

Decision 05-11-004 November 18, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company in Compliance with Resolution G-3304 and of Southern California Gas Company and San Diego Gas & Electric Company to Consolidate their Gas Supply Portfolios. (U 904 G) and (U 902 G)

Application 01-01-021
(Petition for Modification
filed February 23, 2005)

**OPINION GRANTING THE PETITION FOR MODIFICATION OF
SOUTHERN CALIFORNIA GAS COMPANY AND
SAN DIEGO GAS & ELECTRIC COMPANY
OF DECISION 02-08-065**

Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) petition for an order modifying one aspect of Decision (D.) 02-08-065, to permit them to file an application to consolidate their core gas supply portfolios. We grant the petition.

In January of 2001, SoCalGas and SDG&E jointly filed an application asking for, among other things, authority to combine their core gas supply portfolios and management functions. (Application (A.) 01-01-021.) On August 29, 2002, we issued D.02-08-065, titled *Interim Opinion Authorizing New Rules for Eligibility and Conditions of Core and Wholesale Service, and Deferring Applicants' Request to Consolidate Gas Supply Portfolios and Gas Acquisition Management*. As the title indicates, D.02-08-065 deferred SoCalGas' and SDG&E's portfolio consolidation proposal "pending the outcome of Decision 02-06-023 . . ." (D.02-08-065, Ordering Paragraph (O.P.) 1.)

In D.02-06-023, the Commission initiated a market-wide investigation into the causes of the 2000/2001 natural gas price spikes at the Southern California border.

While we do not believe that the evidence presented by Edison and SCGC should change the outcome of this proceeding, we do agree that further investigation is warranted into the causes of the extreme border price spikes in December 2000 through spring 2001. As TURN points out, however, this type of investigation is inappropriate in a SoCalGas-specific application proceeding.

Our order today directs the Commission's Energy Division to prepare an Order Instituting Investigation into the 2000/2001 border price spikes for our consideration. This inquiry should include, but not be limited to, the activities of all major trading entities in and at the California-Arizona border for the years 2000 and 2001 and the impact of those activities on California's energy crisis. (D.02-06-023, at 25.)

In Investigation (I.) 02-11-040, the Commission began a portion of the investigation described in D.02-06-023. Rather than look at the activities of all major trading entities at the California-Arizona border, the Commission turned its attention to the potential contribution to the 2000/2001 border price spikes of SoCalGas, SDG&E, Southern California Edison Company (Edison), Pacific Gas and Electric Company (PG&E), Southwest Gas Corporation (Southwest), and certain related companies. The investigation was phased so that the activities of SoCalGas, SDG&E, and Sempra Energy Trading were investigated first in a Phase I. Phase I of this investigation has been going on since November of 2002. The phase of this border price spike investigation (Phase I.B) considering the potential role of SoCalGas' and SDG&E's affiliates or their parent company in the spikes is still in the discovery stage, with testimony and hearings not yet scheduled. The phase of the investigation (Phase II) looking into the potential

contribution to the spikes by Edison, PG&E, Southwest, and certain affiliated companies has not started.

SoCalGas and SDG&E request that D.02-08-065 be modified to allow them to file a new core consolidation application even though the border price spike investigation has not yet concluded. They assert that substantial customer and regulatory benefits can be realized by consolidating SoCalGas' and SDG&E's core portfolios, and the Commission should have the opportunity to consider this approach as soon as possible.

Petitioners state that now that we have considered the potential contribution of SoCalGas and SDG&E to the 2000/2001 natural gas price spikes at the Southern California border, there is no reason to put off consideration of core consolidation. They contend that even though I.02-11-040 will be continuing for quite some time, none of the issues in Phase I.B or Phase II have any potential relevance to core consolidation, and should not be a bar to renewed consideration of the consolidation of their core gas supply portfolios and management functions.

Petitioners believe it is important for the Commission to consider portfolio consolidation now, because the protests to SDG&E Advice No. 1499-G (filed January 7, 2005) make clear that SDG&E's proposed storage contract with SoCalGas raises a number of contested issues. At least one way of addressing those issues, both now and in the future, is through consolidation of SoCalGas' and SDG&E's core procurement portfolios and related assets. Core consolidation could perhaps make even more sense now, given the imminent return of SDG&E to gas procurement for its own electric generation operations. Moreover, much has happened since the Commission last took up the issue of consolidation in August of 2002, and the Commission would undoubtedly benefit from

consideration of the relevance of intervening actions and events on consolidation. SoCalGas and SDG&E simply want the ability to present their revised case for consolidation in a new application, complete with supporting testimony.

The Energy Division has reviewed the petition and recommends denial. It points out that the Border Price OII has not yet resolved Phase 1A. Phase 1B, which will review the activities of non-regulated Sempra affiliates and the role they may have played in the gas price crisis of 2000-01, is still in discovery. The Energy Division proposes that we await the completion of both Phase 1A and Phase 1B.

Discussion

We agree with Petitioners. The Border Price OII has been slow moving since 2002 and is nowhere near completion. We cannot delay examining current changes in gas procurement, current needs of the utilities, and current benefits to consumers while awaiting a proceeding the outcome and timing of which are uncertain. The core portfolio consolidation proposal of Petitioners has the potential of improving Petitioner's organizational efficiency and providing economies of scale. It could eliminate supply price disparity for core customers in southern California and increase supply reliability for both utilities. Substantial cost savings are predicted. We are not predicting that these benefits will occur; we merely grant Petitioners the opportunity to make their case.

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.

On November 2, 2005, Edison moved to intervene, moved to late-file comments on the draft decision, and attached its comments to its motion. The motion to intervene and the motion to late-file comments are granted.

Edison disagrees with the conclusion reached in the draft decision to permit the filing of an application to consolidate. It argues that one of the goals of I.02-11-040 was to evaluate whether SoCalGas adversely impacted market prices through the exercise of its market power. It says the evidence already adduced in I.02-11-040 raises substantial concerns about the ability of SoCalGas to affect market prices. It believes the Commission would ignore the issue of abuse of market power by moving forward with consideration of portfolio consolidation prior to making a finding in I.02-11-040. The potential harm from increasing SoCalGas' market power over shadows any potential benefits from consolidation. The benefits of consolidation are minimal in contrast to the risk of market manipulation.

SoCalGas and SDG&E replied to Edison's comments and recommend rejection. They note that there is no pending proposed decision in I.02-11-040 and any objections Edison may have to consolidation can be raised in the new application.

SoCalGas and SDG&E are correct. This decision only allows SoCalGas and SD&GE to submit another core procurement consolidation application; it does not prejudice that application or related issues. If, upon the filing of an application, Edison still has concerns about the market power implications of SoCalGas' and SDG&E's core procurement consolidation proposal, Edison will be free to raise its concerns at that time.

Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner and Robert Barnett is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The core gas supply portfolio consolidation proposal of Petitioners was deferred until the outcome of I.02-11-040, which has been delayed.
2. Current conditions in the gas industry could be favorably affected by core gas supply portfolio consolidation as proposed by Petitioners.

Conclusions of Law

1. The petition should be granted.
2. Edison's motion to intervene is granted.
3. Edison's motion to late-file comments is granted.

O R D E R

IT IS ORDERED that:

1. The petition for modification is granted.
2. Decision 02-08-065 is modified to permit Southern California Gas Company and San Diego Gas & Electric Company to file a new core gas supply portfolio consolidation application.
3. Application 01-01-021 is closed.

This order is effective today.

Dated November 18, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY

DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners