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ORIGINAL

Decision No. 92294 OCT 8 1980

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. 59059
(Filed August 10, 1979)

O P I N I O N

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 2,294 feet of 8-inch loop pipeline on its South Lake Tahoe lateral in Douglas County, Nevada.

Southwest Gas asserts that the proposed facilities are necessary to increase the daily design capacity of the existing facilities to deliver the volumes of gas required by its Priority 1 (P-1) and P-2 customers for the 1979-80, 1980-81, and 1981-82 heating seasons. In addition to its own P-1 and P-2 customers, the pipeline loop will benefit CP National Corporation, a resale customer of Southwest Gas. The cost of the facility is estimated at \$104,700 which Southwest will finance with working funds supplemented as required by short-term borrowings.

On August 2, 1979, Southwest Gas filed in Docket No. CP79-427 an application with the Federal Energy Regulatory Commission (FERC) for a certificate of public convenience and necessity authorizing the construction and operation of the facility. The application was supplemented on October 15 and on October 17, 1979; and on December 4, 1979, FERC issued the requested certificate. The FERC decision was not transmitted to the California Public Utilities Commission until July 30, 1980, resulting in our long delay in acting on this application. There is no indication in our formal file in the matter of any action taken by the Public Service Commission of Nevada (PSCN).

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."

As we noted in Decision No. 91801, dated May 20, 1980, authorizing a similar waiver for the same applicant, Southwest Gas has 14.9 percent of its direct operating expenses, 16.1 percent of its gross gas plant in service, and 16.0 percent of its customers in California as of December 31, 1979 (based on a four-factor allocation basis).

While Decision No. 88005 permits a utility to seek an exemption for out-of-state projects, we have consistently held that the granting of a blanket exemption for all out-of-state projects

is inappropriate (see Decision No. 91117, dated December 18, 1979, in Application No. 58988 and Decision No. 91801, dated May 20, 1980, in Application No. 57936.)

It appears that the project is designed to serve Southwest Gas's Nevada customers primarily and that the impact of the project on California ratepayers, in terms of either benefit or burden, would be small. 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 any expenditure in connection with this 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. Any emissions or discharges which would have a significant effect on the environment of the State of California remain subject to CEQA.

Southwest Gas states that no adverse environmental impact would result in the California service area if the pipeline loop facility is constructed. Further environmental review may be made by PSCN under its own statutes.

The pipeline loop facility proposed to be constructed in Douglas County, Nevada is exempt from the requirements of CEQA under the provisions of the Public Resources Code Section 21080 (b)(13).

Since a certificate of public convenience and necessity has been issued by FERC, any effort by this Commission to assess the need for and feasibility of the proposed construction would duplicate the efforts already undertaken. 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. In view of the fact that the 1979-80 heating season is past and the 1980-81 heating season is rapidly approaching, we will not wait for PSCN to issue its decision in this matter, but will make our waiver contingent on applicant's obtaining all necessary approvals from PSCN.

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 pipeline loop will serve primarily Nevada.

5. The pipeline loop is needed at this time and does not entail any adverse environmental impact on California.

6. The Commission specifically makes no findings on the reasonableness or prudence of any expenditures on this proposed project 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 2,294 feet of 8-inch loop pipeline to be located in Douglas County, Nevada should be granted an exemption from Public Utilities Code Section 1001 contingent on its obtaining all necessary approvals from PSCN.

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 requirement of Public Utilities Section 1001 for the proposed 2,294-foot loop pipeline in Douglas County, Nevada, is granted contingent on its receiving all necessary approvals from the Public Service Commission of Nevada.

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 OCT 8 1980, at San Francisco, California.

John E. Bryan
President
Harrison L. Sturgeon
Richard D. Howell

Lawrence J. Givens
Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.