

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish
Policies and Rules to Ensure Reliable, Long-Term
Supplies of Natural Gas to California.

Rulemaking 04-01-025
(Filed January 22, 2004)

**SCOPING MEMO AND RULING
OF THE ASSIGNED COMMISSIONERS FOR PHASE I**

Summary

On January 22, 2004, the Commission opened this Order Instituting Rulemaking (OIR or rulemaking) to examine what policies and rules need to be in place to ensure that California's residential and business consumers of natural gas have access to reliable long-term supplies. The rulemaking has been divided into two phases. Phase I is intended to address proposals that may require a Commission decision by the Summer of 2004. Phase II is intended to address matters which can be addressed by the end of 2004.

Today's ruling addresses the scope of issues to be considered in Phase I of this proceeding, and the schedule for resolving the Phase I issues.

Background

In the rulemaking, the Commission established a procedural schedule for soliciting proposals and comments on the Phase I and Phase II issues. The rulemaking states that "Phase I is on an expedited track, so that the Commission can issue a decision to provide guidance to the California natural gas public utilities by the Summer of 2004." (OIR, p. 11.)

The rulemaking states that at a minimum, Phase I will address the following matters in a Summer 2004 decision because of upcoming deadlines:

“(1) the California public utilities’ decisions concerning their existing interstate pipeline capacity; (2) access on the intrastate pipelines to LNG supply in the future; and (3) additional access to or expansion of interconnecting facilities with interstate pipelines to increase California’s access to natural gas supplies.” (OIR, p. 11.)

The rulemaking also invited the respondents and other parties to “recommend additional matters for the Commission to rule upon by the Summer to the extent they provide sufficient justification for an expedited ruling on these other matters.” (OIR, p. 11.)

Proposals for Phase I were filed by Lodi Gas Storage, L.L.C. (LGS),¹ Pacific Gas and Electric Company, Southwest Gas Corporation, and by San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas), the latter two parties filing jointly.

Interested parties filed 32 comments on the Phase I proposals, and 17 reply comments.

Scope Of Issues

The respondents and the parties who commented on the Phase I proposals have raised a number of different issues. Some of the issues involve policy, while other issues may require further analysis and evidentiary hearings. Some of the proposals that the parties advocate are integrally related with other

¹ LGS was not named in the rulemaking as one of the four respondents who were directed to file their Phase I proposals by February 24, 2004. LGS nonetheless submitted its “initial proposals” so that the “value and appropriate use of in-state storage” can be considered in Phase I.” (LGS Initial Proposals, p. 1.)

proposals, while other proposals have a more tenuous connection with the other proposals being advocated.

In the rulemaking, the Commission emphasized the need for an accelerated review of certain issues that may require a decision by the Summer of 2004. The Commission directed the respondents to file proposals in Phase I regarding the amount of firm transportation rights that each gas utility should hold in 2006 under long-term contracts with interstate pipelines to serve its core procurement supply obligation, and the amount of out-of-state supply which each utility believes it will need in 2016 to serve its core obligation. The Commission also directed the respondents to address the following:

“how it proposes to contract for sufficient interstate pipeline capacity to meet these supply obligations without risking a supply shortage to its customers in the near future or the long-term; how it will provide supply diversity with such contracts; and what process for Commission review should take place (after the Commission’s decision in the Summer of 2004) for the Respondent to receive pre-approval of its specific contracts with each pipeline, including the potential reduction of contract demand capacity rights under existing contracts with interstate pipelines.” (OIR, p. 12.)

The rulemaking recognized that supplies of Liquefied Natural Gas (LNG) on the West Coast may not materialize until 2006 or later. The rulemaking stated, however, that a number of matters must be resolved in the short-term so that the LNG facilities can benefit California. The rulemaking directed the respondents to “submit a proposal concerning guidelines for how natural gas supplies from LNG facilities can access each of their intrastate pipelines and distribution facilities to the extent that LNG terminals are constructed on the West Coast.” (OIR, p. 13.)

The rulemaking also stated that “the Commission should issue a decision by the Summer of 2004 concerning general guidelines for access for such natural gas supplies to enter Southern California through Otay Mesa.” (OIR, p. 13.) To further that goal, the Commission directed SoCalGas and SDG&E to address issues concerning access through Otay Mesa. The Commission also directed the gas utilities to submit proposals regarding how they could interconnect with an LNG project proposed to be built in or near the utilities’ service territory, and to describe any other issues that need to be resolved if a shipper receives natural gas from the LNG facility.

As part of the Phase I issues, the Commission also directed SoCalGas to file “a proposal for providing additional access for Rocky Mountain supplies to reach California through SoCalGas’ interconnecting facilities.” (OIR, p. 15.) The Commission also invited the respondents to describe any interconnection facility issue that needs resolution by the Summer of 2004.

Following the above directives of the Commission, the respondents and other parties made a number of proposals related to three areas of interest that make up Phase I. The proposals, and the issues raised by the proposals fall into certain defined categories, which are listed below. Accordingly, the scope of issues to be addressed in Phase I shall be the following:

- Should the Commission permit the California utilities to issue timely contractual notices of termination and/or exercise their rights of first refusal regarding their interstate pipeline capacity contracts ?
- What steps should the Commission take, or what processes should the Commission adopt, to ensure that the respondents can fulfill their core procurement obligations in the near and long term?

- In order to determine how the respondents can fulfill their core procurement obligations, to what extent must the respondents consider available supplies, storage, and energy conservation and efficiency?
- Should the respondents be given some flexibility to meet the gas needs of their core customers?
- What steps should the Commission take to ensure gas supply diversity?
- Should core planning standards for the respondents be considered in Phase I?
- How should the Commission develop and adopt policies that encourage LNG project sponsors and other potential suppliers of gas to site facilities in or near California?
- Who should bear the costs of interconnection and system expansion costs for potential LNG supplies and expanded interstate pipeline supplies, and should these issues be considered in Phase I?
- Due to the potential sources of LNG supply, what steps should be taken to ensure that the gas quality specifications of the respondents are being met, and how should the Commission decide if, and to what extent, these specifications may be changed?
- What steps should be taken to ensure that the respondents apply the gas quality specifications and all other access issues in an equitable manner to all potential sources of natural gas?
- Are there any regulatory impediments, such as bypass or peaking charges or pancaking of charges, that would make it more difficult for consumers to access potential new gas supplies?

- Should the Commission consider the transmission system integration proposal of SDG&E and SoCalGas in Phase I?
- Should the Commission consider modifying D.01-12-018 to change the scheduling practices at Kramer Junction?
- Should the Commission consider the firm access rights proposal of SDG&E and SoCalGas in Phase I?

Although the above issues have been included as within the scope of Phase I, that does not necessarily mean that the issues will be fully resolved by the Commission in the Phase I decision. Some of the parties have raised the need for evidentiary hearings on certain issues, in particular the roll in, system integration, and firm access rights proposals. Since the Phase I decision intends to address policy issues in a timely manner, the Phase I decision is the appropriate venue for the Commission to decide which issues are policy in nature, and which issues require further thought, analysis, and possible hearings. As the co-assigned Commissioners, we believe that it is appropriate in the context of this proceeding for the full Commission to determine which issues should be addressed in the Phase I decision, and which issues should be deferred to another proceeding or to a later time.

Consistent with Rule 14.1, we will not hold evidentiary hearings to resolve the Phase I policy issues. Instead, we will rely on the Phase I proposals and the numerous comments and reply comments of the parties to assist the Commission in making the necessary policy determinations that are needed in Phase I. The Commission may decide in the Phase I decision that certain proposals or issues raised by the parties may have to be litigated in a separate proceeding or in a later portion of this proceeding.

Supplemental Comments

Although the OIR requested proposals concerning access issues involving LNG, the respondents did not submit proposals concerning their operational balancing agreements. This is a critical issue for LNG project sponsors for obtaining access to the California natural gas utilities' pipelines. The Commission should decide the terms and conditions of those agreements because all of the currently proposed LNG projects along the coast of California and Baja California, Mexico will require access into SoCalGas' intrastate pipeline system, as well as SDG&E's intrastate pipeline.

SoCalGas and SDG&E are affiliated with Sempra Energy LNG, which has proposed an LNG project in Baja California. There is a potential conflict of interest with SoCalGas and SDG&E because they will provide the necessary access to the proposed LNG projects which directly compete with the Sempra Energy LNG project.

We therefore request additional comments limited to the following supplemental LNG access issues:

1. What are the operational balancing agreements that have been or should be offered by respondents to the sponsors of the proposed LNG projects?
2. Should the respondents be allowed to have different provisions concerning quality specifications in their proposed operational balancing agreements for LNG projects, than the provisions concerning quality specifications in their Commission-approved tariffs?
3. Are there any other access issues involving potential LNG supplies, which have not yet been addressed and which would otherwise be left to the discretion of the respondents? If so, please identify the issues and propose how the Commission should address the issues.

Parties, including the respondents, interested in addressing these supplemental issues, should file initial comments by July 2, 2004, and reply comments by July 13, 2004. The initial and reply comments should not address what particular gas quality specifications should or should not be changed. Instead, the gas quality specifications for the California natural gas utilities' pipelines should be addressed in a future workshop or in hearings.

Schedule

The following schedule shall be followed to resolve the Phase I issues in this proceeding:

Scoping memo and ruling issued.	June 18, 2004
Initial comments on supplemental issues.	July 2, 2004
Reply comments on supplemental issues.	July 13, 2004
Projected submission date.	On or about July 13, 2004.
Draft decision on Phase I issues mailed.	Summer 2004
Opening comments due on Phase I draft decision.	Within 20 days of the mailing date of the draft decision.
Reply comments due on Phase I draft decision.	Five days after opening comments are filed.
Draft decision adopted by the Commission.	Summer 2004

It is expected that this proceeding will be completed within 18 months of the date this scoping memo and ruling is issued, consistent with Pub. Util. Code § 1701.5.

Categorization

Pursuant to Rule 6(c)(2) of the Commission's Rules of Practice and Procedure, the OIR preliminarily determined that the category of this proceeding to be quasi-legislative. Some of the parties requested in their responses to the Phase I proposals that evidentiary hearings be held on several issues, and that those hearings be categorized as ratesetting.

As discussed above in the scope of issues, the Phase I decision will determine what policy issues should be addressed immediately and what other issues may require separate proceedings or be handled at a later date in this proceeding. This scoping memo and ruling confirms that the issues raised by the respondents and the other parties should be categorized as quasi-legislative. Anyone who disagrees with this categorization must file an appeal of the categorization no later than ten days after the date of this ruling. (See Rule 6.4.)

If the Phase I decision decides that certain issues should be deferred to another proceeding or handled at a later time in this proceeding, those issues may be recategorized at a later date in accordance with Rule 6.1(b).

Since this ruling determines that no hearings are needed on the issues to be addressed in the Phase I decision, ex parte communications are permitted as provided for in Rule 7(d).

Discovery Disputes

If the parties have discovery disputes they are unable to resolve by meeting and conferring, they should raise these disputes with the Commission pursuant to Resolution ALJ-164.

Intervenor Compensation

Since no prehearing conference was held, the following procedure shall be followed by any party seeking intervenor compensation in this proceeding. A notice of intent to claim compensation in this proceeding shall be filed with the Docket Office and served on the parties to this proceeding on or before July 16, 2004. Anyone seeking to respond to the NOI shall do so by filing a response within 15 days after the service date of the NOI.

Service List

The attached service list shall serve as the service list for this proceeding. The service list may be accessed on the Commission's web site at www.cpuc.ca.gov. Parties shall serve all documents on all appearances listed on the service list, including those identified as Information Only and State Service. All documents shall be served by electronic mail, and physically filed with the Docket Office with the required number of documents. In the event the electronic mail is returned to the sender, i.e., "bounce-back," the sender of the document shall serve a copy of the document on the intended recipient by mail or another delivery method.

Therefore, **IT IS RULED** that:

1. The scope of issues in this proceeding, and the schedule for resolving these issues, is set forth in the body of this ruling.
2. Initial comments on the supplemental issues shall be filed and served by July 2, 2004, and reply comments on the supplemental issues shall be filed and served by July 13, 2004.
3. The preliminary categorization of this proceeding as quasi-legislation is confirmed.

4. Discovery disputes shall use the procedures set forth in Resolution ALJ-164.

5. The procedure identified in this ruling for filing a notice of intent to claim intervenor compensation in this proceeding shall be followed.

6. The attached service list shall serve as the service list for this proceeding.
Dated June 18, 2004 at San Francisco, California.

/s/ MICHAEL R. PEEVEY
Michael R. Peevey
Assigned Commissioner

/s/ SUSAN P. KENNEDY
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CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of the Assigned Commissioners for Phase I on all parties of record in this proceeding or their attorneys of record.

Dated June 18, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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