

ORIGINAL

Decision No. 91801 MAY 20 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHWEST GAS CORPORATION)	
for an Order Exempting it from Regula-)	Application No. 57936
tion Pursuant to Public Utilities Code,)	(Filed March 20, 1978;
Section 1001, as Interpreted by the)	amended March 5, 1980)
Commission in Decision No. 88005, dated)	
October 18, 1977, or Waiver of Certifi-)	
cation for Certain Out-of-State Plant.)	

O P I N I O N

Applicant Southwest Gas Corporation (Southwest Gas) requests an order from this Commission 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 with respect to construction of certain out-of-state facilities, consisting of a one billion cubic feet (Bcf) liquefied natural gas (LNG) peak shaving facility. The original application, filed March 20, 1978, showed the LNG facility located in Lyon County, Nevada; the amended application, filed March 5, 1980, shows it located in Pershing County, Nevada. This was the only change effected by the amendment to the application dated March 5, 1980.

Southwest Gas states that the proposed LNG facility will be used primarily to serve its customers in northern Nevada but notes that its 6,010 customers in Placer County, California, and the 9,547 customers of California-Pacific Utilities Company (now CP National Corporation), a resale customer of Southwest Gas, will also receive the benefits of the proposed LNG facility.

Southwest Gas filed applications with the Federal Energy Regulatory Commission (FERC) on March 7, 1978 and with the Public Service Commission of Nevada (PSCN) on March 8, 1978 for authority to construct and operate the proposed LNG facility. These applications requested authorization for construction of the LNG facility so that the construction could begin in November 1978. Southwest Gas noted in its application before this Commission that failure to receive all necessary approvals by mid-July 1978 could result in delay which would be costly, not only in terms of money but also in the reduced availability of service to its customers during the 1980-1981 heating season. Obviously these dates are long past and the proposed plant will not be constructed in time to provide service for the 1980-1981 heating season.

The delay in securing FERC and PSCN authorizations was concerned primarily with the selection of the Lyon County site and its ability to meet certain regulations governing LNG facilities proposed by the U.S. Department of Transportation early in 1979. These concerns were remedied by moving the proposed site to Pershing County in mid-1979. Southwest Gas states that it is aware of no effect on this application as a result of the change in location, other than in the increased cost of construction for different safety requirements.

PSCN issued a permit to construct on December 14, 1979 and FERC issued a certificate of public convenience and necessity subject to certain conditions, dated January 30, 1980. The application before us is now ready for decision.

Discussion

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:

"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, 1979 only 14.9 percent of its direct operating expenses, 16.1 percent of its direct gross gas plant in service, and 16.0 percent of its customers are attributable to California (based on a four-factor allocation basis).

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 the basis for granting an exemption are constantly changing and are best evaluated on a case-by-case basis as the need for projects arises.

In considering the factors relevant to the application for such an exemption, the impact of the proposed project in California is the most important. Southwest Gas indicates that the LNG plant will serve North Lake Tahoe in the service area of Southwest Gas and South Lake Tahoe in the service area of CP National. The priority 1 and 2 requirements from Southwest Gas's transmission system for a normal winter are estimated to be 129,000 Mcf per day in the 1981-1982 winter. Priority 1 and 2 cold winter requirements are estimated to be 139,000 Mcf per day for the 1980-1981 winter. Any deficiency for the 1980-1981 winter can be made up, according to Southwest Gas, through the propane plant which is under construction near Reno. This plant was also the subject of an exemption from the requirements of Section 1001 (Decision No. 91117 dated December 18, 1979 in Application No. 58988). Southwest Gas states that to meet its

priority 1 and 2 customer requirements systemwide in the following winters the LNG plant must be used. Of the priority 1 and 2 requirements, only 13.5 percent goes to California. The primary beneficiaries of the proposed project will be Southwest Gas's Nevada customers.

Southwest Gas states that it has exceeded the demand of the priority 1 and 2 requirements on its system and that if the LNG plant is not built and cold weather occurs, it would lose or be forced to turn off customers in the Nevada and California service areas. Thereafter, an extensive pilot relight program would be required as soon as the cold weather had passed.

The FERC decision granting a certificate of public convenience and necessity to Southwest Gas (Docket No. CP 78-221) concluded that while Southwest Gas receives sufficient supplies of gas from Northwest Pipeline Corporation to meet its annual requirements, the proposed LNG facility is needed to meet requirements on peak-demand days in the near-term future. It is also noted that authorization of the LNG facility might eliminate the need for construction and operation of the remaining three propane-air plants that were the subject of Application No. 58988 before this Commission. In reaching its decision, FERC considered and rejected for reasons of cost and reliability several alternatives to the use of the LNG facility to meet the peak day shortfall problem.

The estimated cost of the LNG facility is \$23.5 million and the estimated cost of the pipeline looping between the LNG facility and the Reno-Carson City junction is \$12.7 million. Southwest Gas will finance the cost of the facility through internally generated funds and through the sale of debt and equity securities. FERC expressly deferred the rate treatment relating to these facilities to a future proceeding.

PSCN also notes that even with the substantial increase in cost of the facility due to its change in location, the construction of the LNG plant in northern Nevada represents the best economic alternative to meet the anticipated peak natural gas supply deficiency.

Although it does not appear at this time that the financing of the project will unduly burden California ratepayers, Southwest Gas is placed on notice that our decision in this matter does not preclude this Commission from examining the reasonableness or prudence of Southwest Gas's expenditures with regard to the project in future rate cases.

Section 21080 of the Public Resources Code was amended (Chapter 697, 1979 Statutes) to exempt any out-of-state project from the California Environmental Quality Act (CEQA) provided that the project was subject to environmental review under the National Environmental Policy Act or similar state laws of that state. Any emissions or discharges which would have a significant effect on the environment of the State of California remain subject to CEQA. PSCN is of the opinion that the facility as proposed to be built in Pershing County represents a minimum adverse environmental impact. Southwest Gas asserts that no adverse environmental impact would result in the California service area if the LNG plant is built. If the plant is not built, it would be impossible to estimate how much more oil might be burned which well might have an impact on California.

The one Bef LNG facility proposed to be located by Southwest Gas in Pershing County, Nevada, is exempt from the requirements of CEQA under the provisions of Public Resources Code Section 21080(b)(13). Inasmuch as any effort by this Commission to assess the need for and feasibility of the proposed LNG facility would duplicate the efforts already undertaken by the FERC and the PSCN and in view of the exemption of this project from CEQA requirements, it is appropriate to exempt the project from the requirements of Public Utilities Code Section 1001 as well.

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's primary service area is in Nevada.
4. The proposed LNG facility will primarily serve Nevada.
5. The LNG facility is needed at this time and does not entail any adverse environmental impact in California.

6. The Commission specifically makes no findings on the reasonableness or prudence of any expenditures on this proposed facility and reserves all considerations for ratemaking treatment of the facility for future rate cases.

7. A public hearing is not necessary.

Conclusions of Law

1. Southwest Gas's 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's one Bcf LNG plant to be located in Pershing County, Nevada, should be granted an exemption from Public Utilities Code Section 1001.

3. Further exemption from the requirements of Public Utilities Code 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 natural gas facility in Pershing County, Nevada, is granted.

2. Southwest Gas Corporation's application for a blanket exemption from Public Utilities Code Section 1001 with respect to all lines, plant, or systems (except as exempted above) which Southwest Gas Corporation 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 shall be thirty days after the date hereof.

Dated MAY 20 1980, at San Francisco, California.

John E. Boyson
President
Vernon L. Thompson
Richard W. Howell
Clare J. DeSicilia
Jernard M. Smith
Commissioners