

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION

I.D.# 7888
RESOLUTION G-3422
OCTOBER 16, 2008

R E S O L U T I O N

Resolution G-3422. Southern California Gas Company ("SoCalGas") requests approval of the establishment of a memorandum account to track increased Pacific Gas and Electric Company ("PG&E") exchange fee expenses related to the provision of wholesale service to Southwest Gas Company. SoCalGas's request is approved effective the date of this resolution.

By Advice Letter 3882-G ("AL 3882") filed on July 16, 2008.

SUMMARY

This Resolution approves SoCalGas's request for the establishment of the Southwest Gas Exchange Fees Memorandum Account ("SGEFMA"), with an effective date of October 2, 2008, rather than SoCalGas's requested effective date of August 1, 2008.

SoCalGas reasonably justified its request for approval of a memo account to track an increase in the exchange fee it pays to PG&E as part of the provision of wholesale gas transportation service to Southwest Gas.

SoCalGas failed to provide compelling justification for an effective date of August 1, 2008, i.e. prior to California Public Utilities Commission ("Commission") approval of the SGEFMA.

The Division of Ratepayer Advocates ("DRA") timely protested AL 3882 on the grounds that SoCalGas: a) had not established a basis for the exchange fee increase and; b) provided no basis for PG&E's authority to increase the exchange fee. The protest is denied based upon further documentation that SoCalGas provided.

BACKGROUND

SoCalGas has provided wholesale gas transportation services to Southwest Gas (“SWG”) for the last fifteen (15) years under the California Wholesale Gas Transportation and Storage Services Agreement (“SWG Agreement”). This service is made possible in part due to the Southwest Exchange Gas Delivery Agreement (“SEGDA”) between SoCalGas and PG&E. Under the SEGDA, some of the gas volumes under the SWG Agreement are physically delivered to SWG via PG&E pipelines. SoCalGas pays PG&E an exchange fee for the use of PG&E’s pipelines.

The Commission approved the original SWG Agreement and SEGDA in Decision No. (D.) 93-07-052. The first terms of those agreements were to expire after fifteen (15) years, on July 31, 2008, but roll over for an additional year, on the same terms, in the absence of termination or amendment. SoCalGas, SWG, and PG&E have yet to file for Commission approval of new contracts that would supersede the old SWG Agreement and SEGDA.

At the time AL 3882 was filed, July 16, 2008, SoCalGas and PG&E had not yet signed a written agreement to extend the SEGDA. SoCalGas stated that PG&E was “willing” to provide exchange service until the Commission acts on the new SWG Agreement and SEGDA that were being negotiated, but only if the existing SEGDA exchange fee was increased from \$0.25/Dth to \$0.4172/Dth.

SoCalGas and PG&E formally agreed to extend the exchange service for an interim period lasting up to a year, albeit at higher rates than under the original SEGDA: on July 31, 2008, PG&E and SoCalGas executed an amendment to the SEGDA in which PG&E agreed to continue to provide interim exchange service for SoCalGas effective August 1, 2008 expiring at the earlier of either: a) July 31, 2009 or b) Commission approval of new SWG Agreement and SEGDA contracts. PG&E will charge higher exchange fees during the interim period (\$0.4172/Dth from August 1, 2008 to December 31, 2008 and an estimated \$0.4233/Dth thereafter) than it charged prior to the amendment to the SEGDA (\$0.25/Dth).

In order to track the difference between the old and interim SEGDA rates, SoCalGas is requesting in AL 3882 that the CPUC approve the establishment of

the Southwest Gas Exchange Fees Memorandum Account (“SGEFMA”), an interest-bearing memorandum account recorded on SoCalGas’s financial statements. SoCalGas would like the SGEFMA to be established effective August 1, 2008. SoCalGas presumes that the disposition of the accumulated SGEFMA amount will be determined in its future application before the Commission seeking approval of the amendments and new contracts, or in another proceeding as the Commission deems appropriate.

NOTICE

Notice of AL 3882 was made by publication in the Commission’s Daily Calendar. SoCalGas states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

SoCalGas’s Advice Letter AL 3882 was timely protested by DRA on the grounds that, at the time, SoCalGas a) had not established a basis for the exchange fee increase and b) provided no basis for PG&E’s authority to increase the exchange fee.

SoCalGas responded to DRA’s protest on August 1, 2008. SoCalGas provided documents in which PG&E provided quantitative justification for the higher exchange fees and claimed authority to charge such fees. SoCalGas also claimed that PG&E would not continue to serve SWG absent the higher fees. SoCalGas claimed that while the increased fees were refundable if the Commission determined that PG&E did not have authority, failure to establish the SGEFMA could cause irreparable harm a) to SoCalGas if it could not recover costs that would have been tracked in the SGEFMA and b) to SWG if PG&E discontinued service. (SoCalGas also later provided Energy Division with copies of the amendments to the old SEGDA and SWG Agreement, which were executed by SoCalGas and PG&E on July 31, 2008.)

DISCUSSION

SoCalGas's request for the establishment of the SGEFMA should be approved, but the SGEFMA should be effective on the date of this resolution.

Establishing the SGEFMA is reasonable. This memo account will merely track the difference between the current exchange fee, and a new amount that SoCalGas and PG&E have agreed to. Establishment of the SGEFMA does not necessarily entitle SoCalGas to collect the amount accumulated therein. It simply tracks costs that may be recoverable if the Commission later approves such costs. Failure to establish the SGEFMA could jeopardize SoCalGas's ability to recover possibly justifiable costs incurred to provide service to SWG. It is reasonable to track such costs via the SGEFMA, pending the Commission's decision as to whether the cost may be recovered.

Although the DRA protested the advice letter on the grounds that PG&E had not supplied enough justification for its authority to amend the existing contracts and for the particular exchange fee it sought, SoCalGas eventually supplied Energy Division with such justifications in the form of a letter from PG&E and executed copies of the amendments to the SEGDA and SWG Agreement. PG&E also provided a certain amount of information to justify the amount of the fee. The fact that SoCalGas and PG&E have an executed agreement, and have provided some support for the amount of exchange fee increase is sufficient justification for the establishment of the SGEFMA. DRA's objections are better resolved in SoCalGas's future application.

This resolution's scope is restricted to the *establishment* of the SGEFMA and its effective date and to no other issues. For example, we do not evaluate:

- whether or not SoCalGas is entitled to collect any of the amount accumulated in the SGEFMA,
- the legitimacy of the amendments to the existing SEGDA and SWG Agreements, or
- which set of ratepayers such costs should be recovered from.

Such evaluations may be within the scope of SoCalGas's future application but are *not* within the scope of this resolution.

However, SoCalGas has not offered compelling justification for its proposed SGEFMA effective date of August 1, 2008; that portion of its proposal is denied. It is the Commission's general policy not to authorize potential recovery of costs if they were incurred prior to the date of Commission authorization of a memorandum, balancing, or tracking account, absent compelling justification otherwise. See, e.g.:

- D.06-11-021 (utility seeking an earlier effective date for a memorandum account showed "no reason why [the Commission] should depart from [its] typical practice of allowing memorandum accounts to become effective only on or after the date the Commission has authorized them"),
- D.03-05-032 (Commission rejected utility's attempted predating the effective date of a memorandum account due to absence of unique circumstances), and
- D.03-05-076 (Commission stated that its practice is "not to authorize increased utility rates to account for previously incurred expenses, unless, before the utility incurs those expenses, the Commission has authorized the utility to book those expenses into a memorandum account or balancing account for possible future recovery in rates," citing Southern California Water Co., Decision 92-03-094 (March 31, 1992), 43 Cal. P.U.C. 2d 600).

Furthermore, SoCalGas had considerable time to renegotiate its old 15-year contracts and thus to avoid the need for a memorandum account or for proposing a retroactive effective date for the SGEFMA. SoCalGas failed to do so; it filed its advice letter only 15 days before the expiration of the contracts. In addition, SoCalGas and PG&E only formally agreed to the amount of the exchange fee increase on the final day of the term of the contracts.

Finally, the memorandum account in this instance does not fall within the two exceptions identified by Commission Resolution E-3637 (1999), which stated that

memorandum accounts may become effective prior to the date of the resolution approving them when a) the resolution is a compliance filing in response to a Commission-approved decision authorizing tracking or recovery of incurred costs (e.g., Resolution E-3677) or b) when specific legislative directive specified an earlier effective date.

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 or 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.

FINDINGS

1. SoCalGas has reasonably justified the establishment of the SGEFMA.
2. SoCalGas has not presented compelling justification for a SGEFMA effective date of August 1, 2008.
3. The scope of this resolution is restricted to the establishment and effective date of the SGEFMA only, and not to whether or not SoCalGas may recover any of the amounts accrued under the SGEFMA.
4. DRA's protest is denied. DRA may raise objections to the amounts accumulated in the SGEFMA during the proceeding in which the disposition of the SGEFMA is considered.

THEREFORE IT IS ORDERED THAT:

1. SoCalGas's request to establish the SGEFMA is approved, but with an effective date of October 2, 2008, rather than August 1, 2008.
2. SoCalGas shall file a supplemental advice letter within 5 days to revise the effective date of the SGEFMA.

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 October 16, 2008; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director