

ORIGINAL

Decision No. 79487

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHWEST GAS CORPORATION for Authority to Revise its Tariff for Natural Gas Service to Offset Increases in Expense Caused by Increases in the Price of Natural Gas from El Paso Natural Gas Company.

(Gas)

Application No. 52920  
(Filed October 12, 1971;  
First Amendment filed  
October 15, 1971)

O P I N I O N

Southwest Gas Corporation seeks authority to increase rates in its Placer County service area from time to time in order to offset known and possible future increases in the cost of natural gas which it purchases from El Paso Natural Gas Company (El Paso).

Notice of Filing and Request for Ex Parte Handling

On October 12, 1971, applicant filed its original application requesting the offset rate relief and tracking authority hereinbelow discussed. On October 15, 1971, applicant filed an amendment thereto (1) requesting that its application be handled on an ex parte basis and (2) delineating the circumstances which lead applicant to believe that the increased rates herein proposed by applicant may be made effective by the Commission free of any restraint from the general proscription upon price increases inherent in the "freeze" on prices, rents, wages and salaries promulgated by the President of the United States on August 15, 1971. Copies of each of applicant's filings were served by mail upon those governmental entities prescribed by Rule 24(1) and (2) of the Commission's Revised Rules of Practice and Procedure; and notice of applicant's filing and its request for ex parte handling was published in newspapers of general circulation within and proximate to applicant's Placer County service area, in a timely manner.

Nature of Applicant's Request

At Section 6.1 of its application, applicant states that it is seeking:

"...(i) authority to increase rates in its Placer County service area by the amount or amounts necessary to offset the economic effect (inclusive of uncollectibles) of those increases in the cost of gas to Applicant which the Federal Power Commission ('FPC') has authorized El Paso Natural Gas Company ('El Paso') to place into effect from time to time under the auspices of a July 30, 1971 order of that Commission in Docket No. RP71-137, and (ii) authority to increase rates in its Placer County service area by the amount or amounts necessary to offset the economic effect (inclusive of uncollectibles) of such additional increases in the cost of gas to Applicant as the FPC may hereafter authorize El Paso to place into effect from time to time by reason of extensions of that authority already granted to El Paso in Docket No. RP71-137."

Applicant's stated purpose therefor is to directly offset the economic effect of such increases in its cost of gas upon its Placer County service area operations. It does not seek to increase its present earnings position. Moreover, as noted at Section 6.3, the offset rates herein proposed by applicant and any as might hereafter be effected under the auspices of the tracking authority requested would be subject to reduction or termination at such time or times as applicant's cost of gas from El Paso is correspondingly reduced; and applicant would propose to refund to its Placer County service area customers any refund received from El Paso pursuant to an order of the Commission.

The Record

By an Order issued July 30, 1971, in Docket No. RP71-137 (hereby received as Exhibit No. 1), the FPC authorized El Paso to place into effect as of November 1, 1971, increased rates for the natural gas which it sells to applicant at the Idaho-Nevada boundary delivery point. Therein, the FPC also authorized El Paso to increase its Northwest Division System rates from time to time thereafter

through December 31, 1972, in order to "track" any increases in rate levels effected by its Northwest Division System suppliers during that tracking period. By a separate Order (hereby received as Exhibit No. 2) issued also on July 30, 1971, in Dockets Nos. RP71-13 and RP71-14, the FPC amended the tracking authority previously granted for El Paso's Northwest Division System in Docket No. RP71-14 - which authority would have expired on December 31, 1971 - so as to terminate such authority on a date coincident with the effective date of the tracking authority granted in El Paso's successor rate filing for its Northwest Division System (i.e., Docket No. RP71-137). Contrary to its action in Docket No. RP71-14, the FPC did not impose a cents-per-therm limitation upon the tracking authority granted in Docket No. RP71-137.

On August 15, 1971, the President of the United States, acting under the auspices of the Economic Stabilization Act of 1970, as amended, issued Executive Order No. 11615 stabilizing prices, rents, wages and salaries for 90 days. On August 18, 1971, the FPC issued Order No. 437 in Docket No. R-427 as a statement of the policy it intended to pursue in implementing such proscriptions of the "freeze" as might be applicable to the FPC's discharge of its regulatory responsibilities. Therein, the FPC prescribed that, where rate filings had been made prior to August 14, 1971, but the rate increases therein proposed were not to take effect until after August 14, 1971, upon the termination of a suspension period, such increases "shall not take effect for the duration of the period set forth in the Executive Order, including any extension or modification thereof..."

Acting pursuant to Section 4(e) of the Natural Gas Act, El Paso on September 1, 1971, moved in Docket No. RP71-137 (hereby received as Exhibit No. 3) to place into effect on November 1, 1971, the proposed rate increases for its Northwest Division System which the FPC had suspended until that date in its aforesaid July 31, 1971, Order. In support thereof, El Paso expressed its belief that such increases were exempt from the provisions of the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11615 - and, hence,

the proscription of the "freeze" upon price increases - by reason of Section 403 of Economic Stabilization Circular No. 1 issued August 23, 1971, inasmuch as the rate increase in question was attributable to increases in the cost of gas which El Paso will be importing from Canada as of November 1, 1971, for use in and sale from its Northwest Division System operations. Section 403 of Economic Stabilization Circular No. 1 provides that:

"(b) An importer and each reseller may pass on a price increase for an imported product, but only as long as the product is not physically transformed by the seller or does not become a component of the goods being sold. When the imported product loses its identity or is incorporated into another goods, at that point, the price increase may no longer be passed on." [36 F.R. 16586, at 16587 (August 24, 1971).]

Noting that the gas to be imported from Canada will not be "physically transformed" or lose its "identity," El Paso concluded that the increased rates proposed by it in Docket No. RP71-137 are also exempt from the provisions of the FPC's Order No. 437 discussed above.

On October 22, 1971, the FPC issued an Order in Docket No. RP71-137 (hereby received as Exhibit No. 4) in response to El Paso's Motion finding that (1) the Motion was in satisfactory compliance with Section 4(e) of the Natural Gas Act and (2) that the increased rates should become effective as of November 1, 1971, or the date of initial deliveries under the Sumas IV Contract, whichever is later, subject to such possible reduction and refund as the FPC might ultimately determine to be appropriate incident to final decision upon El Paso's application. The FPC did not render a decision upon the question of whether the rate increase in question was exempt from the "freeze" as El Paso has concluded. The FPC felt that Executive Order No. 11615 had vested decisional jurisdiction upon that question in the Cost of Living Council which was established thereby. However, it did state that its Order did not relieve El Paso of any responsibility imposed by the FPC's statement of policy in Order No. 437 and Executive Order No. 11615. By letter dated November 2, 1971 (hereby received as Exhibit No. 5) El Paso advised applicant that it intended to place the increased rates for its Northwest Division System into effect on November 1, 1971.

The amount of that increase as it relates to gas purchased by applicant for ultimate sale in its Placer County service area is .380¢ per therm. Inclusive of an adjustment to the provision for uncollectibles of .75 percent of its gross sales, the overall economic cost to applicant therefrom is .390¢ per therm as illustrated at page 2 of Exhibit 2 to the application. That is the amount by which applicant proposes to increase its present rates at this time. Based upon an estimate of applicant's results of operation for the twelve months ended December 31, 1971, which is predicated upon the revenue, expense and rate base data contemplated in Decision No. 78779 (Application No. 52513), page 1 of Exhibit 2 to the application indicates that the proposed offset rates would increase applicant's annual charges to its residential and small commercial general class of customers by 2.26 percent.

#### Findings

In view of the record herein, the Commission makes the following findings of fact:

1. Increased prices for gas which applicant purchases from El Paso have occurred and may occur as the result of FPC action in Docket No. RP71-137.
2. It is just and reasonable that applicant be authorized to offset such increased gas cost by increasing its charges to its own customers in Placer County.
3. The increases in rates and charges authorized herein are justified.
4. The rates and charges herein authorized are fair and reasonable, and the present rates and charges insofar as they differ from those prescribed herein are for the future unjust and unreasonable.
5. The increases in rates herein authorized will not increase applicant's level of earnings but will merely offset increases in cost of purchased gas. Such increases are, in our opinion, consistent with the purposes of the Economic Stabilization Act of 1970, as amended. Applicant is expected to comply with the requirements of the Price Commission's regulations relating to the stabilization of prices and rents after November 13, 1971.

The Commission concludes that the application should be granted to the extent set forth in the following order.

O R D E R

IT IS ORDERED that:

1. Southwest Gas Corporation is hereby authorized to file with this Commission, on or after the effective date of this order and in conformance with the provisions of General Order No. 96-A, revised tariffs with changes in rates, charges and conditions as set out in Exhibit 1 attached to the application, and to place said revised tariffs into effect one day after the date of such filing. The revised schedules shall apply only to service rendered on or after the effective date of this order.

2.a. Applicant is authorized to use the advice letter procedure in order to file revised tariff schedules with such changes in rates, charges and conditions as may become necessary to reflect increases in the cost of purchased gas attributable to tracking rate increase filings made by El Paso Natural Gas Company, provided that such authority to track shall not extend beyond December 31, 1972.

b. The advice letter procedure to be made available to applicant for this purpose shall conform to the following requirements:

- (1) Compliance with General Order No. 96-A, except Section VI. Procedure in Filing Increased Rates.
- (2) Advice letter filings not to be made more frequently than at 15-day intervals.
- (3) Notice period for each advice letter filing not to be less than 15 days. (If any filing is technically defective, a new filing shall be made and shall be subject to a new notice period of not less than 15 days.)

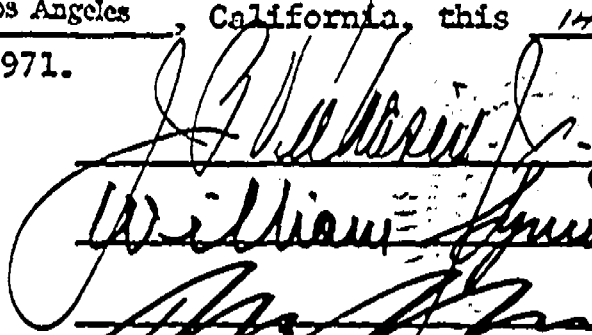
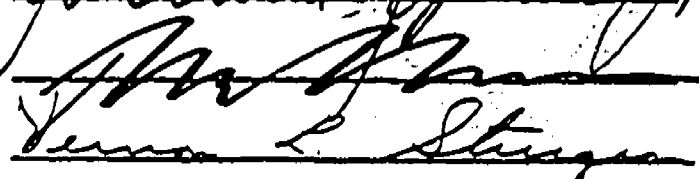

c. Revised rates made effective under this advice letter procedure shall conform to the following requirements:

- (1) Adjustments are to be consistent with Exhibit 1 attached to Application No. 52920.

- (2) Revised rates are to become effective for service on and after the date the change in El Paso Natural Gas Company's rate becomes effective or 15 days after filing, whichever is later.
3. In the event applicant places such rate increases in effect,
- Applicant shall prepare a plan for determining refunds consistent with the pertinent tariff provision authorized herein. Said plan shall be submitted to this Commission prior to making any refunds, and specific Commission approval shall be obtained of the plan at that time.
  - If rates to El Paso Natural Gas Company are ordered reduced as a result of reductions under Federal Power Commission Docket No. RP71-137, applicant shall file a proposed plan for rate reductions consistent with the pertinent tariff provision authorized herein, for final determination and authorization by this Commission.

The effective date of this order shall be the date hereof.

Dated at Los Angeles, California, this 14<sup>th</sup>  
day of DECEMBER, 1971.

  
Chairman  
  
Commissioners  
  
Commissioners