14, 2009 letter from the City of Santa Clarita to SoCalGas acknowledges that the City of Santa Clarita is preempted from any regulation of the Honor Rancho Facility. See Attachment 1 to the January 15, 2010 Response to December 15, 2009 ALJ Ruling.

[17] See, for example, D.94-06-014.

the state Legislature, in turn, has granted broad authority to the Commission to regulate utilities. The Commission is authorized by statute to "do all things . . . which are necessary and convenient in the exercise" of its power.[18] In particular, the Commission can make orders governing the services, equipment, physical property, and safety devices used by public utilities.[19]

Title XII, § 8 of the California Constitution, and §§ 701, 761, 762, and 768, establish the Commission's preemptory authority over city, county, or other public bodies over matters which the Legislature has granted regulatory power to the Commission, including the construction, maintenance, and operation of utility property.

Because D.08-12-020 found that the Expansion Project will ensure that core and noncore customers in southern California will have sufficient storage services, the Honor Rancho Facility and the Honor Rancho Expansion Project are matters of statewide concern. We also find that action requested in this Application is a matter of statewide concern for the same reasons. Thus, the Honor Rancho Expansion Project serves a statewide public interest, and the Commission has preemptory authority over conflicting local zoning regulations, ordinances, codes, or requirements.

Therefore, the Commission confirms its authority to preempt Title 17 of the City of Santa Clarita's Municipal Code, the City's General Plan, and all Conditional Use Permit requirements that the City of Santa Clarita could otherwise impose on the Honor Rancho Expansion Project or the Honor Rancho Facility. However, SoCalGas must obtain all necessary non-preempted permits,

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[18] § 701.

easement rights, or other applicable legal authority for the Expansion Project site prior to commencing construction.

10. Compliance with D.84923

D.84923, in granting the original CPCN for the Honor Rancho Facility, found that an unavoidable adverse impact of the proposed project was waste water containing dissolved solids generated by operation of the facility, necessitating that it be transported to an off-site disposal facility.[20] D.84923, states, among other things, that brine produced during gas withdrawal would be trucked to an off-site water treatment facility near Santa Paula for treatment and eventual discharge to the ocean.

However, the Application states that the Honor Rancho Facility currently has two existing brine injection wells, and that one of the brine injection wells was permitted by the Department of Conservation's Division of Oil, Gas, and Geothermal Resources (DOGGR) in 1989.[21] The Application states that DOGGR approved use of the Pico Zone for fluid injection but the Application does not indicate that the original CPCN for the Honor Rancho Facility was amended after D.84923 was issued to permit re-injection of brine instead of the off-site disposal process required by D.84923.

In response to the December 15 Ruling, SoCalGas states that brine re-injection was one of several alternatives specifically contemplated by the Commission as part of the original Environmental Impact Report, that substitution of one method of brine disposal for another without further review

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[19] §§ 761, 762, 768.

[20] Finding of Fact No. 5.b(ii).

[21] Appendix A at 1-21.

by the Commission was permissible under CEQA at the time SoCalGas began re-injecting brine, and that the change in waste water disposal method did not trigger an amendment to the 1975 CPCN or any other approval by the Commission.[22]

It is not clear that the practice of re-injecting waste water generated by operation of the Honor Rancho Facility complies with D.84923, which found that an unavoidable adverse environmental impact resulting from the construction and operation of the proposed project required that waste water generated by operation of the facility be transported to an off-site disposal facility.[23] However, SoCalGas' compliance with D.84923 is not an issue for consideration in this proceeding, and, therefore, this matter is referred to the appropriate Commission staff for further review.

11. Conclusion

After finding the need for and the benefits of additional gas storage facilities in California and the criteria set forth in § 1002, we approve SoCalGas' application for a CPCN as further defined and conditioned in this Decision. The Commission finds that the Expansion Project is categorically exempt from CEQA and will not have a significant impact on the environment. Our order today authorizes work to begin.

12. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were

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[22] January 15, 2010 Response to December 15, 2009 ALJ Ruling, 11-12.

[23] See D.84923, Finding of Fact Nos. 5.b(ii) and 6, Conclusion of Law No. 1, Ordering Paragraph No. 1.

allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

13. Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Richard Smith is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Expansion Project includes drilling three new liquid production wells and three new liquid injection wells, installing associated piping to connect the wells to the existing processing plant, and modifying existing processing equipment and surface liquid handling facilities to increase storage capacity at the Honor Rancho Facility by five Bcf, from 23.0 Bcf to 28.0 Bcf.

2. The Honor Rancho Facility is used to serve core and noncore customers and allows SoCalGas to meet customer demand for gas with adequate supply.

3. No protests were filed to the Application.

4. Approximately 50% of the Honor Rancho Facility is located in the City of Santa Clarita, with the remainder located in unincorporated Los Angeles County.

5. All Expansion Project activities will take place within the Honor Rancho Facility's existing property boundaries.

6. The activities to be undertaken in connection with the Expansion Project are consistent with the existing and surrounding land use as a gas storage facility, and the proposed activities will primarily take place on previously disturbed areas. In addition, the ongoing operation will remain the same, except that the gas storage capacity will be increased.

7. The proposed Expansion Project activities will involve only a negligible expansion of use, and is categorically exempt from CEQA, pursuant to CEQA Guideline § 15301.

8. Including SoCalGas' proposed noise reducing Best Management Practices as a requirement for the Expansion Project will minimize the Expansion Project's influence on the environment.

9. Pursuant to the categorical exemption provided in CEQA Guideline § 15301, there is no substantial evidence that the Expansion Project will have a significant effect on the environment.

10. The BCAP Phase 1 Settlement approved by D.08-12-020 requires SoCalGas to make commercially reasonable efforts to expand natural gas storage inventory capacity by 7.0 Bcf over the period 2009 to 2014.

11. D.08-12-020 found that approval of the BCAP Phase 1 Settlement would ensure that the core and noncore customers in southern California will have sufficient storage services during the term of the settlement, while providing monetary incentives to SDG&E and SoCalGas to encourage them to expand the storage assets for the unbundled storage program.

12. D.84923, in granting the original CPCN for the Honor Rancho Facility, found that an unavoidable adverse environmental impact resulting from the construction and operation of the proposed project required that waste water generated by operation of the facility be transported to an off-site disposal facility.

13. The Honor Rancho Facility currently has two existing brine injection wells for fluid injection and it is not clear that the current operation of the Honor Rancho Facility complies with D.84923.

Conclusions of Law

1. The Application is uncontested and evidentiary hearings are not necessary.

2. Pursuant to § 1001, the present public convenience and necessity require the Proposed Project.

3. Pursuant to § 1002, the Proposed Project is consistent with community values, recreational and park areas, and historical and aesthetic values.

4. Pursuant to § 1002(a)(4), SoCalGas should be required to implement SoCalGas' proposed noise reducing Best Management Practices for the Expansion Project to minimize the Expansion Project's influence on the environment.

5. The Commission is the Lead Agency for compliance with the provisions of CEQA.

6. Public Resources Code § 21084 and CEQA Guidelines §§ 15300, et seq., establish classes of projects that the Secretary of the Resources Agency has determined do not to have a significant effect on the environment. Pursuant to Public Resources Code § 21084, projects that have been determined not to have a significant effect on the environment are exempt from the provisions of CEQA.

7. The Expansion Project, in operation or construction, will not (a) impact designated and mapped biological or cultural resources, (b) have a cumulative impact, (c) have a significant effect due to unusual circumstances, (d) impact a scenic highway, (e) be located on a hazardous waste site pursuant to Government Code §65962.5, or (f) impact an historical resource.

8. The Expansion Project is exempt from CEQA review, pursuant to CEQA Guideline § 15301, because the Honor Rancho Facility is an existing facility of an investor-owned utility that is used to provide natural gas services, and the

Expansion Project involves the negligible expansion of an existing use. None of the exceptions listed in CEQA Guideline § 15300.2 apply to this exemption.

9. A Permit to Construct is not required for authority to upgrade electric facilities in connection with the Expansion Project, and a description of the measures taken or proposed by the utility to reduce the potential exposure to electric and magnetic fields generated by the proposed facilities is not required, because electrical distribution facilities under 50kV do not trigger a permit review, pursuant to GO 131-D.

10. The approval of the BCAP Phase 1 Settlement by D.08-12-020 creates a presumptive and actual need for the Expansion Project.

11. The Expansion Project is consistent with community values, recreation or park areas, and historical and aesthetic values.

12. The BCAP Phase 1 Settlement permits SoCalGas to seek recovery of the revenue requirement associated with the Expansion Project through this Application or through a GRC, but only after inventory expansion facilities are used and useful in providing storage service.

13. SoCalGas should be authorized to establish the HRSMA to track the costs and revenues incurred in the construction and operation of the Expansion Project, pending a Commission decision in a future GRC regarding the appropriateness and recovery of such costs.

14. SoCalGas should file a Tier 2 advice letter within 30 days from the date of this Decision to establish the HRSMA.

15. To the extent that SoCalGas seeks recovery of any costs associated with the Expansion Project, SoCalGas is not entitled to a presumption that the costs of the Expansion Project are appropriate, reasonable, or prudently incurred, and SoCalGas must bear the burden of proving that separate cost recovery for the

type of costs is appropriate, as well as the prudence and reasonableness of the costs of the Expansion Project in the next GRC or any proceeding in which SoCalGas requests authority to include any costs of the Expansion Project in core rates.

16. The incorporation of the City of Santa Clarita, including a portion but not all of the Honor Rancho Facility, the adoption of Title 17 after the Honor Rancho Facility began operation, and the Honor Rancho Facility's nonconformance with the requirements of Title 17 creates uncertainty and potential confusion that may interfere with or delay the construction and operation of the facilities authorized by this Decision.

17. Delays in the construction or operation of the authorized facilities resulting from any nonconformance of the Honor Rancho Facility with Title 17 are contrary to the state's interest in promoting expansion of natural gas storage capacity.

18. The Commission has previously determined, and the California Supreme Court has confirmed, that the Commission has authority over construction for utility purposes carried out by public utilities subject to its jurisdiction.

19. SoCalGas is a public utility subject to the Commission's jurisdiction, pursuant to § 216 and § 222, and the Honor Rancho Facility are gas plant facilities regulated by the Commission pursuant to § 221.

20. Title XII, § 8 of the California Constitution, and Public Utilities Code § 701 and § 768, establish the Commission's preemptory authority over city, county, or other public bodies over matters which the Legislature has granted regulatory power to the Commission, including the construction, maintenance, and operation of utility property.

21. The Honor Rancho Expansion Project serves a statewide public interest, and the Commission has preemptory authority over conflicting local zoning regulations, ordinances, codes, or requirements. In approving the amendment to the Certificate of Public Convenience and Necessity for the Honor Rancho Facility, the Commission has authority to preempt Title 17 of the City of Santa Clarita's Municipal Code on zoning, the City's General Plan, and all Conditional Use Permit requirements that the City could otherwise impose on the Honor Rancho Expansion Project or the Honor Rancho Facility.

22. SoCalGas should obtain all necessary non-preempted permits, easement rights, or other applicable legal authority for the Expansion Project site prior to commencing construction.

23. SoCalGas' application for a CPCN authorizing it to construct and operate the Honor Rancho Facility, as set forth in its application should be granted as conditioned by this Decision.

24. SoCalGas' compliance with D.84923 should be referred to the appropriate Commission staff for further review.

25. This order should be effective immediately so that construction of the Expansion Project can begin.

O R D E R

IT IS ORDERED that:

1. Southern California Gas Company is granted an amendment to its Certificate of Public Convenience and Necessity authorizing the construction and operation of the facilities necessary to further expand the Honor Rancho natural gas storage facility, as set forth in its application, and as conditioned in Ordering Paragraphs Nos. 2 and 3 below.

2. Southern California Gas Company must fit all equipment with appropriate sound-deadening devices such as mufflers or silencers on the generators, acoustical blanketing of the drill rig, and add other sound-deadening materials in proximity to the drill rig to reduce metal-to-metal noise, to ensure noise levels do not exceed the maximum levels established by the City of Santa Clarita and County of Los Angeles.

3. Southern California Gas Company must monitor sound levels bi-monthly to verify levels do not exceed the maximum levels established by the City of Santa Clarita and County of Los Angeles, and to immediately take steps to reduce noise levels that exceed the maximum levels permitted by the City of Santa Clarita or County of Los Angeles.

4. Southern California Gas Company is authorized to establish the Honor Rancho Storage Memorandum Account to track the cost to construct, and the ongoing incremental operations and maintenance costs, associated with the construction and operation of the Expansion Project pending a Commission decision in a future general rate case regarding the appropriateness and recovery of such costs.

5. Southern California Gas Company must file an advice letter within 30 days from the date of this Decision with the Energy Division under Tier 2 of General Order 96-B to establish the Honor Rancho Storage Memorandum Account. Any interested party may protest the advice letter filing, as provided for in General Order 96-B.

6. To the extent that Southern California Gas Company subsequently seeks recovery of any costs associated with the Expansion Project authorized herein, Southern California Gas Company is not entitled to a presumption that the costs of the Expansion Project are appropriate, reasonable, or prudently incurred and

Southern California Gas Company shall bear the burden of proving that separate cost recovery for the type of costs is appropriate, as well as the prudence and reasonableness of the costs of the Expansion Project in the next general rate case or any proceeding in which Southern California Gas Company requests authority to include any costs of the Expansion Project in core rates.

7. Southern California Gas Company must obtain all necessary non-preempted permits, easement rights, or other applicable legal authority for the Expansion Project site prior to commencing construction.

8. Southern California Gas Company' compliance with Decision 84923 is referred to the appropriate Commission staff for further review.

9. Application 09-07-014 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated March 8, 2010, at San Francisco, California.

/s/ ANTONINA V. SWANSEN
Antonina V. Swansen

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 ensure 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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