Decision 07-06-003 June 7, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U 902 G) and Southern California Gas Company (U 904 G) for Authority to Integrate Their Gas Transmission Rates, Establish Firm Access Rights, and Provide Off-System Gas Transportation Services.	Application 04-12-004 (Filed December 2, 2004)

OPINION REGARDING SOUTHERN CALIFORNIA GENERATION COALITION'S PETITION FOR MODIFICATION OF DECISION 06-12-031

Summary

Today's decision addresses the March 9, 2007 petition for modification of Decision (D.) 06-12-031 that was filed by the Southern California Generation Coalition (SCGC). In that decision, we adopted a system of firm access rights for the gas transmission systems of San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas).

SCGC's petition for modification of D.06-12-031 is granted with respect to its request to eliminate the five-year monthly average in Step 2 of the open season process. However, SCGC's request to change the contract term in Step 3 of the open season process for existing capacity is denied.

Procedural Background

A response to SCGC's petition for modification was jointly filed by SDG&E and SoCalGas. In addition, responses to the petition were filed by the

California Manufacturers & Technology Association (CMTA) and United States Gypsum Company (US Gypsum).

Relief Requested

SCGC's petition requests that two changes be made to D.06-12-031. The first request is to change the method in determining how much pipeline capacity will be made available in Step 2 of the open season process. D.06-12-031 adopted the following:

> "The limit on how much end-users can bid at any individual receipt point in Step 2 shall be limited to the historical utilization by month at each individual receipt point using the five year average from January 1, 2001 through December 31, 2005, less any Step 1 set-aside capacity." (D.06-12-031, p. 103.)

In the footnote following the above-quoted passage, we described how this five-year monthly average would amount to a rolling five-year average in the subsequent open seasons.[1]

SCGC contends that the use of the five-year monthly average, and the subtraction of the Step 1 set-aside capacity, could result in little or no pipeline capacity being made available for bidding in Step 2 because of low flow months that are included in the five-year monthly average. To illustrate this problem, SCGC attached to SCGC's petition the declaration of Catherine Yap and an analysis of the five-year monthly average data in Table 1 and Table 2.

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[1] Footnote 60 of D.06-12-031 at page 103 states: "When the subsequent open seasons are held, this five-year average should be advanced by two years to form a rolling five-year average. For example, the five-year average for the second open season should run from January 1, 2003 through December 31, 2007."

SCGC proposes that the five-year monthly average method be eliminated, and that the amount of capacity available for bidding in Step 2 be based on the full physical capacity of the receipt point minus any Step 1 set-asides. As a less preferable alternative, SCGC recommends that D.06-12-031 be revised to adopt the original proposal of SDG&E and SoCalGas that 75% of the capacity at each receipt point, minus the Step 1 set-aside amount, be made available to end-use customers for bidding in Step 2.

The second modification to D.06-12-031 that SCGC requests is that the existing pipeline capacity awarded in Step 3 of the open season process be subject to a contract term of three years, instead of the requirement in D.06-12-031 that the contract term be for a period of three years to 20 years. SCGC recommends that the contract term of three years to 20 years only apply to expansion and new pipeline capacity.

SCGC contends that all of the existing pipeline capacity in all three steps of the open season process should be for the same three-year contract term. SCGC asserts that this will ensure that all of the existing capacity will be available for bidding every three years. SCGC asserts that if the existing capacity is awarded in Step 3 for a term longer than three years, the pool of existing capacity available to end-users would be reduced, which would be unfair to the customers who have paid for the capacity over the years.

SCGC also contends that allowing SoCalGas to award existing capacity for a period of longer than three years in Step 3 could result in SoCalGas leveraging customers into longer term contracts. SCGC asserts that this benefits SoCalGas by reducing its exposure to bypass risk, and shifting the risk to customers.

Discussion

We first address SCGC's request to eliminate the five-year monthly average method in Step 2 of the open season process. SDG&E and SoCalGas do not oppose SCGC's request to eliminate the five-year monthly average method from Step 2 of the open season process. SDG&E and SoCalGas state in their response that the five-year monthly average method is no longer needed as part of the Step 2 open season process because the Commission adopted the "first-come, first-served" provision of the Joint Proposal. The adoption of the first-come, first-served provision awards firm access rights to the party who funds displacement or expansion capacity at a receipt point as part of the Step 1 set-aside. According to SDG&E and SoCalGas, this eliminates the need for new supply developers to participate in Step 3 of the open season in order to obtain access to the displacement capacity. As a result, SDG&E and SoCalGas contend that it is not necessary to limit the Step 2 bids to ensure that some displacement capacity will be available in Step 3 to the developers of new gas supplies. CMTA and US Gypsum support SCGC's position to eliminate the five-year monthly average method from the Step 2 open season process.

Based on the information provided in SCGC's petition for modification, it appears that the five-year monthly average method that was adopted as part of the Step 2 open season process could lead to either no capacity or a very low amount of capacity being made available in Step 2 of the open season process in some months and on an annual basis at various receipt points. Such a result may prevent end-users from matching their demand to their supply in Step 2, which will force them to wait to Step 3 of the open season process to obtain their needed pipeline capacity.

In addition, as SDG&E and SoCalGas point out, with the adoption of the Step 1 set-aside for those parties who fund displacement or expansion capacity at a receipt point, that negates the need to have the capacity available in Step 3 for those who are funding a pipeline expansion project.

Accordingly, we will grant SCGC's petition to modify the five-year monthly average process in Step 2 that was adopted in D.06-12-031 by deleting that process from the open season process. We will replace that process with SCGC's proposed modification that end-users should be allowed to bid for capacity in Step 2 up to the total amount of capacity available at each existing receipt point, minus any Step 1 set-asides. The first full paragraph that appears at page 103 of D.06-12-031 should be modified and replaced with the following paragraph:

> "We have considered the various arguments about the 75% capacity limit. On the one hand, we are concerned that the end-use customers who pay for the transmission costs in their rates should get what they pay for. On the other hand, we recognize that the FAR system should provide all market participants with the opportunity to obtain FAR. Since we have adopted a Step 1 set-aside for those who fund displacement or expansion capacity at a receipt point, the need to preserve capacity in Step 3 for those who fund the displacement or expansion capacity is no longer needed. Accordingly, end users should be allowed in Step 2 of the open season process to bid up to the total amount of available capacity at each existing receipt point, minus any Step 1 set-asides."

As a result of the above modification, footnote 60 at page 103 of D.06-12-031 should be deleted as well.

Next, we address SCGC's second proposed modification to the contract term in Step 3 of the open season process, which is discussed at page 105 of D.06-12-031. In D.06-12-031, we permit the length of the contract to range from three years to 20 years for existing, expansion, and new pipeline capacity. SCGC seeks to modify Step 3 of the open season process by requiring that the contracts for existing capacity be limited to three years instead of permitting the length of the contracts to vary.

SDG&E, SoCalGas, CMTA and US Gypsum oppose SCGC's proposed modification of the Step 3 contract term. SDG&E and SoCalGas contend that if SCGC's proposed contract term of three years is adopted, such a limit will discourage end-use customers from entering into long-term upstream pipeline capacity commitments because end-use customers will not be able to match their long-term supply contracts with long-term firm access rights. SDG&E and SoCalGas believe that encouraging long-term gas supply arrangements is sound energy policy.

CMTA and US Gypsum contend that end-use customers should be free to determine the length of contract term that best meets their needs. Being allowed to choose the length of the contract term will provide all participants with the flexibility to manage their gas costs in the most efficient manner possible. US Gypsum asserts that the reluctance of SCGC's members to enter into long-term commitments should not prevent other parties from being allowed to do so.

We have considered the arguments concerning the length of the contracts for pipeline capacity in Step 3. We are persuaded that the length of the contract for pipeline capacity awarded in Step 3 should remain flexible. Retaining a contract term range of three years to 20 years provides all market participants with the flexibility to obtain long-term supplies. Accordingly, SCGC's petition to modify the Step 3 contract term to three years for existing contracts is denied. The length of a Step 3 contract shall remain as a range of three years to 20 years.

In its comments on the proposed decision, SCGC recommends as an alternative that if its proposed modification to shorten the length of the contract for existing capacity to three years is not adopted, that D.06-12-031 should be modified to prevent SoCalGas from giving a priority to longer term bids over shorter term bids. SDG&E and SoCalGas oppose this proposal, and contend that the preference for longer term bids is consistent with D.06-12-031. We have reviewed and considered the arguments regarding SCGC's proposed alternative, but do not adopt SCGC's proposed alternative modification of D.06-12-031.

Comments on Proposed Decision

The proposed decision of the Administrative Law Judge (ALJ) in this matter was served on the parties in accordance with Pub. Util. Code § 311 and Rule 14.2(a) of the Rules of Practice and Procedure. Comments were filed by SCGC on May 29, 2007 and joint reply comments were filed by SDG&E and SoCalGas on June 4, 2007.

Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner, and John S. Wong is the assigned ALJ in this proceeding.

Findings of Fact

1. SCGC's petition for modification of D.06-12-031 consists of the following two requests: first, that the method in determining how much pipeline capacity will be made available in Step 2 of the open season process be changed by eliminating the five-year monthly average; and second, that the existing pipeline capacity to be awarded in Step 3 of the open season process be subject to a contract term of three years instead of the requirement in D.06-12-031 that the contract term be for a period of three years to 20 years.

2. The parties who filed responses do not oppose SCGC's request to modify Step 2 of the open season process.

3. The use of the five-year monthly average in Step 2 of the open season process could lead to no capacity or a very low amount of capacity being made available in Step 2 of the open season process.

4. The adoption of the Step 1 set-aside for those parties who fund displacement or expansion capacity at a receipt point negates the need to have capacity available in Step 3 for those who are funding a pipeline expansion project.

5. The parties who filed responses oppose SCGC's request to modify Step 3 of the open season process by requiring that the contracts for existing capacity be limited to three years.

6. The length of the contract term for existing capacity in Step 3 of the open season process provides all market participants with the flexibility to obtain long-term supplies.

Conclusions of Law

1. SCGC's request to modify the five-year monthly average in Step 2 of the open season process in D.06-12-031 should be granted by replacing the first full paragraph at page 103 of D.06-12-031 with the replacement paragraph described in this decision.

2. SCGC's request to modify the Step 3 contract term for existing contracts should be denied.

O R D E R

IT IS ORDERED that:

1. The March 9, 2007 petition for modification of Decision (D.) 06-12-031 filed by the Southern California Generation Coalition (SCGC) is granted with respect to its request to modify the five-year monthly average method in Step 2 of the open season process described in D.06-12-031.

   a. The first full paragraph that appears at page 103 of D.06-12-031 shall be modified and replaced with the following paragraph:

      "We have considered the various arguments about the 75% capacity limit. On the one hand, we are concerned that the end-use customers who pay for the transmission costs in their rates should get what they pay for. On the other hand, we recognize that the FAR system should provide all market participants with the opportunity to obtain FAR. Since we have adopted a Step 1 set-aside for those who fund displacement or expansion capacity at a receipt point, the need to preserve capacity in Step 3 for those who fund the displacement or expansion capacity is no longer needed. Accordingly, end users should be allowed in Step 2 of the open season process to bid up to the total amount of available capacity at each existing receipt point, minus any Step 1 set-asides."

2. The request of SCGC in its March 9, 2007 petition for modification of D.06-12-031 to modify the length of the contract term in Step 3 for existing capacity is denied.

3. Application 04-12-004 remains opens.

This order is effective today.

Dated June 7, 2007, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG

TIMOTHY ALAN SIMON
Commissioners