Date of Issuance – August 16, 2019

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION | **RESOLUTION G-3556**
AUGUST 15, 2019

R E S O L U T I O N

Resolution G-3556. Southern California Gas Company One-Time Exemption Request for Employee Residency Requirements of the Affiliate Transaction Rule V.G.2.b

PROPOSED OUTCOME:

- Approves Southern California Gas Company's (SoCalGas) request for an exemption from the employee residency requirements of Affiliate Transaction Rule V.G.2.b. for four employees.
- This exemption allows four former SoCalGas employees to return to utility employment within a year of employee residency at the utility's affiliate, Chilquinta Energia S.A. (Chilquinta), a subsidiary of Sempra Energy International (Sempra International).

SAFETY CONSIDERATIONS:

- There is no direct impact on safety.

ESTIMATED COST:

- There is no cost impact.
- The four employees returning to SoCalGas employment are either returning to their former positions or filling vacancies within the company.

By Advice Letter 5487, Filed on June 28, 2019.

SUMMARY

This Resolution approves Southern California Gas Company's (SoCalGas) request for exemption of the employee residency requirements in Affiliate

Transaction Rule V.G.2.b. (Rule) for four employees. The Rule stipulates that once an employee of the utility becomes an employee of the affiliate, the employee may not return to the utility for a period of at least one year. The exception to this rule is if the affiliate goes out of business within that one-year period.

The Commission finds that the pending sale of Chilquinta by Sempra International, coupled with the suspension of the program and employee positions constitute the "going out of business" exception in the Rule. Therefore, the Commission approves SoCalGas' exemption request, which will allow the four Sempra International employees to return to utility employment before the end of the one-year period.

BACKGROUND

The Affiliate Transaction Rules (ATRs) were established by the CPUC to protect California electricity customers from risks associated with deregulation of energy markets in the 1990s and the energy crisis of the early 2000s. The purpose of the ATRs are to establish nondiscrimination, disclosure and information, and separation standards for utilities and their affiliates. The ATRs are designed to ensure that California ratepayers do not cross-subsidize a non-utility business, to promote fair practices for market competition, and to protect the utility's financial integrity from risks of its unregulated affiliates and parent holding company.

The CPUC created the ATRs through D.97-12-088, and subsequently modified the ATRs in: (a) D.98-08-035; (b) D.98-11-027; (c) D.98-12-075; (d) D.99-04-069; (e) D.99-09-002; and (f) D.06-12-029. There are nine categories of rules under the ATRs with sub-categorical rules that provide detailed directions to the utilities to ensure compliance with Commission regulation.

On June 28, 2019, SoCalGas filed Advice Letter 5487 requesting an exemption of the employee residency requirements in Affiliate Transaction Rule V.G.2.b. for four employees.

Category V.G. stipulates separation rules for utility and affiliate employees to address concerns regarding cross-subsidization, competition, and inappropriate transfer of information.[1] Rule V.G.2.b. states,

> Once an employee of a utility becomes an employee of an affiliate, the employee may not return to the utility for a period of one year. This Rule is inapplicable if the affiliate to which the employee transfers goes out of business during the one-year period. In the event that such an employee returns to the utility, such employee cannot be retransferred, reassigned, or otherwise employed by the affiliate for a period of two years. Employees transferring from the utility to the affiliate are expressly prohibited from using information gained from the utility in a discriminatory or exclusive fashion, to the benefit of the affiliate or to the detriment of other unaffiliated service providers.[2]

The former SoCalGas employees accepted positions with SoCalGas' affiliate, Sempra International, in November and December 2018 to provide advanced metering infrastructure (AMI) project management for its subsidiary, Chilquinta. In April 2019, the Chilean Energy Ministry made significant changes to the AMI program and delayed implementation for two years. Chilquinta subsequently ceased most of its AMI program operations and cut its AMI expenditures for 2019, including the positions for the four employees.

Furthermore, in February 2019, Sempra announced its decision to sell all of its South American businesses, including Chilquinta. The process for the sale started in March and is expected to conclude by the end of 2019. SoCalGas requests that the employees be allowed to return to utility employment before the end of the one-year period, on the basis that the suspension of the AMI project and the pending sale of Chilquinta trigger the going out of business exception in the Affiliate Transaction Rule.

This Resolution serves to dispose Advice Letter 5487.

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1. D. 97-12-088. P. 63

2. D. 06-12-029. Appendix A-3. P. 15

NOTICE

Notice of AL 5487 was made by publication in the Commission's Daily Calendar. Southern California Gas Company states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Advice Letter 5487 was not protested.

DISCUSSION

The Commission has reviewed the Advice Letter and finds that the circumstances surrounding the pending sale of Chilquinta and the advanced metering infrastructure program suspension constitute a basis for the going out of business exception in Affiliate Transaction Rule V.G.2.b. The Commission further finds that the return of the four employees to SoCalGas employment does not circumvent the intended purpose of Affiliate Transaction Rule V.G.2.b.

The Commission established separation standards for employees in the ATRs to address concerns related to cross-subsidization, competition, and the inappropriate transfer of information between utilities and affiliates through the transfer of employees. Specifically, Rule V.G.2.b. outlined residency requirements to prevent the inappropriate information-sharing between companies through the exchange of employees. The four employees, for which the exception is requested, specialized in advanced metering infrastructure project management. As stated above, the Chilean Energy Ministry made changes to the AMI program and delayed implementation for two years. Chilquinta suspended advanced metering infrastructure project activities. Sempra International has started the sale of Chilquinta, and after the pending sale, Sempra affiliates, with the exception of Southern California Gas Company, are not currently planning, implementing, and/or maintaining an advanced metering infrastructure program. Under these circumstances, the risk of inappropriate information sharing by the employees returning to SoCalGas employment is minimal.

When the Commission established the ATRs, it found that the rules should accommodate the transfer of employees whose affiliate has gone out of business.[3] The purpose of this exception was to avoid unnecessary hardship for employees. The four employees who became affiliate employees accepted positions on the AMI program based in Chile at a time when project launch and implementation was imminently expected. The change in project parameters and subsequent suspension of AMI activities by Chilquinta resulted in the removal of all AMI expenditures for 2019, including the four employees' position. In addition, Sempra International announced and has begun the process to sell Chilquinta as one of its South American businesses by the end of the year. The circumstances of the employees' return to SoCalGas are analogous to the entity going out of business within the one-year period. The Commission finds this is the type of hardship the going out of business exception was meant to reduce and the one-time exemption should be 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.

All parties in the proceeding have stipulated to waive the 30-day waiting period required by PU Code section 311 (g)(1) and the opportunity to file comments on the draft resolution. Accordingly, this matter will be placed on the Commission's agenda directly for prompt action.

FINDINGS

1. Southern California Gas Company requests an exemption to the one-year employee residency requirements in Affiliate Transaction Rule V.G.2.b for four employees.
2. Southern California Gas Company filed Advice Letter 5487 as a Tier 3 filing.

3. D. 97-12-088. Findings of Fact #34. P. 95

3. The Commission established the Affiliate Transaction Rules' separation standards for employees to address concerns regarding cross-subsidization, competition, and inappropriate transfer of information. Rule V.G.2.b. was designed to address inappropriate transfer of information with the transfer of employees.
4. Southern California Gas Company has shown that there is minimal risk to inappropriate transfer of information.
5. The Commission Affiliate Transaction Rules provide an exception to the residency requirements if an affiliate goes out of business.
6. Southern California Gas Company has shown that the circumstances for the four employees currently with the utility affiliate are analogous to the entity going out of business.

THEREFORE IT IS ORDERED THAT:

1. The request of Southern California Gas Company for an exemption from the employee residency requirements in Affiliate Transaction Rule V.G.2.b. as requested in Advice Letter 5487 is approved.

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 August 15, 2019; the following Commissioners voting favorably thereon:

/s/Alice Stebbins
ALICE STEBBINS
Executive Director

MICHAEL PICKER
President
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners