

Decision **DRAFT DECISION OF ALJ WONG** (Mailed 5/20/03)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Petition of Southern California
Gas Company for Modification of Resolution
G-3334.

Application 03-03-048
(Filed March 25, 2003)

**OPINION REGARDING PETITION TO MODIFY
RESOLUTION G-3334**

Summary

Southern California Gas Company (SoCalGas) filed a petition to modify Ordering Paragraph (OP) 3 of Resolution G-3334. That OP directed SoCalGas to file an implementation application for Decision (D.) 01-12-018 on or before April 14, 2003. Due to the changes that have occurred since D.01-12-018 was issued, and the directive in the Resolution that the changed circumstances be described in the implementation application filing, SoCalGas requests that the filing date be extended to October 15, 2003.

This decision denies SoCalGas' petition to modify OP 3 of the Resolution. The filing date for the implementation application shall remain as June 30, 2003.

Background

In December 2001, the Commission issued D.01-12-018. This decision adopted the "Comprehensive Settlement" agreement, as modified by the Commission, for use in the gas service territories of SoCalGas and San Diego Gas & Electric Company. D.01-12-018 established a revised regulatory and market structure framework for the natural gas industry in Southern California.

The Commission ordered SoCalGas in D.01-12-018 to file the necessary advice letters (Als) to implement this new gas structure. SoCalGas filed various ALs with the Commission to implement D.01-12-018.

In Resolution G-3334, the Commission consolidated the following nine ALs that had been filed by SoCalGas: AL 3100-A; AL 3105; AL 3109-A; AL 3112; AL 3117; AL 3123-A; AL 3146; AL 3147; and AL 3174. In Resolution G-3334, adopted on February 27, 2003, the Commission denied all nine ALs without prejudice. The Commission ordered SoCalGas to file an application to implement D.01-12-018 within 45 days of February 27, 2003, and also specified the information SoCalGas' implementation application is to contain.

Pursuant to the Resolution, SoCalGas was to file the implementation application on or before April 14, 2003. On March 25, 2003, SoCalGas requested in writing that the Commission's Executive Director extend the time to file its implementation application to May 22, 2003. SoCalGas also stated in the letter that it was filing a petition for modification of the Resolution to request a lengthier extension to October 15, 2003. SoCalGas' petition for modification was filed on March 25, 2003.

On April 9, 2003, the Executive Director granted SoCalGas' request for an extension of time to comply with OP 3 of the Resolution. SoCalGas was given until June 30, 2003 to file the implementation application. The April 9 letter also stated that such an extension would provide other parties with a full 30 days in which to respond to SoCalGas' petition for modification of Resolution G-3334, and for parties to comment on the draft decision regarding SoCalGas' petition for modification.

On April 24, 2003, the Department of General Services (DGS) and the Southern California Generation Coalition (SCGC) filed a joint response to

SoCalGas' petition for modification of Resolution G-3334. No other parties filed a response to the petition.

Positions of the Parties

A. SoCalGas

SoCalGas' petition seeks to modify OP 3 of Resolution G-3334. OP 3 of the Resolution states: "SoCalGas is ordered to file an application within 45 days of the signing of this Resolution to implement D.01-12-018." The 45th day was April 14, 2003. SoCalGas proposes to modify OP 3 to read as follows: "SoCalGas is ordered to file an application by October 15, 2003 to implement D.01-12-018."

Due to the passage of time and current circumstances, SoCalGas seeks to defer the filing of its implementation application for two reasons. First, SoCalGas points out that the Commission is currently considering possible changes to the gas market structure of Pacific Gas and Electric Company (PG&E) in Application (A.) 01-10-011. SoCalGas contends that it would be very helpful to have a better understanding of the Commission's current thinking and policies before it makes detailed proposals for a gas market structure for Southern California. Deferring the filing of SoCalGas' implementation application to at least October 15, 2003, will allow the Commission to act on PG&E's application first.

The second reason why SoCalGas seeks to defer the filing date is that it will allow SoCalGas and the other parties to assess what changes to D.01-12-018, are appropriate given that the Comprehensive Settlement was signed three years ago. Since OP 4 of the Resolution directed SoCalGas to describe "any new issues which must be dealt with in the implementation proceeding due to the delay between signing of the" Comprehensive Settlement agreement, D.01-12-018, and

the implementation, SoCalGas contends that it should be given more time to consider possible changes to D.01-12-018.

Among the developments that SoCalGas believes should be considered are the following:

“[T]he termination of SoCalGas’ contract to procure gas for its core portfolio from Exxon/Mobil from the POPCO project; FERC’s [Federal Energy Regulatory Commission] reallocation of firm rights and delivery points on the El Paso system; the expansion of SoCalGas’ backbone transmission system by 375 MMcfd; the imminence of the expiration in 2005 of SoCalGas long-term contract for capacity on Transwestern Pipeline; the expansion of SoCalGas’ storage inventory capacity as a result of the ‘cushion gas’ project approved by the Commission in A.01-04-007; the acquisition in 2002 of El Paso capacity by SoCalGas and other California parties in compliance with the Commission’s order in R.02-06-041; the construction of new interstate pipeline capacity that can deliver gas to SoCalGas; and new and potential future interconnections to SoCalGas’ system of additional sources of gas, including gas from proposed LNG projects.” (Petition for Modification, pp. 3-4.)

SoCalGas requests more time to consider whether modifications to D.01-12-018 are necessary because of the developments listed above.

SoCalGas also contends that even if it is required to file the implementation application right away, it is very unlikely that the Commission could issue a decision and implement the decision by the end of 2003.

SoCalGas also points out that the deferral that it is seeking meshes with its Test Year 2004 Cost of Service application, A.02-12-027. In that application, SoCalGas assumed a scenario that D.01-12-018 would not be implemented by January 1, 2004. The Cost of Service application includes in rate base the cost of SoCalGas’ 375 MMcfd expansion of backbone capacity, and the revenue requirement associated with the information technology investments

that have been made to comply with D.01-12-018. If changes to D.01-12-018 are needed after SoCalGas files its implementation application, the Commission can modify the decision on the Cost of Service application on a prospective basis as appropriate.

B. DGS and SCGC

DGS and SCGC do not oppose the extension requested by SoCalGas. However, they recommend that the Commission direct SoCalGas to consolidate the filing of the implementation application with the filing of SoCalGas' upcoming Biennial Cost Allocation Proceeding (BCAP) application, which is scheduled to be filed on September 3, 2003.

DGS and SCGC contend that the proposed extension will better enable SoCalGas to consider the numerous changed circumstances which have occurred since the Comprehensive Settlement agreement was signed and D.01-12-018 was issued.

DGS and SCGC also state that additional changed circumstances are likely to arise during the next six months. One example is the 906 MMcf/d Kern River Pipeline Company expansion project, which went into service on May 1, 2003. Another example is Sempra's proposed expansion of the Baja Norte pipeline to 1 Bcf. SoCalGas' proposed extension of the filing date for the implementation application will allow SoCalGas to consider the impacts of these recent developments.

DGS and SCGC recommend that if the extension is granted, SoCalGas' BCAP should be consolidated with the implementation application. They contend that SoCalGas' proposed implementation of D.01-12-018 will affect the BCAP proposals, and that the BCAP proposals could affect the implementation of D.01-12-018. They also note that the BCAP filing has been delayed by over

two years, and if the two proceedings are not consolidated, that SoCalGas or ORA may seek a further deferral of the BCAP.

Discussion

Much has happened in California and with the natural gas industry since the evidentiary hearings were held in mid-2000. The Resolution directs SoCalGas to describe in the implementation application any new issues which must be dealt with, including any issues in current Commission proceedings which affect D.01-12-018, any changes in the Southern California gas market which impact the decision, and any other issues impacted by the delays that have occurred.

According to SoCalGas, an extension until October 15, 2003, will allow SoCalGas adequate time to consider the impacts of the changes that have occurred and to incorporate those impacts into the implementation application. Although the additional time will allow SoCalGas to further consider what changes should be made to D.01-12-018 as part of its implementation application filing, other changes could occur during this time as well.

At some point, the Commission must proceed with the implementation of D.01-12-018 rather than to wait for the outcome of other events. Over two years have elapsed since D.01-12-018 was adopted by the Commission. In addition, SoCalGas has had four months since the adoption of Resolution G-3334 to consider what changes should be included in the implementation application filing. An additional four months will only exacerbate the delay that has already occurred. Accordingly, SoCalGas' petition for modification of the Resolution to extend the filing date of the implementation application should be denied.

We will not adopt the recommendation of DGS and SCGC to consolidate the upcoming BCAP application filing of SoCalGas with the implementation

application. Due to the types of issues that are usually litigated in the BCAP, consolidation of the two applications is likely to lead to a further delay in the implementation of D.01-12-018. For that reason, the recommendation to consolidate the BCAP application with the implementation application is denied.

Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Rules of Practice and Procedure. Joint comments on the draft decision were filed on June 9, 2003 by DGS and SCGC. Those comments have been reviewed and considered, but no changes have been made to this decision.

Assignment of Proceeding

Carl W. Wood is the Assigned Commissioner and John S. Wong is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Comprehensive Settlement agreement, as modified by the Commission, was adopted in D.01-12-018.
2. D.01-12-018 established a revised regulatory and market structure framework for the natural gas industry in Southern California.
3. D.01-12-018 ordered SoCalGas to file the ALs necessary to implement this new gas structure, which SoCalGas filed starting in December 2001 and ending in July 2002.
4. Resolution G-3334 consolidated nine of the ALs, and denied the ALs without prejudice.
5. OP 3 of the Resolution ordered SoCalGas to file an application to implement D.01-12-018 by April 14, 2003.

6. The Executive Director granted SoCalGas' letter request for an extension of time to file the implementation application by extending the filing date from April 14, 2003 to June 30, 2003.

7. DGS and SCGC were the only parties who responded to SoCalGas' petition for modification.

8. OP 4 of the Resolution directed SoCalGas to describe in the implementation application any new issues that need to be addressed due to the delay between the signing of the Comprehensive Settlement agreement, D.01-12-018, and the implementation of that decision.

9. Much has happened in California and with the natural gas industry since the evidentiary hearings were held in mid-2000.

10. Although the additional time will allow SoCalGas to further consider what changes should be made to D.01-12-018 as part of its implementation application filing, other changes could occur during this time as well.

11. Over two years have elapsed since D.01-12-018 was adopted.

12. SoCalGas has had four months since the adoption of the Resolution to consider what changes should be included in the implementation application filing.

13. An additional extension of four months will only exacerbate the delay that has already occurred.

14. Due to the types of issues that are usually litigated in the BCAP, consolidation of the two applications is likely to lead to a further delay in the implementation of D.01-12-018.

Conclusions of Law

1. The Commission should proceed with the implementation of D.01-12-018 rather than to wait for the outcome of other events.

2. Due to the delay that has already occurred, and the time that SoCalGas has had to consider what changes to the implementation of D.01-12-018 should be made, SoCalGas' petition to modify OP 3 of Resolution G-3334 should be denied.

3. The request of DGS and SCGC to consolidate the upcoming BCAP application filing with the implementation application filing should be denied.

O R D E R

IT IS ORDERED that:

1. The Petition for Modification of Resolution G-3334, filed by Southern California Gas Company (SoCalGas) on March 25, 2003, is denied.

2. SoCalGas shall file its implementation application on or before June 30, 2003.

3. The request of the Department of General Services and the Southern California Generation Coalition to consolidate SoCalGas' upcoming Biennial Cost Allocation Proceeding application filing with the implementation application filing ordered in Resolution G-3334 is denied.

4. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.