

Decision 07-12-035 December 20, 2007

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Rita Boppana,

Complainant,

vs.

Southern California Gas Company,

Defendant.

Case 00-05-010  
(Filed May 11, 2000)

And Related Matters.

Case 00-05-011  
(Filed May 11, 2000)  
Case 00-05-012  
(Filed May 11, 2000)

**OPINION ADOPTING SETTLEMENT AGREEMENT REGARDING  
MONITORING AND REPORTING ON STATUS OF SOUTHERN CALIFORNIA  
GAS COMPANY’S DEL REY NATURAL GAS STORAGE OPERATION**

**Summary**

This decision adopts all provisions of the Settlement Agreement (SA) presented by Southern California Gas Company (SoCalGas) and the Grassroots Coalition (GR)<sup>1</sup> outlining principles for the process and reporting by SoCalGas on the status of the Playa Del Rey (PDR) natural gas storage operations with

<sup>1</sup> The three proceedings, now consolidated, were filed on May 24, 2000 by residents living near SoCalGas’ PDR storage facility. GR has represented these complainants and, with this settlement, all issues raised in the three complaints are addressed and the complaints will be dismissed.

respect to the effects the operations have on the neighboring community. The SA is attached as Appendix A.

### **Background**

On May 24, 2000, three residents living near SoCalGas' PDR storage facility filed complaints with the Commission alleging that SoCalGas' storage facility had released gas to the atmosphere and that its storage reservoir leaked gas. GR has represented these complainants and other nearby residents in pursuing claims against SoCalGas related to the gas company's PDR gas storage reservoir. SoCalGas denied the allegations in the complaints and filed a Motion to Dismiss the complaints which the Commission denied, without prejudice. After a lengthy discovery period, the matter was set for evidentiary hearing for April 18-20, 2005. On March 30, 2005, GR submitted prepared testimony.

After three days of evidentiary hearings, the hearings were postponed so that the parties could pursue mediation. At the point the hearings were deferred, GR had not completed its case-in-chief and SoCalGas had not either refuted GR's testimony or produced its own testimony. SoCalGas and GR then met on several occasions, with the assistance of a Commission-appointed mediator, to address whether these cases could be settled in lieu of completing the evidentiary hearing. As a result of these discussions, SoCalGas and GR reached agreement on the issues raised by GR and the Complainants in this proceeding. This agreement is reflected in the SA filed concurrently herewith.

Although GR and SoCalGas were the only parties who actively participated in the litigation and the mediation, pursuant to Rule 12.1 of the

Commission's Rules of Practice and Procedure,<sup>2</sup> the SA was mailed to the service list on September 10, 2007, and parties had 30 days in which to respond. No responses were received. Once the SA was filed, the Administrative Law Judge (ALJ) suspended the procedural schedule and the matter was considered submitted on September 12, 2007.

### **Settlement Agreement**

SoCalGas and GR were the only active litigants in this proceeding and the SA represents a complete negotiated resolution of the factual and legal issues that were raised in the proceeding. In accordance with Rule 12.1(d), the Commission will not approve a settlement "unless the settlement is reasonable in light of the whole record, is consistent with law, and in the public interest."

In summary, the SA addresses the key health and safety concerns raised in the complaints and that was "whether the SoCalGas PDR gas storage facility is leaking or venting gas or depositing carcinogens into the air or soil to the detriment of the health or safety of the neighboring community."<sup>3</sup>

The SA is a reasonable accommodation to the concerns raised by the community because SoCalGas is agreeing to take the following actions:

- To undertake a program to monitor whether natural gas is present in the soil where SoCalGas owns or leases land for its PDR storage operations;

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<sup>2</sup> Hereinafter, reference to Rules is to the Rules of Practice and Procedure of the Public Utilities Commission.

<sup>3</sup> Scoping Memo, March 7, 2005, p. 3.

- To undertake measures to test for gas<sup>4</sup> at any location where SoCalGas abandons a well to ensure that such wells are not leaking or acting as a conduit for indigenous gas before SoCalGas sells or otherwise disposes of any property located above an abandoned well;
- To take specific actions to reduce natural gas vented to the atmosphere at its PDR storage facility and to reduce air emissions from its storage compressor engines;
- To promote transparency and disclosure to the PDR neighborhood by notifying area residents of the SA once the Commission approves it and by providing a link to the SoCalGas website where area residents can:
  1. View the chemical composition of gas withdrawn from storage;
  2. View the results of the soil gas and subsidence monitoring programs required by the SA; and
  3. Request prior notification of planned venting and after-the-fact notification of unplanned venting.

### **The Settlement Agreement is Reasonable**

The SA must be evaluated in light of the whole record and found to be reasonable. As set forth above, the allegations raised in the complaints and by GR centered around SoCalGas' operation of its gas storage operations and (1) whether or not carcinogens were released, through planned or unplanned venting activities, into the atmosphere; (2) did gas leak into the soil area; and (3) did the abandoned wells act as a conduit for indigenous non-storage gases to migrate to the surface. GR presented oral direct testimony, along with multiple

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<sup>4</sup> SoCalGas is agreeing to undertake these steps outlined in the SA in addition to any measures required by the California Division of Oil, Gas, and Geothermal Resources (DOGGR).

exhibits, during the three-day evidentiary hearing, that GR believed supported its claims. SoCalGas denied all of these allegations and asserted that it operated the storage facility in a safe and reasonable manner, complied with all applicable state and federal regulations, including the DOGGR regulations for abandoning wells, and regularly tested the air and soil to ensure that its PDR facility does not pose any public health or safety risk.

Although SoCalGas did not have an opportunity to present all the testimony and exhibits it planned to in support of its defense to the GR claims before mediation began, it is apparent the SoCalGas had evidence it believes supports its claims that it operated the gas storage facility in a safe and healthy manner. However, as part of the SA, and without admitting any wrongdoing, SoCalGas agreed to undertake the additional safety and monitoring activities outlined above, and contained in Attachment A to the SA, in order to assuage GR's concerns.

When the GR complaints are put side-by-side with the activities that SoCalGas agrees to undertake, it is apparent that the SA reasonably addresses all the GR concerns. For example, SoCalGas agreed to implement a soil gas monitoring program on all the land it owns or leases to ensure that the PDR storage operations are not causing storage gas to leak into the area soils. In addition, SoCalGas agreed to monitor the soil around and above any abandoned well for at least several months after abandonment and to not sell any property located over abandoned wells until continuous testing demonstrates no evidence of gas. SoCalGas is doing this, in addition to its DOGGR required actions for abandoning wells, to ensure GR that SoCalGas' abandoned wells are not leaking gas or acting as a conduit for local indigenous gases to migrate to the surface. SoCalGas also agreed to specific other monitoring and reporting actions to make

sure that there is no “overpressure” leading to subsidence in the area above the storage reservoir, and if any is found, to take corrective action.

The SA addresses another GR concern, and also one raised by many community members who attended public participation hearings in the area, that SoCalGas vented gas and/or exhaust from compressor engines into the atmosphere at its PDR facility. SoCalGas claims it has taken numerous actions in this regard and to minimize the release to the atmosphere of “greenhouse gases” and to maintain compliance with air quality permits. These actions are summarized in Attachment B to the SA. SoCalGas agrees in the SA to continue those efforts to minimize the releases and to continue to comply with air quality permits.

As another example of how the SA addresses GR’s concerns, SoCalGas has agreed that if there is ever a liquid release incident due to a valve failure, such as occurred in April of 2003, SoCalGas will test any liquid released for Polychlorinated Biphenyls (PCB), metals and volatile organic compounds and post the test results on its website. SoCalGas will also periodically post on its website the PCB content of liquids collected from gas entering and exiting the PDR storage field.

The SoCalGas web site will function as a notice board to the PDR community and the utility agreed in the SA to post the following on the web site, as well as to give notice, in some instances, to the nearby residents:

- Results of soil gas and subsidence monitoring;
- The chemical composition of gas withdrawn from the PDR storage reservoir;
- The level of PCBs contained in pipeline liquids;
- Prior notification of planned gas venting and after-the-fact notification of unplanned venting; and

- A revised version of Appendix B, so persons without technical backgrounds can understand the steps SoCalGas has taken to reduce odors and emissions at its PDR facility.

SoCalGas agreed to take the above actions to provide a level of disclosure and transparency to the nearby residents to provide information that should assuage their concerns about safety and health issues from the PDR storage operations.

The fact that GR and SoCalGas were able to craft a SA that spoke to the GR concerns and proposed steps that SoCalGas agreed to take to address those issues speaks to the reasonableness of the settlement. These consolidated complaints led to over seven years of intense litigation with still the possibility of protracted evidentiary hearings and an uncertain outcome in the future. Through the mediation process, without any findings that either GR proved its case-in-chief, or that SoCalGas showed that nothing more needed to be done at its PDR facility to address the safety and health issues raised by GR, the parties agreed to the compromises set forth in the SA, in exchange for an end to the litigation.

We find, therefore, that the SA is reasonable in light of the whole record in this proceeding.

### **The Settlement Agreement is Consistent with Law**

The SA does not contravene any state statutes or Commission decisions. SoCalGas did raise a concern that some of the requested recommendations by GR might be under the jurisdiction of DOGGR or the South Coast Air Quality Management District. However, the actions SoCalGas has agreed to undertake as part of the settlement do not intrude upon the jurisdiction of any other agency and are within the Commission's jurisdiction and purview pursuant to §§ 761

and 768 of the Pub. Util. Code. We find therefore, that the SA is consistent with law.

### **The Settlement Agreement Will Promote the Public Interest**

As discussed in the section on the reasonableness of the settlement, the SA brings about a resolution of strongly contested issues in a manner that is satisfactory to both SoCalGas and GR. Continued litigation, including more evidentiary hearings and post-hearing briefs would have taken the time and attention of GR, SoCalGas and the Commission and most likely would have resulted in a Commission decision that would not have been acceptable to one side, likely leading to post-decision appeals. It bears emphasis that the SA represents a compromise of disputed litigation positions. Neither SoCalGas nor GR would advocate the adoption of the compromises made in the SA if this proceeding were instead to continue to a litigated outcome. Each party has agreed to the SA in recognition of the uncertain possible outcomes associated with further litigation.

Most importantly, however, pursuant to the SA, SoCalGas has agreed to undertake additional monitoring steps and to disclose the results. The monitoring, evaluation and disclosures will address the concerns raised by the nearby residents about whether SoCalGas' PDR gas storage facility is leaking or venting gas or depositing carcinogens into the air or soil to the detriment of their health and safety. Therefore, not only is the SA addressing the issues raised by GR, but it is globally giving voice to the general concerns of the neighborhood. The additional monitoring of the soil gas will assure residents that the abandoned wells are not leaking storage gas or acting as a conduit for indigenous gases to migrate to the surface from one underground zone to



another. If a leak is found, SoCalGas has agreed to take immediate corrective action.

Whether or not there is any safety or health issue related to SoCalGas' venting of storage gas, the community is worried about the associated odors from the venting. The SA requires SoCalGas to take numerous steps to reduce such odors.

When the additional monitoring and disclosure requirements are paired with the end of seven years of litigation, it is reasonable to find that the SA promotes the public interest.

In summary, upon a thorough perusal of the SA, we find that it is reasonable in light of the whole record, is consistent with law and promotes the public interest. The SA clearly meets the requirements of Rule 12.1(d) and we adopt it, in its entirety, as part of the decision.

### **Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

### **Assignment of Proceeding**

John A. Bohn is the assigned Commissioner and Carol A. Brown is the assigned ALJ in these consolidated proceedings.

### **Findings of Fact**

1. Grass Roots and SoCalGas presented the Commission with a SA that the parties agree resolves all outstanding legal and factual issues in the three complaints filed May 11, 2000.

2. The SA is the result of years of litigation, including evidentiary hearings, and is the product of mediation before a neutral facilitator from the Commission.

3. The SA addresses the scope of the proceeding and that was “to determine if the SoCalGas PDR gas storage facility is leaking or venting gas or depositing carcinogens into the air or soil to the detriment of the health or safety of the neighboring community.”

4. The SA, Appendix A, including Attachments A and B, sets forth the activities SoCalGas has agreed to do to assure Grassroots and the neighboring community that it is operating the PDR gas storage facility in a manner to ensure that the facility is not leaking or venting gas or depositing carcinogens into the air or soil to the detriment of the health or safety of the community.

5. We find that the SA reaches a compromise that is reasonable in light of the whole record.

6. We find that the SA is consistent with law and that the activities SoCalGas is agreeing to undertake are properly within the jurisdiction of this Commission.

7. We find that the SA benefits the public by providing additional monitoring, evaluation and disclosure activities that should assure the community that the PDR gas storage facility is not leaking or venting carcinogens into the air or soil; or, if any leaks are found, SoCalGas will take immediate corrective action.

### **Conclusions of Law**

1. The SA meets the requirements of Rule 12.1 of the Commission’s Rules of Practice and procedure and is adopted by the Commission.

2. In accordance with Rule 12.5, the settlement is binding on all parties in this proceeding and resolution in this settlement is limited to the issues in this

proceeding. Adoption of this SA does not extend to substantive issues which may come before the Commission in other or future proceedings.

**IT IS ORDERED** that:

1. The Settlement Agreement entered into between Grassroots Coalition and Southern California Gas Company, attached as Appendix A, is adopted.
2. The three subject complaints: Case (C.) 00-05-010, C.00-05-011, and C.00-05-012 are dismissed with prejudice.
3. C.00-05-010, C.00-05-011, and C.00-05-012 are closed.
4. This order is effective today.

Dated December 20, 2007, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners