

R E S O L U T I O N

Resolution G-3351. Southern California Gas Company (SoCalGas) files revisions to its tariffs to comply with Decision 02-08-065 regarding rules for noncore gas customers requesting core service and certain large core customers switching to utility gas procurement. SoCalGas' filing is approved.

By Advice Letter 3188-A filed on June 13, 2003.

SUMMARY

This resolution approves SoCalGas' tariffs submitted in compliance with Decision (D.) 02-08-065. That decision authorized SoCalGas to implement revised uniform rules for noncore gas customers requesting core service, and certain large core customers who elect to switch from a core transportation marketer to utility gas procurement service.

A protest filed by Southwest Gas Corporation (Southwest) is denied. Southwest, a wholesale customer of SoCalGas, argued that it should be eligible to receive bundled core transportation and utility procurement. In its interpretation of D.02-08-065, SoCalGas correctly understands the Commission's intent to exclude wholesale customers from bundled core transportation and utility procurement service.

BACKGROUND

As a result of the extraordinarily high natural gas prices afflicting its customers in December of 2000, SoCalGas submitted Advice Letters 2978 and 2979 on December 11, 2000 and Advice Letters 2978-A and 2979-A on December 12, 2000. SoCalGas proposed that noncore customers be allowed to obtain core subscription service in a special procurement category that would calculate their portfolio cost differently from that of other core customers. In Resolution G-3304, the Commission denied this request, and ordered that SoCalGas suspend

core portfolio subscription and also suspend transfers by noncore customers to bundled core transportation and utility procurement service. The Commission also ordered SoCalGas to file an application to address the issues raised in the resolution.

SoCalGas filed its Application (A.) 01-01-021 in response to Resolution G-3304 in January 2001, and proposed a methodology under which noncore customers could switch to core service. The SoCalGas application also proposed consolidation of the SoCalGas and SDG&E gas supply portfolios. In D. 02-08-065, the Commission provided guidance for the transfers by noncore and large core customers to bundled core transportation and utility procurement, as well as to core transportation only. The decision also deferred¹ the applicants' request to consolidate SDG&E and SoCalGas supply portfolios. It also deferred a proposal jointly made by SoCalGas, SDG&E, and Long Beach to allow Long Beach to procure from the proposed SoCalGas-SDG&E common portfolio.

In D. 01-12-018 (the Gas Industry Reform, or GIR, Decision), issued on December 17, 2001, the Commission adopted the SoCalGas Comprehensive Settlement Agreement to implement numerous changes related to SoCalGas' service offerings. The GIR Decision maintained the suspension of core subscription service but re-opened bundled core transportation and procurement to noncore customers.

SoCalGas originally filed Advice Letter (AL) 3188 on September 20, 2002 to implement D. 02-08-065 modifying certain rules. These rules are for noncore customers requesting core service and for core customers with an annual consumption over 50,000 therms that elect to switch from a Core Aggregation Transportation (CAT) marketer to utility procurement service.

Pursuant to a request by the Energy Division, SoCalGas refiled the advice letter as supplemental AL 3188-A on June 13, 2003, replacing the original filing. The purpose of the supplemental filing was to reflect more accurately the intent of D.02-08-065 and to accommodate the fact that, after SoCalGas had filed the original AL, the Commission issued Resolution G-3334, which denied nine

¹ This deferral was made pending the outcome of the investigation in Order Instituting Investigation (I.) 02-11-040, also known as the Border Gas Price OII.

advice letters filed by SoCalGas to implement the Gas Industry Decision 01-12-018.

NOTICE

Notice of AL 3188-A 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

The original filing (AL 3188) was timely protested on October 10, 2002 by Southwest Gas Corporation (Southwest). Southwest requested that the AL be modified to explicitly state that noncore customers, including wholesale customers – other than electric generation (EG), refinery, and enhanced oil recovery (EOR) – are eligible to switch to bundled transportation and utility procurement service. SoCalGas responded on October 17, 2002 that the filing did not require modification, and that SoCalGas had correctly interpreted D.02-08-065 to exclude wholesale customers from bundled transportation and utility procurement service.

The changes between the original AL and the supplemental AL are not related to the matter being protested by Southwest. Southwest timely renewed its protest of AL 3188-A on July 3, 2003.

Southwest wishes to be eligible for the various procurement and transportation options from which D.02-08-065 explicitly barred electric generation, refinery, and EOR customers. Southwest was informed in a letter by SoCalGas on October 9, 2002 that the service options in question were not available to "...noncore customers with negotiated special agreements." Southwest disagrees with this interpretation of D.02-08-065 and believes that since the decision did not explicitly bar wholesale customers (aside from SDG&E and Long Beach, pending the outcome of I.02-11-040) from sharing a portfolio with SoCalGas, Southwest should be eligible for these services. Southwest states that while the advice letter appears to be consistent with D.02-08-065 (since it does not explicitly bar wholesale customers from the bundled service), the advice letter should be modified to clarify that Southwest is eligible for these services.



SoCalGas renewed its response to Southwest's protest on July 11, 2003. SoCalGas argues that AL 3188-A is in full compliance with D.02-08-065. SoCalGas's response cites discussion on pages 12-14 and in Finding of Fact 5 indicating the Commission's concerns about adding wholesale load to the core portfolio. SoCalGas notes that the Commission is concerned that the proposal in A.01-01-021, which includes adding additional wholesale load to the consolidated portfolio, would "...add up to a potentially significant increase in both scale and scope of SoCalGas's existing procurement operations."² SoCalGas also cites the Commission's prohibiting (on page 24 of the discussion) Long Beach from procuring from the core portfolio as an example of the Commission's intention to bar all wholesale customers from procuring gas supply from the core portfolio.

DISCUSSION

The Commission has reviewed SoCalGas' AL 3188-A and finds that it is in compliance with D.02-08-065.

We will deny the protest by Southwest. We find that while D.02-08-065 does not explicitly bar all wholesale customers from transferring to the core portfolio, the decision does express concerns with allowing wholesale customers to transfer to the core portfolio. As an expression of this concern, the decision defers, pending the outcome of I.02-11-040, the proposal to merge SDG&E's and SoCalGas's portfolios and the proposal for Long Beach to procure from the SoCalGas core portfolio. It is clearly the intention of the decision that wholesale customers not be allowed to procure from the core portfolio at this time.

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

² D.02-08-065, p.12

period may be reduced or waived upon the stipulation of all parties in the proceeding.

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The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this Draft Resolution was mailed on July 21, 2003 to parties for comments, and was placed on the Commission's agenda for August 21, 2003. As noted in the letter accompanying the Draft Resolution, comments were due on August 8. No comments were received by that date, however on August 15 the Energy Division was notified by Southwest that it was not until August 14 that Southwest received the Draft Resolution, with a postmark from the Commission mailroom dated August 12. The Energy Division subsequently notified both Southwest and SoCalGas that any comments would be due on August 25, that reply comments would be due on August 29, and that the Draft Resolution would be placed on the agenda for the September 4, 2003 Commission meeting.

Southwest filed its comments on the Draft Resolution on August 25, 2003. On August 27, Southwest filed revised comments, correcting for a typographical error of its earlier filing. We will accept the revised filing. SoCalGas did not file a response.

Southwest points to Conclusion of Law no. 3 of D.02-08-065, which authorizes SoCalGas and SDG&E to issue revised rules for noncore customers seeking core service. Southwest also notes Ordering Paragraphs 3 and 4, which bar electric generation, refinery, and EOR customers consuming over 250,000 therms per year from obtaining core service, and stipulate the conditions under which other noncore customers may obtain utility service. Southwest maintains that this language unambiguously authorizes it to obtain core service.

Southwest next critiques how the Draft Resolution places the Southwest request for core service into the same category as Long Beach's request, which was deferred by D.02-08-065, pending the outcome of I.02-11-040, the Border Gas Price OII. Southwest points out that Long Beach had requested service from the proposed *consolidated* core portfolio of SDG&E and SoCalGas, while Southwest's request regards only the SoCalGas core portfolio, suggesting that no precedent can thereby be adduced.

We find that Southwest's comments present strong arguments. The Ordering Paragraphs it cites indicate no barrier to its election of the core service it seeks.

However, we are unable to ignore the repeated concerns raised in the decision regarding the addition of wholesale load to the SoCalGas core portfolio³. It is evident that the intent of the decision was to bar wholesale customers from obtaining core services. SoCalGas' advice letter does not need to be revised to explicitly allow for wholesale election of core service.

FINDINGS

1. SoCalGas filed AL 3188 on September 20, 2002 to comply with D.02-08-065.
2. Southwest filed a protest on October 10, 2002, requesting that the AL be altered to explicitly allow wholesale customers to be eligible for bundled core transportation and utility procurement service.
3. SoCalGas filed a response on October 17, 2002, maintaining that the AL does not require changes and that SoCalGas correctly interprets D.02-08-065 to bar wholesale customers from bundled core transportation and utility procurement service.
4. Pursuant to a request by the Energy Division, SoCalGas refiled the advice letter as supplemental AL 3188-A on June 13, 2003, replacing the original filing and better complying with D.02-08-065.
5. The changes between the original and the supplemental advice letters are not related to the matter being protested by Southwest.
6. Southwest and SoCalGas timely renewed their protest and response, respectively, related to AL 3188-A.
7. In SoCalGas's response, it has requested that the AL go into effect on the first day of the month following the issuance of the final resolution approving it.
8. It is clearly the intent of D.02-08-065 to bar all wholesale customers from receiving bundled core transportation and utility procurement service.
9. It is not necessary to modify AL 3188-A.
10. We should deny Southwest's protest.

³ See the discussion on pages 12-15 of D.02-08-065 about consolidating SoCalGas's and SDG&E's portfolios and about Long Beach procuring from the consolidated core portfolio.



THEREFORE IT IS ORDERED THAT:

1. Southern California Gas Company's revisions to its tariffs to conform to Decision 02-08-065 regarding rules for noncore customers requesting core service and certain large core customers switching to utility procurement, as requested in Advice Letter 3188-A are approved.
2. The protest of Southwest Gas Company is denied.
3. SoCalGas' tariff revisions shall become effective October 1, 2003.

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 September 4, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director