

FEB 26 1996

Decision 96-02-053 February 23, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
In the Matter of the Application of)
Southern California Gas Company for)
Approval Pursuant to the Expedited () Application 95-10-010
Application Docket of a Long-Term () (Filed October 4, 1995)
Agreement with First Brands)
Corporation ()

Concurrent with the filing of this (U.904.G)

Division of Ratepayer Advocates (DRA) and
the () and ()
with () and ()
responses to the Master Data Request contained in Appendix B to

ORIGINAL

Southern California Gas Company (SoCalGas) seeks
approval of a gas transportation service agreement between First
Brands Corporation (Customer), and SoCalGas, which was entered
into as of August 24, 1995. The agreement provides for gas
transportation service to Customer's facility located in Taft,
California under negotiated rates. A copy of the agreement is
attached to the application. For competitive and trade secret
reasons, the prices, term, and contract quantities by which
Customer would receive service have been redacted from the
application. SoCalGas expects the agreement to contribute \$0.1
million more to the recovery of its authorized base revenues than
would be the case without this agreement.

SoCalGas requests that the Commission approve this
agreement unconditionally and without modification. SoCalGas
also requests that we find as follows: (1) as of the time
SoCalGas negotiated the terms of the agreement, there was a
substantial and imminent threat of bypass by Customer and the
agreement would prevent uneconomic bypass; (2) revenues over the
life of the agreement will generate a positive contribution to
SoCalGas' margin and will not fall below the class average long-
run marginal cost (LRMC) of serving medium and high pressure
customers (customer bands using over 200 MDth/year); and (3) the
terms of the agreement are reasonable given the bypass options
that are available to Customer.

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SoCalGas also requests that we make a specific finding that SoCalGas has been prudent in negotiating this agreement which finding would be dispositive of any future prudence issues that might arise, absent a showing of special circumstances as enumerated in our Decision (D.) establishing an expedited application docket (EAD) for these types of applications. (In re Southern California Gas Co. 46 CPUC2d 444 (1992) (EAD Order))

Concurrent with the filing of this application, SoCalGas provided the Division of Ratepayer Advocates (DRA) and the Commission Advisory and Compliance Division (CACD) with responses to the Master Data Request contained in Appendix B to the EAD Order, (Id. at 452-54.)

SoCalGas alleges that it entered into the agreement with Customer in order to avoid uneconomic bypass of SoCalGas' gas distribution system at Customer's facilities located in Taft. In the EAD Order, we found that "because SoCalGas faces a variety of bypass projects which appear imminent, no geographic limitation will be adopted on the applicability of the expedited approval process to SoCalGas contracts." (Id. at 447.) SoCalGas asserts that this application represents SoCalGas' efforts to retain customers on its system in the face of an immediate threat of bypass because (1) Customer's facility is located approximately 1,500 feet from an existing lateral of the Mojave Pipeline Company and (2) Customer is willing to take service from such facility.

Under the terms of the Global Settlement recently approved by the Commission, SoCalGas shareholders accepted the full risk of any revenue shortfalls created by this discounted agreement over the next five years. Under that same settlement, SoCalGas shareholders will remain at risk for shortfalls from SoCalGas' authorized tariff over the next decade as long as the Commission does not substantially change the method of setting rates for non-core customers.

Terms of the agreement are reasonable given the bypass options that are available to Customer.

SoCalGas believes it has negotiated a fair price given its competitive from the competing facility.

We will approve the agreement. It meets the three pronged test for approval: the threat of bypass by the customer was imminent; there will be a positive contribution to margin (CTM); and the terms of the agreement are reasonable. We will, however, impose the condition that (1) any discount to the Interstate Transition Cost Surcharge (ITCS) must be borne by utility shareholders, and (2) SoCalGas shall not recover in rates, nor include in cost allocation forecasts, 100% of revenue shortfalls, if any, resulting from this agreement. (See, SoCalGas Global Settlement, Section II, approved in D.94-04-088.)

Findings of Fact

1. This application appeared on the Commission's Daily Calendar of October 25, 1995. There are no protests. A public hearing is not necessary.
2. SoCalGas has filed this application seeking approval of a negotiated gas transportation agreement with Customer.
3. There is an imminent threat of bypass posed by the Mojave Pipeline Company's existing pipeline, which is within approximately 1,500 feet of Customer's facility.
4. The agreement may provide a positive CTM. In the absence of the agreement, bypass by Customer may be uneconomic.
5. It is the Commission's policy that all ratepayers are responsible on an equal basis for the stranded investment costs making up the ITCS; and thus the ITCS is to be applied in a nondiscriminatory manner, on an equal-cents-per-therm basis.
6. The seriousness of the imminent bypass threat in this particular case warrants the approval of the agreement, but only on condition that SoCalGas' shareholders shall assume 100% of their risk for the ITCS costs associated with this agreement and 100% of any revenue shortfall.

Except as set forth below, the rates and terms of the agreement do not pose an unreasonable risk to ratepayers.

Based upon all facts and circumstances known to the Commission at the time of this decision, SoCalGas' decision to enter into the agreement is prudent.

Conclusions of Law

1. The agreement (should be approved as set forth below)
2. Because of imminent threat of bypass, this decision should be effective today.

ORDER

SoCalGas Global Settlement, Section 11, approved in D.94-01-088.

Kindred of Fact

IT IS ORDERED that:

1. This application appeared on the Commission's Daily Bulletin. Except as expressly set forth in Ordering Paragraphs 2 and 3, the "Gas Transportation Service Agreement" between Southern California Gas Company (SoCalGas) and First Brands Corporation (Customer), which was entered into as of August 24, 1995, is approved under the procedures, terms, and conditions of the Expedited Application Docket established by Decision (D.) 92-11-052.

2. The agreement is approved on the condition that SoCalGas' shareholders shall assume 100% of the risk for the Interstate Transition Cost Surcharge costs associated with this agreement. SoCalGas shall file with the Commission Advisory and Compliance Division a written acceptance of this condition within 15 days of the effective date of this order.

3. The agreement shall expressly provide that SoCalGas shall obtain the Commission's approval, prior to effectiveness, of any modifications, including modifications which may be the result of mediation. SoCalGas' shareholders shall, on condition that SoCalGas' shareholders shall assume 100% of any revenue shortfall.

4. Sections IX and X of General Order 96-A are suspended to the extent that those sections require that this agreement be subject to future modifications by the Commission.

5. SoCalGas shall not recover in rates, nor include in cost allocation forecasts, any portion of revenue shortfalls resulting from the agreement.

6. Approval of the agreement is dispositive of all prudence questions which might arise at a later date regarding the agreement, absent a showing of:

- a. Misrepresentation or omission of material facts of which the utility is aware in connection with the utility's request for contract approval;
- b. Gross negligence in determining whether a realistic threat of bypass exists; or
- c. Imprudence in the utility's performance under the negotiated agreement.

This order is effective today.

Dated February 23, 1996, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners