

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
I.D.# 6858
ENERGY DIVISION
RESOLUTION G-3404
September 6, 2007

R E S O L U T I O N

Resolution G-3404. San Diego Gas & Electric Company (SDG&E) requests approval by the Commission for authorization to acquire interstate pipeline transportation capacity on the Kern River Gas Transmission (KRGT) pipeline, in compliance with procedures approved in Decision (D.) 04-09-022. SDG&E's request is approved.

By Advice Letter 1681-G filed on March 28, 2007.

SUMMARY

This Resolution approves SDG&E's request in Advice Letter 1681-G to acquire interstate pipeline transportation capacity on KRGT with terms of the pre-arranged capacity release transaction specified in SDG&E's Attachment 1 of the advice letter, provided to the Commission and Division of Ratepayer Advocates (DRA) under confidentiality and the provisions of General Order 66-C and Section 583 of the Public Utilities Code. The protest of DRA is denied.

BACKGROUND

The Commission issued Decision (D.) 04-09-022 on September 2, 2004 in Phase I of its Order Instituting Rulemaking (OIR) to Establish Policies and Rules to Ensure Reliable, Long-Term Supplies of Natural Gas to California (R.) 04-01-025. Ordering Paragraph (OP) 2 of that decision grants the request by SDG&E and other utilities to establish interstate pipeline capacity contract approval procedures, for an initial period of five years, subject to the modifications described in the body of the decision. In Finding of Fact (FOF) 16, the Commission found: "If agreement among parties is not reached in the expedited pre-approval processes, it is reasonable to allow the utility to seek approval through either the advice letter or application processes." Since DRA did not agree to SDG&E's proposal, as explained later in this resolution, of the terms defined in Attachment 1 of AL 1681-G during the capacity contract approval consultation process, SDG&E has submitted AL 1681-G to seek

Commission approval of the specified pre-arranged capacity release transaction.

The OIR was opened to ensure that California does not face a natural gas shortage in the future.¹ In D.04-09-022, the Commission found that diversified interstate pipeline capacity portfolios, with access to different supply basins and staggered terms, maximize opportunities to benefit core customers with enhanced supply reliability and gas price stability.

The Commission also adopted in that decision a process under which the state's major natural gas utilities could receive authorization to diversify their interstate capacity portfolios. The utilities were required to consult with DRA and the Energy Division to review and approve any such contracts presented by SDG&E. D.04-09-022 established a pre-approval and expedited process for consideration of SDG&E's proposed interstate capacity contracts supported by DRA.

In compliance with the procedures adopted in D.04-09-022, SDG&E filed AL 1681-G requesting approval by the Commission for authorization to acquire transportation capacity on the Kern River Gas Transmission Company (KRG T) interstate pipeline. The proposed acquisition is a pre-arranged capacity release transaction consistent with KRG T's Federal Energy Regulatory Commission (FERC) gas tariff. SDG&E provided market sensitive information for the proposed pre-arranged capacity release transaction including the name of the releasing shipper, quantities, rates and terms in SDG&E AL 1681-G Attachment 1. This information was provided to the Energy Division and Division of Ratepayer Advocates (DRA) confidentially, under the provisions of General Order 66-C and Section 583 of the Public Utilities Code.

The transaction proposed in SDG&E AL 1681-G Attachment 1 was not endorsed by DRA prior to the filing of the advice letter. Under the interstate capacity acquisition procedure approved in D.04-09-022, a request for pre-approval of negotiated contracts for interstate capacity, which DRA does not support, may be submitted for approval to the Commission via advice letter or application.

¹ D.04-09-022 page 2.

SDG&E represents it has been actively been pursuing KRGT capacity since D.04-09-022 was issued to further diversify its interstate capacity portfolio and to fulfill its requirements to hold capacity within its approved capacity planning range. SDG&E represents that no other viable opportunities for KRGT capacity have presented themselves up to the time of negotiations for this transaction aside from an earlier contract authorized by the Commission in SDG&E AL 1544-G.

SDG&E represents that the negotiated, pre-arranged capacity release transaction requested for pre-approval in SDG&E AL 1681-G must be consummated by a date certain or terminates by its terms as defined in the Advice Letter's Attachment 1. SDG&E therefore urges the Commission to approve the subject Advice Letter as promptly as possible.

In further support of the acquisition of released capacity on KRGT proposed in the Advice Letter's Attachment 1, SDG&E presented a study which examines the economic value of acquiring Kern capacity. This study was included as Attachment 2 of the Advice Letter and was also provided to Energy Division and DRA confidentially under the provisions of General Order 66-C and Section 583 of the Public Utilities Code. Attachment 3 of the Advice Letter is a graph of the interstate capacity holdings of SDG&E after acquiring the proposed KRGT capacity. Attachment 4 of the Advice Letter shows the cost of the proposed KRGT capacity. Finally, Attachment 5 of the Advice Letter discusses timing considerations related to the impact of the implementation of the Firm Access Rights (FAR) framework adopted in D.06-12-031. Attachments 3, 4, and 5 were also provided to Energy Division and DRA under the provisions of General Order 66-C and Section 583 of the Public Utilities Code.

SDG&E states that approval of this proposed capacity acquisition will enable SDG&E to continue to meet its identified goal to operate within the Commission's approved planning range of 140 million cubic feet per day (MMcf/d) to 168 MMcf/d.²

² SDG&E Advice Letter No. 1638-G.

NOTICE

SDG&E stated that a copy of AL 1681-G was served on the utilities and interested parties listed in their AL 1681-G Service List including interested parties in R.04-01-025 Service List. SDG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

SDG&E's Advice Letter AL 1681-G was protested by the Division of Ratepayer Advocates (DRA). DRA provided three versions of its protest to Energy Division. The first version was a confidential protest (i.e. titled CONFIDENTIAL PROTEST) timely filed on April 17, 2007 but only provided to Energy Division as it included market sensitive information for Southern California Gas Company (SoCalGas) natural gas interstate capacity transactions that was not privy to SDG&E or the public. Energy Division requested DRA redact the portions of the protest that DRA did not want SDG&E to see and provide a version of the redacted protest to SDG&E in compliance with General Order 96-A, Section III.H. DRA attempted to comply with Energy Division's request by providing a redacted version for SDG&E only of the confidential protest (i.e. titled CONFIDENTIAL PROTEST REDACTED VERSION FOR SDG&E ONLY) to SDG&E and Energy Division on April 18, 2007. In addition, DRA provided a third version of the confidential protest redacted for the public (i.e. titled CONFIDENTIAL PROTEST REDACTED PUBLIC VERSION) on April 18, 2007. Unless otherwise stated, DRA's CONFIDENTIAL PROTEST REDACTED PUBLIC VERSION will be simply referred to below as DRA's "public protest".

DRA protests the KRGT contract for several reasons:

- 1) the Commission may soon approve the consolidation of the SoCalGas and SDG&E core gas procurement portfolios, and SoCalGas will be better positioned to manage interstate capacity contracts;**
- 2) the KRGT contract may prevent or limit the amount of LNG supplies that the combined portfolio could obtain;**
- 3) the KRGT capacity is not needed at this time;**
- 4) the KRGT contract may be uneconomic given the planned timing of the operation of the Rockies Express pipeline;**
- 5) another SDG&E interstate pipeline contract negotiation calls to question SDG&E's overall strategy for contract requests for pre-approvals; and**

6) DRA does not agree with SDG&E's economic analysis of this KRGT proposed contract.

DRA also expresses concerns about Sempra's interest in the Rockies Express, and how that may have influenced SDG&E's interest in the KRGT contract.

First, at the heart of DRA's objection is SDG&E's pursuit of this pipeline capacity at a time when the Commission is preparing to deal with the consolidation of SDG&E's core gas acquisition portfolio with SoCalGas' portfolio in Application (A.) 06-08-026. DRA represents that a decision is expected by December 31, 2007 in that proceeding. DRA assumes that the Commission will adopt a consolidated portfolio in that proceeding, and that SoCalGas will be managing the combined portfolio. DRA argues that SoCalGas would be better positioned to negotiate interstate capacity contracts due to the magnitude of its purchases, and it is not prudent for the Commission to knowingly saddle the combined portfolio with a capacity deal that is not required and could possibly work against ratepayers. DRA argues there is no compelling reason for the Commission to approve SDG&E's request.

Second, DRA states that it is likely that liquefied natural gas (LNG) supplies will become available in some years from now, so it is important to ensure that the combined portfolio of SoCalGas and SDG&E is not foreclosed from both the diversity and the price advantage that LNG may offer.

Third, DRA argues against SDG&E's timing of its pursuit of KRGT capacity. DRA states that currently there are take-away constraints in the Rockies basin. DRA states that due to these constraints, Rockies gas prices are currently depressed relative to gas from competing gas basins. DRA states for economic parity to prevail between the overall costs of gas from all basins, capacity on Kern is valued higher than that on other pipelines. DRA states this is expected to change. DRA does not "buy into" SDG&E's economic analysis of the value of KRGT capacity.

Fourth, DRA also argues that the proposed contract is not needed to meet SDG&E's minimum interstate pipeline capacity targets this winter.

Fifth, DRA discusses a separate interstate pipeline contract negotiation, and implies that SDG&E's actions related to this separate contract negotiation call to question SDG&E's overall strategy for contract requests for pre-approvals.

Sixth, DRA does not agree with SDG&E's economic analysis of this KRGT proposed contract. DRA also argues that SDG&E could not justify a disputed "factor" used by SDG&E in its economic analysis showing the benefits of Rockies supplies.³

DRA urges the Commission to reject SDG&E's AL 1681-G request.

SDG&E responded to the protest of DRA on April 25, 2007. SGD&E initially provided a confidential version of its protest stamped "CONFIDENTIAL review restricted pursuant to Section 583 of P.U. Code and G.O. 66-C". Energy Division requested SDG&E provide a public version which SDG&E provided stamped "REDACTED PUBLIC VERSION". This version will be referred to below as SDG&E's "public response".

SDG&E's public response stated that contrary to DRA's position, acquisition of the KRGT capacity at issue will allow SDG&E to continue to meet its minimum firm interstate pipeline capacity obligations mandated by D.04-09-022 and to meet its statutory obligations to continue to provide its core customers with safe, reliable service from diversified supply basins at reasonable costs. SDG&E responds that unless and until the Commission grants SDG&E an express waiver of those obligations, it would be imprudent for SDG&E to defer acquiring needed capacity merely because DRA expects a Commission decision on the pending portfolio consolidation by December 31, 2007.⁴

SDG&E makes two general observations regarding DRA's Protest. First, SDG&E states to the extent that DRA relies on non-public information to which SDG&E does not and cannot have access, DRA is denying SDG&E its due process rights. Second, SDG&E states DRA's innuendo that Sempra's interest in the Rockies

³ The Commission has decided there is no reason to keep this part of DRA's redacted information confidential as SDG&E discusses it in their public response.

⁴ SDG&E responds that A.06-08-026 requests a number of changes to SoCalGas' and SDG&E's Natural Gas Operations and Service Offerings, including the consolidation of SoCalGas' and SDG&E's core gas procurement functions. ("Omnibus proceeding").

Express project⁵ is improperly driving SDG&E's acquisition strategy is completely unsubstantiated and defies logic. The proposed KRGT transaction provides firm interstate pipeline capacity to move gas west from the Rockies to California. Accordingly, these elements of DRA Protest must be dismissed outright.

With regard to DRA's specific objections, SDG&E first asserts that DRA's opposition to SDG&E's acquisition of the KRGT capacity because it represents an unduly large percentage of SDG&E's core annual demand is unwarranted. SDG&E states it is prudent and consistent with optimal portfolio management to diversify gas supplies over basins, pipelines and suppliers, and in conformance with Commission guidance in D.04-09-022. SDG&E currently has only a specified amount of its 140,000 Mcf/d of annual average daily interstate capacity requirement sourced in the Rockies basin. SDG&E states with this addition of KRGT capacity, its supply portfolio will have a better balance from the Rockies supply basin on KRGT, San Juan supply basin on the Transwestern and El Paso interstate pipelines, and from Canada on a path including the TransCanada pipeline system, Gas Transmission Northwest Corporation and Pacific Gas and Electric Company.

Second, SDG&E states acquisition of KRGT capacity at issue is necessary for SDG&E to meet its two firm interstate capacity requirements mandated by D.04-09-022: (1) 100% of its minimum annual average interstate pipeline capacity; and (2) 90% of its annual average during the spring and summer months.⁶ Moreover, SDG&E states this KRGT capacity does not bring SDG&E up to the required capacity level; SDG&E must acquire more capacity to meet those capacity requirements.

Third, SDG&E believes DRA's objection to SDG&E's acquisition of the KRGT capacity because the Commission is currently reviewing the SDG&E/SoCalGas application in the Omnibus Proceeding to consolidate the

⁵ The Commission has decided that there is no reason for the fact that Sempra Energy has an interest in the Rockies Express project to be kept confidential as done by SDG&E and DRA as it is public knowledge.

⁶ *Id.* At 31.

SDG&E and SoCalGas core portfolios is unwarranted. SDG&E states that the fact the Commission may approve the proposed consolidation of the SDG&E and SoCalGas core portfolios at some future date does not mean that the KRGT capacity will not be required to hold annual average demand levels of firm interstate pipeline capacity. SDG&E states that it currently needs capacity to meet its upcoming annual capacity targets should the Commission disapprove the consolidation.

SDG&E states it has a continuing obligation to provide its customers with safe, reliable service at reasonable cost and to comply with the minimum firm interstate capacity requirements mandated by D.04-09-022, and the possible core portfolio consolidation does not relieve SDG&E of these obligations. SDG&E states the transaction at issue is competitive and as good or better than alternative firm interstate pipeline capacities currently available as evidenced in the study filed with SDG&E Advice Letter 1681-G Attachment 2, and has the added benefit of diversifying the SDG&E portfolio alone or the SDG&E/SoCalGas combined core portfolio.

Fourth, SDG&E believes DRA's allegation that the KRGT capacity will impair the combined portfolio's ability to obtain LNG is contrary to fact. SDG&E also believes that DRA takes contradictory positions related to this issue. SDG&E states on the one hand, DRA advises SDG&E to do nothing until core portfolio consolidation occurs, which DRA expects will be in December 2007 and on the other hand, DRA criticizes SDG&E for allegedly failing to consider LNG options which won't even be available until 2009.

Fifth, SDG&E believes DRA's discussion of SDG&E's concurrent negotiation of another interstate contract is irrelevant and distorts the facts. SDG&E states that it is not requesting authorization to add additional capacity as DRA attempts to argue. SDG&E states the "bid" to which DRA alludes was a non-binding bid submitted to initiate negotiations in response to a request for proposal ("RFP"). SDG&E states that the RFP issuer advised SDG&E on April 10, 2007 that its bid would not be considered in the RFP process, and eliminated SDG&E from any negotiations. SDG&E informed DRA and the Energy Division of this development the same day.

Sixth, SDG&E believes the economics of this KRGT transaction are sound and SDG&E states it did not use a disputed "factor", as DRA claims, to show the benefits of Rockies supplies. SDG&E disputes DRA's contention that due to the

expectation that Rockies prices are likely to increase, the proposed contract will be uneconomic. SDG&E states that it shared this analysis with DRA and Energy Division staff and provided ample opportunity for discussion. This study is included as Attachment 2 to Advice Letter 1681-G.

Based on all the foregoing reasons SDG&E requests that the DRA protest be dismissed with prejudice and SDG&E's acquisition of this KRGT capacity be approved.

Inadvertent Release of Confidential SDG&E Information to its Affiliate, SoCalGas

In a letter from Robert Schlax, SDG&E Vice President and Controller, dated April 30, 2007 and received by Energy Division on May 4, 2007, SDG&E described an event involving the inadvertent transfer of confidential SDG&E procurement information to employees of SoCalGas Gas Acquisition Department. SDG&E informed Energy Division that on April 17, 2007, DRA transmitted via e-mail to SDG&E's Regulatory Affairs Department two distinct files for DRA's protest to SDG&E's Advice Letter 1681-G: 1) Redacted *Public Version*; and 2) Redacted *Version for SDG&E Only* which included specific commercial terms for a transaction and potential future SDG&E procurement strategy. Both files received from DRA were Microsoft adobe format and included several areas of "redacted" (blacked-out) confidential text.

SDG&E informed Energy Division "[u]nfortunately, when these files were opened via a RIM device such as a Blackberry - the redacted text was no longer blacked-out and the entire contents of both files were visible." SDG&E further stated: "The files were received by SDG&E's Regulatory Affairs Department and the Redacted *Version for SDG&E Only* was forwarded to Sempra's Legal Department and SDG&E's Electric and Gas Procurement (E&GP) for review and comment. Regulatory Affairs also forwarded the Redacted *Public Version* to other interested employees throughout Sempra Energy - including two employees in SoCal's Gas Acquisition Department. These employees opened the file from their Blackberry's and were able to view the entire details of the confidential protest."

SDG&E continued in their letter: "Upon realization that the file was NOT actually redacted, the Gas Acquisition employees contacted Regulatory Affairs who then contacted the Sempra Legal Department and the SEU Compliance

Department. Both employees in Gas Acquisition were instructed to delete the files and both confirmed they had complied with the request.”

SDG&E stated: “In D.98-03-073, the Commission approved the merger of Enova Corporation and Pacific Enterprises. The Commission attached several conditions to its authorization, including certain ‘Remedial Measures’ (RMs). RM No. 15 states:

The merged company shall preclude Gas Operation or Gas Acquisition from learning the energy market positions of any affiliate, including, but not limited to futures market positions. The merged company shall preclude the Sempra marketing affiliates, including Sempra Energy Trading, from learning non-public information concerning Gas Acquisition’s energy market positions or gas purchasing plans and strategy. If non-public information of this nature is received by personnel working at Gas Operations, Gas Acquisition, any Sempra marketing affiliate, it shall be contemporaneously posted on Gas Select.”

SDG&E continued: “In the issue described above concerning the ‘redacted’ DRA protest, employees of SoCalGas’ Gas Acquisition received confidential information related to SDG&E’s terms for a specific transaction as well as possible future SDG&E procurement strategy.”

SDG&E recommends: “Consistent with the confidential treatment of the SDG&E Advice Letter, and the DRA Protest to the Advice Letter, the data that was unknowingly provided to SoCalGas should not be posted. The information provides specific commercial terms for a transaction and release of this information to the public could cause harm to the SDG&E core procurement customers.”

SDG&E argues: “If this information were posted, it may compromise SDG&E’s ability to negotiate the best transaction for the core ratepayer. This information could be used by a third party to negotiate a more favorable transaction for the counterparty – thereby eliminating SDG&E’s proposal which could prevent SDG&E from obtaining necessary capacity for its core portfolio, or forcing it to pay higher rates in order to obtain capacity needed for its core portfolio. In addition, by exposing SDG&E’s strategy, it could drive up the price at which

third parties and/or pipelines would be willing to transact with SDG&E in other transactions, causing once again an increase in prices to SDG&E's rate payers."

SDG&E concludes: "Additionally, these files were not created by SDG&E and SDG&E was not aware that the redacted text was actually visible. In the future, redacted files will be checked prior to passing them onward to ensure the redaction is permanent."

DISCUSSION

The Commission will approve the proposed KRGT contract. The Commission has reviewed SDG&E's advice letter, the confidential terms and SDG&E analysis related to the proposed contract, DRA's protest, and SDG&E's response. Overall, based on our review and analysis, the Commission believes that the KRGT contract should be a reasonable addition to the SDG&E interstate pipeline portfolio, whether or not the SDG&E core gas acquisition portfolio is combined with that of SoCalGas in A.06-08-026.

This resolution will not address arguments and facts raised by DRA solely in the CONFIDENTIAL PROTEST as SDG&E did not and could not respond to arguments not included in the redacted version of the protest seen by SDG&E. As provided in G.O. 96-A, Section III.H, the subject utility is entitled to respond to protests, and SDG&E correctly points out the violation of its due process that would occur if the Commission based its decision on evidence not provided to SDG&E. Moreover, the purpose of the contract pre-approval process established in D.04-04-022 is to replace post-hoc reasonableness reviews, which assess the reasonableness of a utility's actions based on the knowledge that the utility possessed or ought to have possessed. The information that DRA redacted on the basis that it was confidential and not properly available to SDG&E thus could not have been available to SDG&E when SDG&E decided to enter its bid and is thus irrelevant for considering the reasonableness of SDG&E's actions.

The Commission cannot prejudge the outcome of the request of SoCalGas to consolidate SDG&E's core gas portfolio with the portfolio of SoCalGas in Application (A.) 06-08-026, and we will not reject the KRGT contract simply on the presumption that consolidation will occur. The Commission has yet to rule in A.06-08-026, and parties cannot reasonably expect or prejudge certain outcomes in an active Commission proceeding. SDG&E must continue to plan to meet its minimum firm interstate pipeline capacity obligations mandated by

D.04-09-022 and to meet its statutory obligations to continue to provide its core customers with safe, reliable service from diversified supply basins at reasonable costs. The Commission has no intent to waive these obligations for SDG&E. It would be imprudent for SDG&E to defer acquiring needed capacity because DRA expects a Commission decision on the pending portfolio consolidation by December 31, 2007. This does not necessarily mean that the terms of KRGT contract are reasonable given this possibility, so we must still determine whether the KRGT contract is needed and a good deal.

The subject acquisition of KRGT capacity at issue will help SDG&E to meet its two firm interstate capacity requirements mandated by D.04-09-022: (1) 100% of its minimum annual average interstate pipeline capacity; and (2) 90% of its annual average during the spring and summer months. While it may not be necessary for SDG&E to sign **this** specific contract to meet those requirements, the contract will contribute toward meeting those requirements. In fact, the Commission notes that this KRGT capacity would not even bring SDG&E up to the required capacity level, and SDG&E must acquire more capacity to meet those capacity requirements concurrently with the KRGT contract, and in future years as other contracts expire.

We are not persuaded by DRA's implications that the market might be better for interstate capacity at some unspecified future date, or that the KRGT capacity might be uneconomic. SDG&E represents that "the transaction at issue in this proceeding is competitive and as good, or better, than alternative firm interstate pipeline capacities currently available," and thus would be reasonable under "either a stand-alone or a combined portfolio scenario." Ultimately, the standard of any review of a contract is whether the contract is necessary, and whether the contract is likely to be competitive in the relevant market, given the information we now know about that market.

DRA argues that the timing of SDG&E's acquisition of the KRGT capacity, sometime after the expected date of the Commission's decision in A.06-08-026, renders SDG&E's actions unreasonable. However, DRA can only speculate that better contract alternatives might be available after the expected time of an assumed consolidation but before SDG&E or a combined portfolio would require additional quantities to meet its minimum obligations under D.04-09-022. While it is possible that other alternatives will present themselves with time, we do not see that as a reason to reject the KRGT contract now, and we do not see that possibility as preventing SDG&E, or a combined SoCalGas/SDG&E, in any

significant way from taking advantage of those opportunities should they present themselves.

The Commission acknowledges DRA's point that commodity prices for natural gas produced in the Rockies basin are currently depressed compared to gas from competing basins due to current constraints in take-away capacity that are expected to be lessened in the near future with the completion of the Rockies Express pipeline. We note, however, that such constraints are expected to re-occur periodically as growth in production in the Rockies is expected to outstrip growth in takeaway capacity, which occurs in lumps when there is sufficient demand for a new pipeline. There is a virtual consensus among gas market analysts that Rockies production is expected to be one of the few gas-producing basins in North America to show significant long-term growth in coming years. NYMEX basis prices indicate an expectation that Rockies prices will continue to be considerably lower than prices for other available basin supplies to SDG&E through early 2011.

In addition, there is no guarantee that Kern River capacity would become more readily available after the Rockies Express goes into operation. For example, the California Energy Commission's most recent assessment of the California gas market finds that Kern River capacity is expected to be fully utilized over the next 10 years.

SDG&E's economic analysis partly relied on a certain "adjustment" to forecasted prices. We do not necessarily agree or disagree that this adjustment was improper, as DRA asserts. In any case, our conclusions do not ultimately rest on whether this adjustment was proper. Even without the adjustment, SDG&E's analysis shows that the KRGT contract is roughly comparable economically to the best other interstate alternative currently available to SDG&E, not to mention the less attractive alternatives.

The Commission also does not necessarily agree with all of the other assumptions that SDG&E made in its economic analysis. Some assumption adjustments we might recommend would tend to favor the KRGT contract, while other adjustments would tend to favor alternatives. Based on our review of SDG&E's economic analysis and on our awareness of other market conditions and information (some of which is confidential, such as access to various natural gas price forecasts), on balance, the KRGT appears to be an economic interstate

addition to the SDG&E core portfolio, or at least comparable economically to the best other likely alternative.

In addition, the Commission agrees with SDG&E that with this addition of KRGT capacity, SDG&E's natural gas supplies will have a better balance from the Rockies supply basin on KRGT, San Juan supply basin on Transwestern Pipeline Company and on El Paso Natural Gas Company, and from Canada on a path including the TransCanada pipeline system, Gas Transmission Northwest Corporation and Pacific Gas and Electric Company. The Commission concurs with SDG&E that a supply portfolio spread over these basins and pipeline systems is consistent with the supply diversity needed to safeguard core supplies in the event of pipeline disruptions, well freeze-ups and gas cost differences between supply basins. The KRGT capacity will provide SDG&E's first significant access to Rockies supplies.

Sufficient lead time is needed to acquire capacity for planning and logistical purposes, as the current process for reviewing the subject acquisition reveals. A utility waiting until the last possible minute to meet its published, minimum amount of required capacity could increase the market power of prospective sellers of interstate capacity, precisely the outcome the Commission intended to avoid in D.04-09-022. With regard to KRGT capacity specifically, due to the apparent likelihood of very strong production growth in the Rockies, it may not even be possible to obtain Kern River capacity on a regular basis when the need for additional capacity by California's utilities arises.

Further, assuming the Commission approves the consolidation in A.06-08-026, the subject KRGT capacity will not foreclose the projected combined portfolio of SDG&E and SoCalGas, from taking advantage of the diversity of potential future supplies of LNG and any price advantage that LNG may offer. There are no guarantees that firm contracts for regasified LNG will be competitive at some point in the future, but SDG&E or a combined portfolio will have ample opportunity to obtain regasified LNG, beyond the amounts in the subject KRGT transaction, once LNG supplies actually become available. The proposed transaction is not a sufficiently large portion of SDG&E's portfolio to foreclose ample opportunities for LNG or other interstate contracts in the future, and would be a quite small portion of any assumed combined portfolio.

We do not find that the potential acquisition of the capacity was improperly influenced by Sempra's interest in the Rockies Express Pipeline. The Rockies

Express Pipeline serves Eastern markets, not California, and DRA provides no evidence that SDG&E's acquisition of the subject capacity will or could benefit Sempra's interest in the Rockies Express Pipeline.

Inadvertent Release of Confidential Material

Regarding the inadvertent release of confidential material to both SoCalGas and SDG&E, the Commission agrees that the Sempra utilities do not need to post the material on their web sites.

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. SDG&E filed AL 1681-G requesting approval for authorization to acquire transportation capacity on Kern River Gas Transmission (KRGT) in compliance with procedures approved in Decision (D.) 04-09-022.
2. The proposed transportation contract on KRGT specified in confidential Attachment 1 of SDG&E AL 1681-G is reasonable.
3. The Commission will not address arguments and facts raised by DRA solely in the CONFIDENTIAL PROTEST as SDG&E did not and could not respond to arguments not included in the redacted version of the protest seen by SDG&E.
4. The Commission cannot prejudge the outcome of core gas portfolio consolidation in A.06-08-026, and should not deny SDG&E's acquisition of KRGT capacity simply on the basis that consolidation might occur.

5. While the Rockies Express will likely impact market conditions within the next few years, it is too speculative to assume that a better interstate pipeline contract could be obtained in coming years.
6. The subject acquisition of KRGT capacity at issue will help SDG&E meet its two firm interstate capacity requirements mandated by D.04-09-022: (1) 100% of its minimum annual average interstate pipeline capacity; and (2) 90% of its annual average during the spring and summer months.
7. The KRGT capacity will not bring SDG&E up to its required capacity level. SDG&E must acquire more capacity to meet those capacity requirements.
8. DRA's implication that the market might be better for interstate capacity at some unspecified future date is not persuasive.
9. DRA did not provide any evidence that the potential acquisition of the capacity was improperly influenced by Sempra's interest in the Rockies Express Pipeline.
10. The timing of SDG&E's acquisition of the KRGT capacity, sometime after the expected date of the Commission's decision in A.06-08-026, does not render SDG&E's actions unreasonable.
11. If the Commission approves the consolidation in A.06-08-026, the subject KRGT capacity will not foreclose the projected combined portfolio of SDG&E and SoCalGas, from taking advantage of the diversity and potential price opportunities of future supplies of LNG.
12. The KRGT capacity should provide economically competitive delivered gas supplies to SDG&E.
13. With the addition of KRGT capacity, SDG&E's supply portfolio will have a better balance, providing SDG&E its first significant access to Rockies natural gas supplies.
14. DRA's protest should be denied.
15. The proposed KRGT contract should be approved.

THEREFORE IT IS ORDERED THAT:

1. The request of SDG&E to acquire transportation capacity on Kern River Gas Transmission (KRGT) as requested in Advice Letter AL 1681-G is approved.
2. DRA's protest is denied.

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 September 6, 2007; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
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July 31, 2007

RESOLUTION G-3404
Commission Meeting on September 6, 2007
I.D.# 6858

TO: PARTIES TO SAN DIEGO GAS & ELECTRIC ADVICE LETTER NO
1681-G

Enclosed is draft Resolution Number G-3404 of the Energy Division. It will be on the agenda at the next Commission meeting, which is held at least 30 days after the date of this letter. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Honesto Gatchalian
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Fax: 415-703-2200

A copy of the comments should be submitted in electronic format to:

Wendy al-Mukdad and Richard Myers
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Email: wmp@cpuc.ca.gov and ram@cpuc.ca.gov

Any comments on the draft Resolution must be received by the Energy Division by August 20, 2007. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, 3) the Chief Administrative Law Judge, and 4) the General Counsel on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to fifteen pages in length and should list the recommended changes to the draft Resolution.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on August 27, 2007, five business days after comments are filed, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

Richard Myers, Program and Project Supervisor
Energy Division

Enclosure: Service List
Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution G-3404 on all parties in these filings or their attorneys as shown on the attached list.

Dated July 31, 2007 at San Francisco, California.

Honesto Gatchalian

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

Service List for Resolution G-3404

San Diego Gas & Electric Company
Attn: Todd Cahill, Manager
Tariffs & Regulatory Accounts
8330 Century Park Court
San Diego, CA 92123-1548

Division of Ratepayer Advocates
California Public Utilities Commission
Attn: Dana Appling, Director
505 Van Ness Avenue
San Francisco, CA 94102