

Decision 09-01-015 January 29, 2009

**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)

**DECISION REGARDING THE PETITION FOR MODIFICATION  
OF DECISION 06-12-031 FILED BY SOUTHERN  
CALIFORNIA EDISON COMPANY**

**1. Summary**

Today's decision addresses the petition for modification of Decision (D.) 06-12-031 (petition) that was filed by the Southern California Edison Company (SCE) on October 17, 2008. In that decision, we adopted a system of firm access rights (FAR) for the gas transmission systems of San Diego Gas & Electric Company and Southern California Gas Company. As part of the FAR system, a three-step open season process is used to bid on the FAR. SCE's petition seeks to modify D.06-12-031 by adding language to clarify Step 2 of the FAR bidding process. This decision grants SCE's petition.

**2. Discussion**

SCE seeks to modify Step 2 of the FAR bidding process by adding language to the second paragraph of Section IV.G.3.e)(2)(e) in D.06-12-031 "so that it is clear to all parties that the Step 2 FAR bidding rights will be allocated to

parties that provide natural gas under a tolling agreement ... based on historical usage and not based on the duration of tolling agreements.” (Petition, p. 1.)<sup>1</sup>

The tolling agreements are provisions contained in the long-term power purchase contracts that the California Department of Water Resources (DWR) entered into with various electric generators during the energy crisis. These provisions address the manner in which DWR will supply the natural gas that is needed to operate the electric generating plants. Pursuant to Exhibit B of D.02-12-069, the operating order decision, DWR can use the electric utilities as limited agents to procure and supply the gas that is needed to operate the generating plants.

SCE believes that since D.06-12-031 was clear in deciding that the bidding rights allocated to the Tolling Entity (DWR or the electric utility) in Step 2 would be based on the end-user’s historical usage of the electric generating plant during a base period, that the Step 2 process should allow the Tolling Entity to be allocated bidding rights based on the historical usage associated with the generating plant during the base period, even if the tolling agreement expires before the FAR period commences or will expire during the FAR period. SCE contends that this modification is needed because the Tolling Entity will still need that gas and the FAR to replace the power that was generated.

SCE states that it became aware that San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) had interpreted D.06-12-031 differently when SoCalGas informed them in a notice dated April 21,

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<sup>1</sup> Step 2 of the open season process allows end-use customers or their designated agents to bid for up to 75% of the capacity at each existing receipt point, minus any capacity that has already been taken as a set-aside in Step 1.

2008, “that when tolling agreements are involved, SoCalGas would limit Step 2 bidding rights if the tolling agreement terminated before or during the three-year FAR cycle.” (Petition, pp. 5-6.)<sup>2</sup>

On November 17, 2008, SDG&E and SoCalGas filed a response in support of SCE’s petition and agree that SCE has accurately set forth the relevant facts in the petition. SDG&E and SoCalGas acknowledge in their response that they had interpreted D.06-12-031 differently from SCE. SDG&E and SoCalGas interpreted D.06-12-031 “to mean that a Tolling Entity would be awarded Step 2 FAR bidding rights based on the usage of the EG [electric generating] plant during the Base Period only if the Tolling Entity continued to provide gas to the particular EG plant during the three-year FAR cycle.” (Response, p. 3.) Although SDG&E and SoCalGas believe that their interpretation is reasonable, they understand SCE’s view and “agree that SCE’s interpretation of D.06-12-031 is reasonable and should be adopted by the Commission for the next and subsequent FAR open seasons.” (Response, p. 4.)

The modification that SCE seeks to make to Section IV.G.3.e)(2)(e) of D.06-12-031 is reasonable and should be granted on a going-forward basis. SCE’s modification will ensure that the Tolling Entity’s bid in Step 2 of the FAR open season process will provide the access rights it will need during the FAR period. The modification will clarify the Step 2 bidding process so that the

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<sup>2</sup> Rule 16.4 of the Commission’s Rules of Practice and Procedure provides that a petition for modification must be filed and served within one year of the decision’s effective date, and an explanation must be provided if more than one year has elapsed. Since SCE did not become aware of the interpretation of SDG&E and SoCalGas until April 21, 2008, SCE has provided a satisfactory explanation as to why the petition was not filed sooner.

Tolling Entity will have rights based on the historical usage of the generating plant, and not based on the duration of the tolling agreement. As SCE, SDG&E, and SoCalGas all point out, this modification shall only apply to the future open seasons for FAR.

### **3. Comments on Proposed Decision**

The proposed decision of the Administrative Law Judge in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were filed.

### **4. Assignment of Proceeding**

Michael R. Peevey is the assigned Commissioner and John S. Wong is the assigned Administrative Law Judge in this proceeding.

#### **Findings of Fact**

1. SCE's petition seeks to modify Step 2 of the FAR bidding process by adding language to the second paragraph of Section IV.G.3.e)(2)(e) in D.06-12-031.
2. On April 21, 2008, SCE became aware of the interpretation of SDG&E and SoCalGas regarding how they would treat a tolling agreement under the Step 2 open season bidding process.
3. SDG&E and SoCalGas understand SCE's view and agree that SCE's interpretation of D.06-12-031 is reasonable and that the petition should be granted.
4. SCE's modification will ensure that the Tolling Entity's bid in Step 2 of the FAR open season will provide the access rights it will need during the FAR period.

5. SCE's modification will clarify the Step 2 bidding process so that the Tolling Entity will have rights based on the historical usage of the generating plant, and not based on the duration of the tolling agreement.

### **Conclusion of Law**

SCE's petition to modify Section IV.G.3.e)(2)(e) of D.06-12-031 is reasonable and should be granted on a going-forward basis.

## **O R D E R**

**IT IS ORDERED** that:

1. The petition for modification of Decision (D.) 06-12-031, filed by Southern California Edison Company (SCE) on October 17, 2008, is granted. D.06-12-031 shall be modified from the effective date of this decision by replacing the second paragraph in Section IV.G.3.e)(2)(e) with the following paragraph:

We agree with SCE that Step 2 of the open season process must account for the tolling agreements. Due to the way in which the FAR proposal and the tolling agreements were developed, Step 2 of the open season process needs to be clarified. Thus, we will require that when an end-use customer (i.e., the plant owner of an electric generation facility) of SDG&E [San Diego Gas & Electric Company] or SoCalGas [Southern California Gas Company] has contracted with a third party (i.e., with DWR [California Department of Water Resources] or one of the California electric utilities, or "Tolling Entity") to supply natural gas for electric generation under the terms of a tolling agreement, that the Step 2 bidding rights are to be provided to the third party that supplies the natural gas for the electrical generation. Furthermore, we direct SDG&E and SoCalGas to include the usage under the tolling agreements as part of the historical usage for the purpose of calculating the bidding rights of the third party responsible for obtaining the gas under the tolling arrangements. The Tolling Entity will be allocated bidding rights based on the historical usage under the tolling agreement during the Base Period, even if the Tolling Agreement expired before the FAR

period commences or will expire during the FAR period. SDG&E and SoCalGas shall also meet with the parties providing the tolling service and with the electric generation plant owners, to develop a satisfactory release form agreeable to all affected parties.

2. Application 04-12-004 is closed.

This order is effective today.

Dated January 29, 2009, at San Francisco, California.

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners