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Decision No. 63414

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PACIFIC LIGHTING GAS SUPPLY COMPANY, a corporation, under Section 1001 of the Public Utilities Code, for a Certificate of Public Convenience and Necessity require the construction, maintenance, and operation of a 16" Pipeline from Gaviota, Santa Barbara County, California, to Goleta, Santa Barbara County, California, and related facilities.

Application No. 43622
(Filed July 20, 1961)

O. C. Sattinger and J. R. Elliott, for Pacific Lighting Gas Supply Company, applicant.
Joseph A. Ball, Clark R. Heggeness, and Mervyn W. Phelan, for Richfield Oil Corporation; Francis N. Marshall, Pillsbury, Madison & Sutro, for Standard Oil Company of California, Western Operations, Inc.; Earl A. Radford, for Shell Oil Company; John A. Lilygren, for Socony Mobile Oil Company, Inc., successor by merger to General Petroleum Corporation; R. K. Barrows, for Texaco, Inc.; Jack O. Sanders, for H. Zinder & Associates; Robert W. Russell and M. Kroman, for the City of Los Angeles; J. Barton Hutchins, for Edwin W. Pauley & Associates; and William W. Eyers, for California Manufacturers Association; interested parties.
Milford Springer, for Southern Counties Gas Company of California and John Ormasa, for Southern California Gas Company; special limited appearance.
Harold J. McCarthy and Franklin G. Campbell, for the Commission staff.

OPINION

Pacific Lighting Gas Supply Company[1/] by this application sought an ex parte order under Section 1001 of the Public Utilities

1/ Pacific Lighting Gas Supply Company is a public utility engaged in purchasing, compressing, transmitting, storing, exchanging and selling natural gas for resale to Southern California Gas Company and Southern Counties Gas Company of California, California corporations and affiliates of applicant sometimes referred to herein as "distributing companies".

Code (1) granting and conferring upon applicant all necessary permission and authority to construct, operate and maintain a 16-inch pipeline between Gaviota and Goleta and related facilities for the transmission of gas and (2) declaring that present and future public convenience and necessity require the construction, operation and maintenance of said pipeline and the use by applicant of all permits, easements and franchises which may be used or useful in connection therewith.

Petition of Richfield

Richfield Oil Corporation (Richfield), on July 31, 1961, filed a petition in protest to the granting of the application ex parte and requesting that the application be set for hearing upon reasonable notice; and that any order of this Commission be conditioned upon the applicant operating the proposed pipeline for the transportation of gas at reasonable rates for the public.

Public Hearing

After due notice, public hearing on this application was held before Commissioner Frederick B. Holoboff and/or Examiner William W. Dunlop on August 15, 16 and 17, 1961, in Los Angeles and on August 28, October 16 and 17, 1961, in San Francisco.

Applicant presented exhibits and testimony by three witnesses in support of its request. Richfield took an active part in the proceeding and cross-examined witnesses. The Commission staff also cross-examined witnesses and presented testimony through one witness.

On October 5, 1961, Standard Oil Company of California, Western Operations, Inc., and Texaco, Inc., filed a written motion for speedy determination and granting of the application.

The matter was taken under submission upon the filing of briefs on October 26, 1961, and now is ready for decision.

Applicant's Position

Applicant claims that its obligations to purchase California produced natural gas for ultimate use by consumers in the southern portion of California to meet seasonal, daily and hourly peak loads have resulted in contracts to purchase substantial supplies of natural gas in the Gaviota area of Santa Barbara County not adequately served by existing transmission pipelines. While applicant states it has made arrangements with its affiliate, Southern Counties Gas Company of California, to transmit such gas as is currently available in the Gaviota area through Southern Counties' existing 8-inch and 10-inch pipeline extending between Point Conception and Goleta, the excess capacity of said pipeline of Southern Counties is insufficient to transmit the full quantities of gas that are now available. Furthermore applicant asserts that an additional volume of gas will be available on a take-or-pay basis on and after January 1, 1962, for which no excess pipeline capacity exists.

It is for these reasons that applicant now proposes the construction of approximately 24 miles of 16-inch natural gas pipeline extending from Gaviota to its Goleta compressor station. Such pipeline, according to applicant, will permit the transmission of substantial additional supplies of natural gas to applicant's facilities at La Goleta Storage Field for injection into storage or for delivery to the distributing companies, as required by operations. The proposed route of the pipeline is shown on Exhibit 2.

Proposed Construction

As previously indicated applicant proposes the construction of approximately 24 miles of 16-inch natural gas pipeline extending from Gaviota to its Goleta compressor station, all within Santa Barbara County. All pipe is proposed to be 16 inches outside diameter and meet API 5LX 52 specifications for wall thickness of 0.250 inches and 0.312 inches. Approximately six miles of 0.312-inch wall pipe is proposed to be installed near the easterly terminus of the pipeline, starting at the west boundary of applicant's La Goleta Storage Field and extending westerly. It is proposed that the remaining 18 miles of pipeline have a wall thickness of 0.250 inches.

According to applicant's witness all construction methods, materials used, including fittings, valves and appurtenances attached to the pipeline, will be of appropriate rating in accordance with the provisions of General Order No. 112 to qualify the proposed pipeline for a maximum allowable operating pressure of 975 pounds per square inch.

Estimated Plant Costs

The estimated cost of constructing the proposed pipeline is $1,740,000 as shown in Exhibit 3 and as summarized in the tabulation following.

Item	Estimated Plant Costs
Right of Way	$ 118,000
Materials	807,000
Installation	711,000
Indirects	54,000
Contingencies	50,000
Total	$1,740,000

Financing of the cost of this project is proposed from funds presently on hand.

Annual Operating Cost

Applicant estimates the first year cost of operating the proposed pipeline in the amount of $312,000, segregated as follows:

Item	Estimated First Year Cost
Operating and Maintenance Expense	$ 13,000
Depreciation - pipeline--40-year life, meters and equipment--25-30 year life	44,000
Ad Valorem Taxes, using 1961 assessment ratio and 1960-61 average tax rate	40,000
Return on depreciated average investment at 6.6 percent rate of return	113,000
Related Taxes on Income	102,000*
Total First Year Operating Cost	$312,000

*Reflects financing of construction costs with 32 percent debt capital at 5 percent interest and 68 percent equity capital.

Supply of Gas Available to Proposed Pipeline

The record reveals that during the past approximately two years, 13 offshore parcels extending from Point Conception to Goleta along the coast of Santa Barbara County have been leased by various producers including Standard Oil Company (Standard), Texaco, Inc., (Texaco), Phillips Petroleum Company (Phillips), Signal Oil Company (Signal), and Richfield Oil Corporation (Richfield). Exhibit 10 reveals that 18 wells have been completed on four parcels with 9 of the wells shut in as follows:

Parcel	Producer	Number of Wells Completed	Number of Wells Shut-In
A	Phillips	3	3
C	Standard	3	0
D	Texaco	6	0
E	Phillips	6	6

Applicant claims it has gas purchase contracts with all of the producers covering the offshore gas, with the exception of Richfield. Such contracts, however, were not presented in evidence, but applicant's file was made available to the staff of the

Commission on a confidential basis.

Applicant's witness testified that there is now being received from production between Goleta and Gaviota approximately 25 million cubic feet of gas per day into an existing 8 and 10-inch pipeline of Southern Counties Gas Company; that 55 million cubic feet of gas daily is immediately available and is applicant's minimum obligation to take from offshore production; and that the volume of gas available from offshore production substantially exceeds the capacity of the present Southern Counties pipeline between Goleta and Gaviota.

It appears from the testimony that applicant's contract with Phillips has a take-or-pay clause in it, with a two-year makeup period which becomes effective as of January 1, 1962. While the evidence does not reveal the volume of offshore gas involved in the Phillips contract, applicant's closing statement indicates the quantity to be about 20 million cubic feet per day. Counsel for Standard stated that there was an obligation upon applicant to purchase Standard's gas in the amount of 20 million cubic feet per day and a take-or-pay provision covering an additional one billion cubic feet of gas during the two and one-half year period beginning with the completion date of the proposed pipeline. It appears that applicant's obligation to take the above-mentioned quantities of gas from Standard is contingent upon the construction of the proposed pipeline. Further, the testimony reveals that applicant has advised Texaco that the proposed pipeline would have to be constructed before applicant could take the volumes of gas which Texaco apparently has indicated to applicant would be available.

Applicant's Gas Procurement Policy

According to applicant, it has as a matter of policy and wherever possible accorded preferential treatment to California producers so their gas would be purchased for public consumption prior to the purchase of out-of-state gas. It appears that approximately 85 percent of applicant's California purchases are under so-called long-term contracts. Under such contracts applicant agreed to pay 27 cents per Mcf for California produced gas in 1960, 29 cents per Mcf for California produced gas in 1961 and estimates that the price will be 34.47 cents per Mcf in 1962. The 34.47 cents price for California produced gas in 1962 is computed as the average border price of out-of-state gas to the Pacific Lighting System at 100 percent load factor.

Applicant urges that its policy of according preferential treatment to California producers is in the public interest because of the importance to California's economy of the oil and gas industry. Applicant further urges that if it does not buy the California produced gas at this time, the producers would sell directly to some of applicant's larger customers, resulting in a substantial loss of its market. Assertedly, the loss of part of its market, particularly the large interruptibles, would impair applicant's ability to equate loads between seasonal peaks thereby resulting in higher unit costs and a consequent higher cost of gas to applicant's remaining customers.

The Commission staff points out that by purchasing large volumes of California gas, applicant is assuring the California producers a high price, as the more California gas it buys, the less interstate gas it can buy, and the less the possibility becomes of bringing the border price down, which under applicant's present procurement policy governs the California price. Thus, according to the staff, applicant's stated policy has the effect of a vicious circle whereby it purchases more and more California gas and less and less interstate gas, thus keeping the price of both supplies at a maximum.

Position of the Commission Staff

The Commission staff takes the position that not only did applicant fail to sustain its burden of proof, but that the evidence shows clearly that the facilities as requested by applicant should not be certificated at this time. The staff urges that by applicant's failure to put into evidence the contracts or documents containing the terms of its obligations concerning the gas which it expects to purchase and to flow through the proposed facilities, and its failure to adduce on the record any reliable evidence from which the volumes of gas available or to become available to it can be ascertained, the record is deficient of information upon which a Commission finding of public convenience and necessity can be based.

A staff witness testified that the take-or-pay-for provisions of negotiated contracts related to offshore purchases can be satisfied with a less expensive and less extensive pipeline; that there is a possibility that delivery of a portion of the offshore purchases for which contracts are currently under negotiation may be made at locations other than those reachable by the proposed pipeline; and that the proposed pipeline will serve a market which can be satisfied through existing pipelines from other supply sources.

The staff further urges that the evidence fails to show that applicant's proposed uses of the proposed facilities are economically feasible. The staff points out that the construction of the proposed facilities will immediately call for applicant to raise its rates to the distributing companies; and that the purpose of the proposed pipeline is to pick up offshore gas at an estimated price on January 1, 1962, of 34.47 cents per Mcf, even though incremental Transwestern gas is available at 31 cents and 24 cents per Mcf, and even though applicant does not need to take the offshore gas if it deems it not economically feasible.

Position of Richfield

Richfield does not object to the construction of the proposed pipeline or to the issuance of a certificate of public convenience and necessity if such certificate is issued subject to the condition that Pacific Lighting "exchange" gas which is produced from any tideland lease or operate the pipeline as a common carrier.

Richfield holds a substantial interest in four tideland leases, granted by the State Lands Commission, located along the coast of Santa Barbara County between Goleta and Point Conception.[2/] Parcel 308 has been drilled and is producing two million cubic feet of gas per day, Richfield's share of this production, 1.5 million cubic feet per day, is disposed of under a temporary arrangement with Signal Oil & Gas Company. According to Richfield, exploration activites are being conducted on Parcels 3 and 4.

Richfield asserts there are three alternative methods by which it can dispose of its gas production from its present and any future tideland leases. These methods are summarized as follows:

2/ Parcels 308, 309, 3 and 4 shown on Exhibit 4.

1. Richfield can construct a gas pipeline running from its leases to its Rincon Island pipeline.

2. Richfield can sell its gas production to Pacific Lighting Gas Supply Company.

3. The Commission can order Pacific Lighting to "exchange" gas produced from any tideland lease or to operate the pipeline as a common carrier.

Richfield takes the position that the Commission has the power pursuant to Sections 1005, 701, 702 and 761 of the Public Utilities Code to attach conditions to a certificate of public convenience and necessity; that the imposition of the condition sought by Richfield will not result in a burden upon the utility; and that Pacific Lighting has dedicated its facilities for the exchange of gas as evidenced by the number of producers with whom Pacific Lighting has exchange contracts, the volumes of gas that have been exchanged in the past, and the amount of revenue derived from the exchange of gas.

With respect to dedication, Richfield relies upon Exhibits 12 and 13 showing that Pacific Lighting has 74 gas purchase contracts with California producers; that 19 of such contracts require Pacific Lighting to "exchange" gas; that Pacific Lighting has exchanged an average of more than 35 billion cubic feet of gas each year for California producers during the last five years; and that during such period Pacific Lighting has received an average of more than $1,200,000 per year for "exchange" service.

Common Carrier Aspects

Applicant opposes Richfield's request for a condition to the certificate requiring Pacific Lighting to operate the proposed pipeline as a common carrier. Applicant maintains that it has not dedicated its facilities for either transport or exchange for producers for compensation and that exchange as practiced by applicant is available only to producers with whom applicant has gas purchase contracts. Applicant's witness stated that Pacific Lighting does not now furnish common carrier pipeline service; that it has not done so in the past; that it does not desire to do so in the future whether or not there can be shown to exist a need for such service; and that it does not want any other entity to provide common carrier pipeline service in the area.

Findings and Conclusions

We find and conclude as follows:

1. Applicant's management has considered the proposed pipeline and has concluded that it should be constructed at this time and that applicant's management is willing to assume the risks and uncertainties inherent in the construction and operation of the proposed facility.

2. Present transmission facilities are not adequate to carry the volumes of gas which are presently being tendered to applicant.

3. The evidence respecting possible alternatives through which such gas can be taken and disposed of is insufficient to warrant a denial of the application.

4. The evidence is sufficient from which to conclude that there is a present need for the proposed pipeline. However, applicant has failed to present clear and convincing evidence that the reserves, deliverability thereof or the market therefor will be sufficient over the life of the proposed pipeline to

warrant a determination that said pipeline will be utilized fully during its useful life. In the event that it shall be made to appear in the future that the actual reserves, deliverability or market are insufficient to justify the investment in the proposed facilities, applicant is hereby placed on notice that it will be required to absorb, through appropriate adjustments in rates or otherwise, all unjustified costs associated with said investment from and after the time such deficiency occurs. Accordingly, the order herein will require applicant to furnish the Commission, at such times and for such periods as are herein or hereafter may be prescribed, with information satisfactory to the Commission relative to volumes of gas actually transmitted through said facilities, estimates of remaining reserves, and such other information as may be deemed appropriate.

5. There is sufficient evidence showing that the public convenience and necessity require applicant to construct, operate and maintain the gas pipeline project described in the application. However, our action herein should not be construed in any way as passing upon the reasonableness of the so-called long-term gas purchase contracts, cost of gas, the adequacy of the reserves, their deliverability or the sufficiency of the market for said gas during the useful life of the proposed pipeline. We specifically refrain from so doing by this decision.

6. The evidence is insufficient to justify a granting of Richfield's request that the certificate be conditioned upon the applicant operating the proposed pipeline as a common carrier for the transportation of gas.

7. The certificate hereinafter granted shall be subject to the following provision of law:

> That the Commission shall have no power to authorize the capitalization of the certificate of public convenience and necessity or the right to own, operate or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

O R D E R

The above-entitled application having been considered and based on the evidence and consistent with the findings and conclusions thereon set forth above,

IT IS ORDERED that Pacific Lighting Gas Supply Company is granted a certificate that public convenience and necessity require the construction, operation and maintenance of a 16-inch pipeline between Gaviota and Goleta and related facilities for the transmission of gas, as described in the application, and the procurement and use of the necessary permits, easements and franchises as may be necessary for the construction and/or operation of the project, the transportation and sale of gas in accordance with its certificates of public convenience and necessity, and with its rates and rules duly filed with this Commission.

IT IS FURTHER ORDERED that:

(1) Pacific Lighting Gas Supply Company shall file with this Commission a detailed statement of the capital costs of the 16-inch pipeline and related facilities herein authorized within one year following the date of completion.

(2) Pacific Lighting Gas Supply Company shall advise this Commission in writing of the date said facilities are placed in operation, within 30 days thereafter.

(3) Pacific Lighting Gas Supply Company shall submit annually to this Commission for the first 5-year period of operation of said facilities, a written report of the monthly volumes of gas transmitted by said facilities during the previous 12-month period, within 45 days after the end of each such 12-month period.

The certificate herein granted will expire if not exercised within one year after the effective date of this order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 16th day of MARCH, 1962.

Everett C. McKeage
President

Peter E. Mitchell

C. Lyn Fox

George G. Grover

Frederick B. Holoboff
Commissioners