

ORIGINAL

Decision 84 11 109

NOV 21 1984

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of SAN DIEGO GAS & ELECTRIC )  
COMPANY for authority to include )  
the Southwest Powerlink as a )  
specified major addition under )  
its Major Additions Adjustment )  
Clause (MAAC) and to increase its )  
Major Additions Adjustment Billing )  
Factor (MAABF) and decrease its )  
Annual Major Additions Rate (AMAR) )  
upon operation of the Southwest )  
Powerlink. )

Application 84-09-072  
(Filed September 21, 1984)

O P I N I O N

Decision (D.) 84-08-125 dated August 7, 1984 on  
Application (A.) 83-12-01 granted San Diego Gas & Electric  
Company (SDG&E) a revenue increase of \$44,045,000 on an annual  
basis as a rate base offset adjustment to cover the costs of  
operating its Southwest Powerlink (Powerlink) and, among other  
things, ordered SDG&E to:

"3. Within 45 days of the effective date of  
this order SDG&E shall file an application  
for approval of the sale of an interest in  
the Powerlink to the Imperial Irrigation  
District. Such filing shall include a  
showing as to why the sale of 14% interest  
in the line and its related capacity is in  
the public interest." (Mimeo. page 25.)

The application was filed in compliance with the above  
Ordering Paragraph 3.

The issue of SDG&E obtaining prior Commission approval before selling a portion of the Powerlink to Imperial Irrigation District (IID) was raised by the Commission staff (staff) during the hearing on A.83-12-01. The Public Utilities (PU) Code section referred to by the staff as requiring prior Commission approval before selling a portion of the Powerlink was Section 851, which states in part:

"851. No public utility other than a common carrier by railroad subject to Part I of the Interstate Commerce Act (Title 49, U.S.C.) shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its railroad, street railroad, line, plant, system, or other property necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, nor by any means whatsoever, directly or indirectly, merge or consolidate its railroad, street railroad, line, plant, system, or other property, or franchises or permits or any part thereof, with any other public utility, without first having secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the order of the commission authorizing it is void. . . ."

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1/ Unless otherwise specified, all sections mentioned hereafter refer to the PU Code.

SDG&E argued that Section 851 was inapplicable because the Powerlink is not necessary or useful until it is placed in rate base. In this respect we stated:

"Even were one to assume that plant under construction was not necessary or useful or dedicated to the public use, Section 851 would still be applicable because of the provision that a utility cannot dispose of 'any franchise or permit or any right thereunder' without prior Commission approval. In this case, SDG&E, as noted by staff, gave up a portion of its right to build and operate 100% of the line between Yuma, Arizona, and the Imperial Valley, and is now entitled to use only 86% of that portion of the line. Clearly, Section 851 is applicable in this matter and SDG&E should have obtained prior Commission approval before selling an interest in the line to IID." (Mimeo. page 21.)

Adherence to Section 851 would void the transaction.

In this respect we have held:

"(1) Respondent does not concede that under Section 851 of the Public Utilities Code the purported sale to applicant was void, and that consequently he is still the owner of the system. Respondent has requested that we ratify the sale. This we cannot do. Section 851 declares an unauthorized sale void, and this Commission has consistently held that it has no power to retroactively validate such a transaction." Re R. J. Baunhausser (1970) 70 CPUC 783, 784.

However, Section 853 states in part:

". . . The commission may from time to time by order or rule and subject to such terms and conditions as may be prescribed therein, exempt any public

utility or class of public utility from the provisions of Section 851 and 852 if it finds that the application thereof with respect to such public utility or class of public utility is not necessary in the public interest. (Former Sec. 51(c).)"

It is in accordance with this latter PU Code section that SDG&E is seeking approval of the sale of a portion of the Powerlink to IID.

Background

On December 1, 1981, by D.93785 on A.59575, this Commission granted a certificate of public convenience and necessity (CPC&N) to SDG&E to construct and operate a double-circuit 230-kilovolt (kV) transmission line from Mission Tap to Miguel Substation and a single-circuit 500 kV transmission line from Miguel Substation to the Palo Verde Nuclear Generating Station (PVNGS) Units 1, 2, and 3 Switchyard. This decision indicated that "APS [Arizona Public Service Company] would have an 11% (or 110 MW) entitlement between Palo Verde and Yuma and would also be responsible for 11% of the costs." (Mimeo. page 9.)

Near the close of the certificate proceedings SDG&E advised the parties that IID might acquire either an ownership interest or transmission service, or a combination of both, in the transmission line between the PVNGS Switchyard and the Imperial Valley Substation. On May 12, 1982 SDG&E and IID executed an agreement under which SDG&E granted IID an option to purchase a 22.47% of SDG&E's ownership share in the transmission line between the PVNGS Switchyard and the Imperial Valley Substation. ✓

On December 21, 1982 this agreement was amended reducing the amount of IID's ownership share from 22.47% down to 14.36% of SDG&E's ownership share. On May 1, 1983 IID exercised the option and purchased a 14.36% share of SDG&E's ownership interest in the line between the PVNGS Switchyard and the Imperial Valley Substation.

Benefits of Sale to SDG&E

The sale of a portion of the Powerlink to IID enabled the citizens of Imperial County to share in its benefits and thereby resulted in some reduction in public opposition to the routing of the line over farmlands.

The sale also reduced SDG&E's capital expenditures by \$16 million at a time when its overall construction budget was at a historical high. The entire proceeds of the sale were used to offset the costs of the remaining portion of the Powerlink with the result that the amount ultimately requested and authorized to be placed in rate base was substantially reduced and SDG&E's ratepayers pay less in rates than if SDG&E had retained ownership.

While the capacity of the Powerlink is 1,000 megawatts (MW), SDG&E is limited to 850 MW between Imperial Valley and Miguel Substations to avoid overloading of the Comission Federal de Electricidad's (CFE) 230-kV transmission line operated in parallel with the Powerlink between Cerro Priete and Tijuana. Such limitation west of the Imperial Valley Substation also limits the amount of power which SDG&E can transmit between the PVNGS Switchyard and the Imperial Valley Substation. Allowing for the addition of 37 MW at the Imperial Valley Substation from SDG&E's Heber geothermal plant, SDG&E has 813 MW of transmission capacity between the PVNGS Switchyard and the Imperial Valley which can be used to deliver power from the PVNGS Switchyard to the Miguel Substation. IID's purchase of 14.36% of SDG&E's interest results in 128 MW of capacity between the PVNGS Switchyard and North Gila (Yuma, Arizona)

and 144 MW between North Gila and Imperial Valley. The maximum amount of firm capacity under the Public Service of New Mexico (PNM) and Tucson Electric Power (TEP) contracts is 636 MW and occurs in 1987. Consequently SDG&E is still able to receive the maximum amount of firm capacity and energy under the PNM and TEP contracts as well as at least 126 MW of economy energy as shown by the following tabulation:

Line Segment	SDG&E's Share Before Sale	Usable Capacity Before Sale	SDG&E's Share After Sale	Minimum Usable Capacity Available to SDG&E for Economy Purchases	
				Before Sale	After Sale
PVNGS - North Gila	890	813	762	177	126
North Gila - Imperial Valley	1,000	813	856	177	177

Another benefit of the sale of a portion of the Powerlink to IID redounding to SDG&E is the transmission line capacity to transmit its geothermal power out of Imperial Valley. Originally SDG&E proposed to own and operate a 161-kV line between the Imperial Valley Substation and IID's El Centro steam plant. IID agreed to build and operate the line and make it available to SDG&E. The line will thus enable IID to receive power imported from eastern utilities and at the same time provide SDG&E with a path for exporting its geothermal power.

On September 21, 1984, IID sent a letter to this Commission, attention Joseph E. Bodovitz, on the sale by SDG&E of a portion of the Powerlink to IID. This letter, supporting the sale of a small ownership interest in the Powerlink under Section 853, is accepted as Exhibit 1. It states in part:

"The IID Board of Directors, after careful study and review, and upon the recommendation of its independent engineers and consultants, has found that acquisition of an ownership interest in the Southwest Powerlink was a major step toward relieving the IID's electrical operating problems resulting from the IID's growth, isolated location, increasing limitations on the use of fuel, oil and natural gas usable for boiler fuel and related elements of power supply economics. The IID Board has also found and determined that the acquisition of an ownership interest in the Southwest Powerlink will insure the availability of adequate means of exporting energy produced from geothermal resources located in Imperial County, allow the IID to import surplus energy generated by other agencies located outside Imperial County and facilitate the export of any District surplus energy to agencies outside the District's service area (IID Resolution No. 27-83)."

Findings of Fact

1. SDG&E filed this application in compliance with Ordering Paragraph 3 of D.84-08-128.
2. On May 1, 1983 IID exercised its option to purchase a 14.36% share of SDG&E's ownership interest in that portion of the Powerlink between the PVNGS Switchyard and the Imperial Valley Substation.

3. The sale of a portion of the Powerlink to IID enabled citizens of Imperial County to share in its benefits and resulted in some reduction in public opposition to the proposed route.

4. The sale of a portion of the Powerlink to IID reduced SDG&E's capital expenditures by \$16 million.

5. In spite of the sale of a portion of the Powerlink to IID, SDG&E is still able to receive the maximum amount of firm capacity and energy under the PNM and TEP contracts as well as at least 126 MW of economy energy.

6. The sale of a portion of the Powerlink to IID resulted in the provision of transmission line capacity to transmit its geothermal power out of Imperial Valley.

7. IID supports the application.

8. The sale of a portion of the Powerlink to IID is in the public interest.

Conclusions of Law

1. Strict adherence to the provisions of Section 851 would void the transaction.

2. Section 853 permits this Commission to exempt a public utility from the provisions of Section 851 if it finds the application thereof with respect to such public utility is not necessary in the public interest.

3. The application should be granted as set forth in the following order.



O R D E R

IT IS ORDERED that:

1. San Diego Gas & Electric Company's sale of a 14.36% of its ownership interest in the Southwest Powerlink to the Imperial Irrigation District is exempt from the provisions of Public Utilities (PU) Code Section 851 as is permitted by PU Code Section 853.
2. The application is granted as set forth above.  
This order becomes effective 30 days from today.  
Dated NOV 21 1984, at San Francisco, California.

FRISCILLA C. CREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

Commissioner Victor Calvo,  
being necessarily absent, did  
not participate

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS FOR

  
Joseph E. Bodovitz, Executive Director

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