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Decision No. 91117 DEC 18 1979 ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHWEST GAS CORPORATION for an Order Exempting it from Regulation Pursuant to Public Utilities Code, Section 1001, as Interpreted by the Commission in Decision No. 88005, dated October 18, 1977, or Waiver of Certification for Certain Out-of-State Plant.	Application No. 58988 (Filed July 10, 1979)

OPINION

Applicant Southwest Gas Corporation (Southwest Gas) requests an order for a blanket exemption from the requirements of California Public Utilities Code Section 1001 with respect to construction undertaken by it outside of California or in the alternative for an order waiving compliance with Section 1001 for certain out-of-state facilities, consisting of four liquefied petroleum gas (LPG) peak shaving facilities to be constructed at Carson City, Elko, and Reno, Nevada.

Southwest Gas asserts that the proposed LPG facilities are necessary if it is to continue to provide reliable service to its own distribution customers in northern Nevada and in Placer County, California, and to its wholesale customers (CP National Corporation and Sierra Pacific Power Company) who provide retail gas distribution service in El Dorado County, California, and Washoe County, Nevada. Southwest Gas further asserts that the interests of its California customers do not differ materially from the interests of its Nevada customers and that the interests of the California customers must, by law, be considered by the Federal Energy Regulatory Commission (FERC) in the course of its analysis of Southwest Gas' request to build the proposed facilities.

In support of its position that the LPG facilities are necessary for continued reliable service, Southwest Gas has submitted its application and supporting exhibits before the Public Service Commission of Nevada (PSCN) for construction of the facilities. The supporting exhibits show a potential shortfall of 10-34 MMcf for the 1979-80 heating season and 16-45 MMcf for the 1980-81 heating season (the lower figure assuming a normal winter and the higher figure a cold winter) if the facilities are not constructed. The total project cost is estimated to be $7,892,000, with the first unit to be constructed at Reno for an estimated $3,553,900.

Because the plant at Reno is an existing LPG plant being purchased from Sierra Pacific Power Company, Southwest Gas represented to the PSCN in mid-1979 that the Reno LPG plant could be on line for the 1979-80 heating season. On July 16, 1979 PSCN granted Southwest Gas a certificate of public convenience and necessity to build the four LPG facilities noting in its decision that there exists a need for some type of peak shaving facilities to alleviate the potential shortfalls prior to construction of Southwest Gas' proposed Liquefied Natural Gas (LNG) facility. PSCN noted its concern that the LPG facilities might never have had to have been built if Southwest Gas had been more realistic about the scheduling of its LNG facility. It also expressed concern that this has been very costly to Southwest Gas' Nevada ratepayers in terms of the increased costs of gas and the approximately $7 million addition to plant that might have been avoided. Nevertheless, it noted that there appeared to be no other alternative at this time and authorized the certificate of public convenience and necessity.

Southwest Gas has also applied on April 20, 1979 to FERC for a certificate of public convenience and necessity for construction of the four LPG facilities and on June 14, 1979 for a temporary certificate of public convenience and necessity or in the alternative a certificate of public convenience and necessity for the Phase I (Reno) facility on an expedited basis.

FERC has not yet issued a certificate of public convenience and necessity for these facilities. The period for comment on the proposals ended November 13, 1979 with a 10-day reply period provided. A decision on the application before FERC is expected four to six weeks after replies to comments are received, sometime in mid- or late December 1979.

Southwest Gas bases its request for exemption on the conclusion set forth in Decision No. 88005 dated October 18, 1977 (mimeo. p. 26) as follows:

> "1. No utility subject to Section 1001 shall begin construction of any line, plant, or system, whether in California or otherwise, without first obtaining from this Commission a certificate that the present or future public convenience and necessity require or will require such construction. This Commission may exempt from this requirement, upon written application requesting such exemption, utilities whose primary service area is outside California."

Southwest Gas states that as of December 31, 1978 only 19.56 percent of its direct gross gas plant in service, 19.87 percent of its employees, 26.03 percent of its total customers, and 20.60 percent of its direct operating expenses are attributable to California (based on a four-factor allocation basis). It further asserts that in April 1979 it acquired the gas utility assets of Tucson Electric Power Company thereby further reducing the California percentages.

While Decision No. 88005 permits a utility to seek an exemption for out-of-state projects, the granting of a blanket exemption for all out-of-state projects is inappropriate. The factors which form a basis for granting an exemption are constantly changing and are best evaluated on a case-by-case basis as the need for the project arises.

In considering the factors relevant to the application of such an exemption, the impacts of the project at issue in California are the most important. It does not appear from the application that there are any adverse environmental impacts in California, and it appears that the primary benefit will be to Southwest Gas' Nevada customers since they comprise about 75 percent of its total customers. Only 4 percent of the customers Southwest Gas serves live in northern California and would conceivably benefit from the project. The remainder of Southwest Gas' California customers are in the southern part of the State and are unaffected by this project. Further, it does not appear that financing the project will unreasonably burden California service or rates.

While it appears that there is an immediate short-term need for the LPG facilities as peaking units, the long-term need for such facilities after the LNG facility comes on line remains in question. That issue,along with any rate adjustments attributable to the LPG facilities, will be considered in separate proceedings before us at a later time.

Accordingly, the four LPG facilities proposed to be located by Southwest Gas at Carson City, Elko, and Reno are exempt from the requirements of Public Utilities Code, Section 1001.

Southwest Gas is placed on notice that future applications for exemption of facilities from the provisions of Section 1001 shall include the following information in detail, as well as such other information as the Commission or its staff may require:

1. Area to be served by and to benefit from the project, specifying in detail the extent to which the project will be used for California service.

2. The economic and operating costs and benefits to California service of having the project built and of not having the project built.

3. Any known or potential environmental impacts on California.

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4. Current and projected amounts and percentages of utility customers, kWh and dollar sales, net plant investment, and net generating capability in California.

5. An evaluation of the project's future impact on the average cost of gas to California customers.

Receipt of such information will permit timely disposition of future requests for exemption.

Findings of Fact

1. Pursuant to Decision No. 88005 utilities whose primary service area is outside California may apply to this Commission for exemption from the certificate requirement of California Public Utilities Code Section 1001.

2. A blanket exemption from the provisions of Public Utilities Code Section 1001 for all out-of-state projects is not appropriate.

3. Southwest Gas' primary service area is in Nevada.

4. The four LPG facilities proposed will serve primarily Nevada.

5. The LPG facilities are needed at this time and do not entail any adverse environmental impacts in California. This finding does not preclude the Commission from examining the reasonableness or prudence of Southwest Gas' expenditures with regard to this project, which may be considered in future rate cases.

6. To enable Southwest Gas to place the first LPG unit on line without delay if FERC grants a certificate of public convenience and necessity, this order should be made effective immediately and should be conditioned on receipt of appropriate authority to construct from FERC.

7. A public hearing is not necessary.

Conclusions of Law

1. Southwest Gas' request for a blanket exemption from the requirements of Public Utilities Code Section 1001 for all out-of-state construction should be denied.

2. Southwest Gas' four LPG facilities to be located in Carson City, Elko, and Reno should be granted an exemption from Section 1001, contingent on receipt of a certificate of public convenience and necessity from FERC.

3. Further exemption from the requirements of Section 1001 should be considered on a project-by-project basis, giving consideration to the relevant circumstances in each application.

O R D E R

IT IS ORDERED that:

1. Southwest Gas Corporation's application for exemption from the requirements of Public Utilities Code Section 1001 for the proposed liquefied petroleum gas facilities at Carson City, Elko, and Reno, Nevada, is granted provided that it receives a certificate of public convenience and necessity from the Federal Energy Regulatory Commission to construct the facilities which are the subject of this application.

2. Southwest Gas Corporation's application for a blanket exemption from Section 1001 with respect to all lines, plant, or systems (except as exempted above) which applicant may construct outside the State of California is denied.

3. Southwest Gas Corporation may seek exemption from Public Utilities Code Section 1001 with respect to all lines, plant additions,

or systems which it may construct outside the State of California on a project-by-project basis in accordance with Commission practices and procedures and general orders which the Commission may establish or modify from time to time.

The effective date of this order is the date hereof.

Dated DEC 18 1979, at San Francisco, California.

John E. Bryson
President

Vernon L. Sturgeon

Richard D. Gravelle

Claire T. Dedrick

Leonard M. Grimes, Jr.
Commissioners